

INFECTED BLOOD INQUIRY

WRITTEN STATEMENT OF DR ALEX CROWE

EXHIBIT WITN4198031



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Complaints and Concerns Policy

Lead executive	Kimberley Salmon-Jamieson (Chief Nurse)		
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Type of document	Policy		
Target audience	Trust		
Document purpose	This policy aims to ensure that all complaints and concerns received by Warrington and Halton NHS Foundation Trust are consistently, fairly and effectively handled across the Trust, by all staff. This policy has been written in accordance with the statutory requirements set out in NHS Service Complaints (England's) Regulations (2009) and follows the Good Practice Standards for NHS Complaints Handling (Sept 2013) and in accordance with Regulation 16: Receiving and acting on complaints (CQC 2016) and reflects the NHS Constitution for England (DOH 2015) this policy also reflects the recommendations set out in the Francis Report (2013).		
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Approval meeting	Appropriate Governance meeting		
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WHH Documents to be read in conjunction with			
Document change history			
Version	2.0		
What is different?	Updated Flowchart		
Appendices/electronic forms	Dealt with in contents		
What is the impact of change?	The Trust will respond to complaints in line with best practice.		
Training requirements	Rolled out in in the Trust throughout 2017 with individual CBU meetings.		
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Taxonomy	Type	Policy Category Non-Clinical	Policy Category Clinical
	Non-Clinical	Clinical Governance & Risk	Choose an item.

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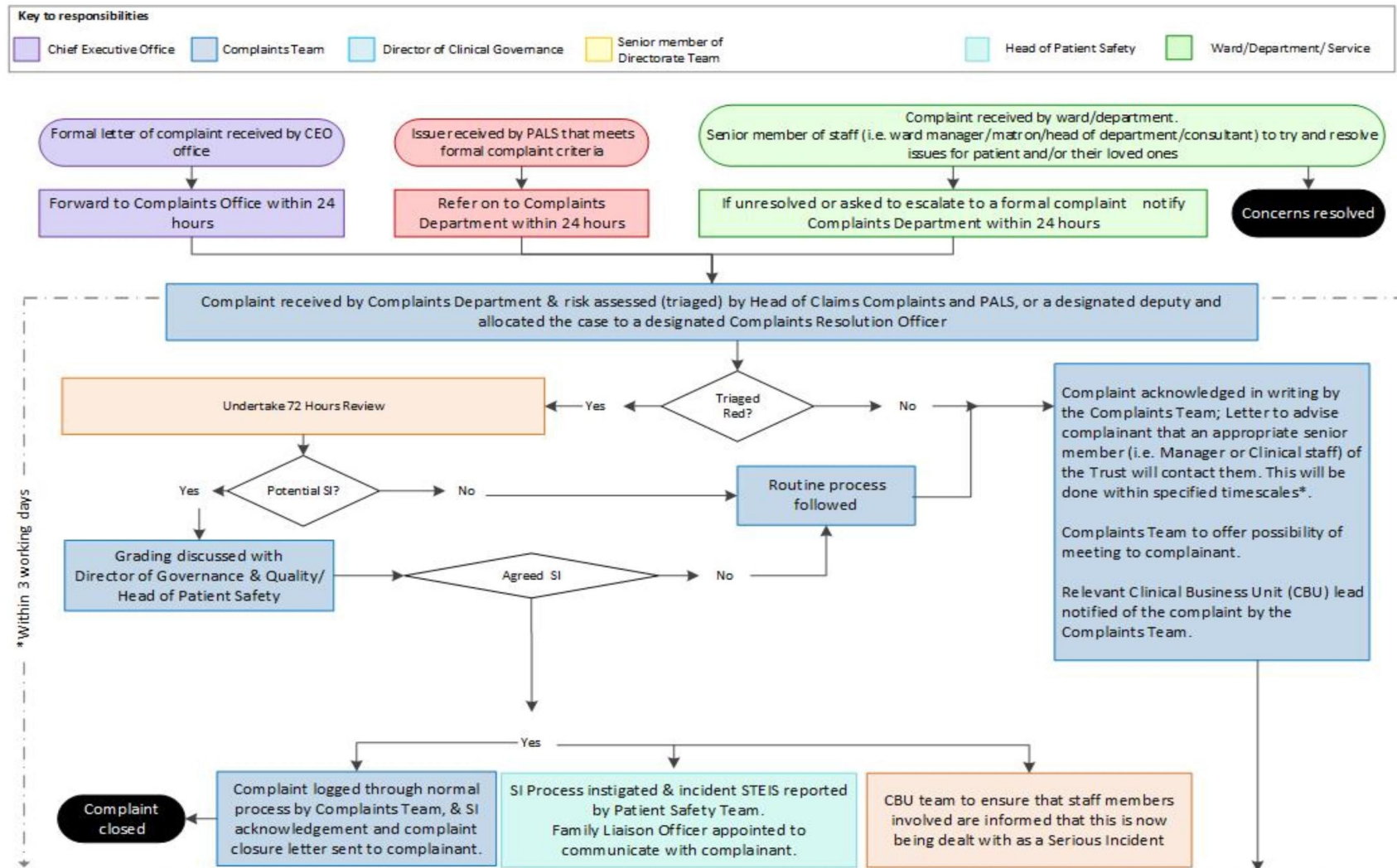
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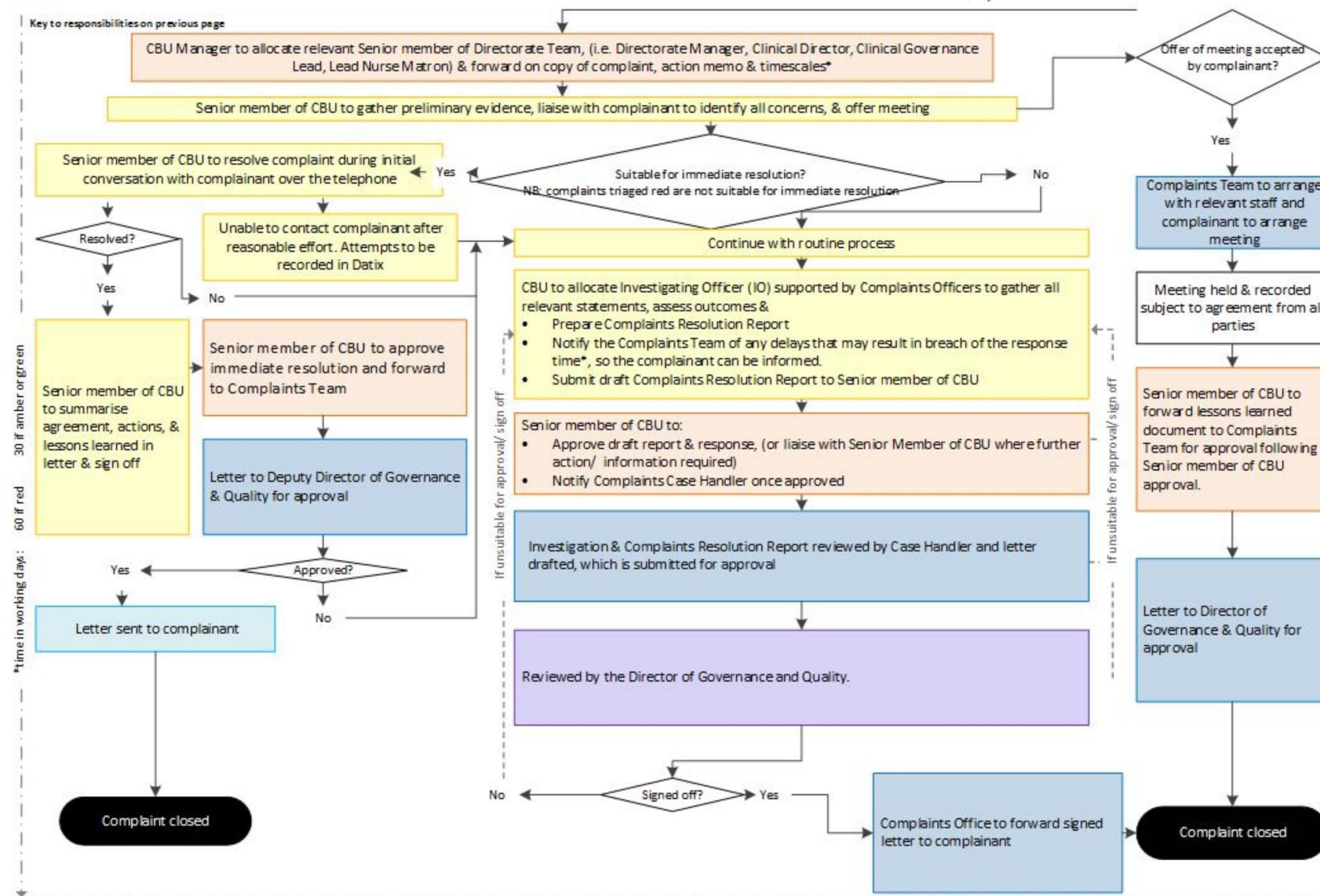
1. FLOWCHART OF PROCESS



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2. EXECUTIVE SUMMARY

Warrington and Halton Hospitals NHS Foundation Trust is committed to consistently providing the highest possible standard of care for patients, though we accept that from time to time patients and or relatives may have a cause for concern. It is important that patients and their relatives and carers feel confident that feedback is positively welcomed by the Trust and that we encourage them to inform us whenever standards of care and service fall below their expectations.

Complaints and the raising of concerns are an important source of information from service users, a valuable opportunity to learn from any mistakes made, to prevent recurrence in the future and to help evaluate and improve future service delivery.

This policy has been written in accordance with the statutory requirements set out in NHS Service Complaints (England's) Regulations (2009) and follows the Good Practice Standards for NHS Complaints Handling (Sept 2013) and in accordance with Regulation 16: Receiving and acting on complaints (CQC 2016) and reflects the NHS Constitution for England (DOH 2015) this policy also reflects the recommendations set out in the Francis Report (2013).

3. PURPOSE & SCOPE

This policy aims to ensure that all complaints and concerns received by Warrington and Halton NHS Foundation Trust are consistently, fairly and effectively handled across the Trust, by all staff. When dealing with complaints we aim to:

- Offer opportunities to resolve concerns and complaints at ward or department level, without recourse to the formal complaints process, wherever possible;
- Ensure patients, their families and carers receive the information they need to understand the complaint investigation process;
- Provide reassurance that if errors have occurred, everything possible will be done to ensure lessons learned will help prevent the incident recurring;

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- Ensure openness and transparency throughout the complaints and concerns process, complying with *Duty of Candour* Regulations (2013);
- Investigate complaints thoroughly and effectively in a timely manner, keeping complainants informed of the progress of investigations. This is vital in cases that are complicated or involve multi agencies;
- Ensure we are logical and rational in our approach;
- Where complainants escalate their complaint externally because they are dissatisfied with the local outcome, we will cooperate with any independent review;
- Provide a level of detail that is relevant to the seriousness of the complaint;
- Ensure all patients, families and carers, healthcare professionals and managers feel supported during any complaint investigation;
- Generate reports and intelligence from complaints data and themes to identify learning and make service improvements both organisationally and within CBU's, services and teams;
- Develop a culture where complaints are seen as opportunities to learn and improve and exhibit robust systems and processes;

Complaints relating to non-compliance with requests for information under the Freedom of Information Act 2000 are covered by this policy and will be handled in the same way as all other concerns and/or complaints.

4. DUTIES & RESPONSIBILITIES

Role	Responsibilities
Chief Executive	The Chief Executive is the “responsible person” (Complaints Regulations 2009) with responsibility for ensuring compliance with the arrangements

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	made under the regulations, and in particular ensuring that action is taken if necessary in the light of the outcomes of a complaint. All complaint responses are signed by or on behalf of the Chief Executive, and the investigation and presentation of responses to complaints are delegated to appropriate members of staff.
Chief Nurse	The Chief Nurse has delegated responsibility as executive lead and guardian of the integrity of the complaints process, and for reporting to the Chief Executive and the Board on complaints related issues.
Deputy Director of Governance and Quality Improvement	The Deputy Director of Nursing has strategic overview of the complaints and concerns feedback process, with overarching responsibility for ensuring Trust compliance with national guidance, and provides line management support to the Trust's Complaints Manager and Patient Experience Team.
Head of Claims, Complaints and PALS	<p>The Head of Claims, Complaints and PALS is responsible for overall management of the complaints and concerns process, and for implementing the strategic direction for complaints and PALS; ensuring these services are congruent with the Trust's objectives and actively enhance the organisations reputation.</p> <p>The Head of Claims, Complaints and PALS will, as part of the wider patient experience agenda, ensure that systems and reporting are compatible with delivery of patient feedback intelligence that supports service improvement and oversee the generation of a range of reports from complaints data and themes, to support the Divisions and CBU's to identify failures and make service improvements. The Head of Claims, Complaints and PALS will also develop and deliver training to staff who are expected to investigate complaints.</p>
Complaints Team (CT)	The CT is responsible for assisting the Head of Claims, Complaints and PALS in the management of complaints and concerns and in providing

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	<p>advice and liaison as part of the PALS provision of the Patient Experience Team. The CT will ensure that a file is maintained for every complaint/concern/PALS contact in line with Trust guidelines. Once closed, complaints files will be uploaded to the Datix system and stored.</p> <p>The CT will provide a professional and compassionate service to complainants whilst listening to their concerns. They will liaise between complainants and frontline staff, ensuring that lines of communication are open and everyone involved knows the timescales/progress of the investigation.</p> <p>The CT will refer formal complaints to Divisions/CBUs lead nurses/manager's dependent upon the level of complaint (Low, Moderate or High). Where possible, concerns will be dealt with at Complaints Resolution Officers (CRO) level and outcomes logged and shared with the relevant CBUs for learning.</p> <p>The CT will ensure that timescales for all steps of the complaints and concerns processes are flagged and met by the CBUs and that contemporaneous record are kept. All complaints, concerns and PALS are registered on DATIX upon receipt, and that the team's role is to ensure all relevant case information is entered on the DATIX system accurately and in a timely manner throughout the complaint process.</p> <p>The CT will build good working relationships with staff across the Trust, and provide guidance and support to the CB's and individual members of staff throughout the complaints process as required.</p>
Patient Advice and Liaison Service (PALS)	<p>PALS offer confidential advice, support and information on health-related matters to patients and their families and carers, whilst also providing a point of contact. PALS will provide help with health-related questions and to resolve concerns or problems when patients and their families and carers are dissatisfied with a service they have used in the</p>

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	<p>Trust.</p> <p>PALS can offer information on the NHS complaints procedure, including how to get independent help to make a complaint and the PALS/officer will manage the service, directing the PEO in making PALS contacts and supporting the demand for the service.</p> <p>The PALS service will ensure a professional and compassionate service is provided to enquirers and that all concerns are logged on the Datix system. PALS will liaise with the relevant manager of the service and the enquirer to resolve their concerns locally.</p>
Senior Management Team in Divisions and Clinical Business Units (CBUs)	<p>If issues are raised locally, the senior management teams within the CBU will ensure that where possible, these are resolved informally and locally, and that any issues not resolved within 24 hours of receipt are forwarded to the patient experience department, and put onto the DATIX system in a timely manner.</p> <p>The Division and CBU Triumvirates are responsible for allocating investigating officers and quality checking the complaints response. CBU senior leads are responsible for ensuring that complaints are investigated appropriately and that any learning is communicated appropriately and any changes in practice as a result of complaints is actioned. It is the responsibility of the Investing Officer to independently review the care of the patient, with the appropriate clinical or senior input.</p>
Employees	<p>All staff has a responsibility to act in the best interests of patients and will receive feedback from complaints and concerns in a constructive and sensitive manner.</p> <p>All staff will seek to ensure the early and effective resolution of concerns</p>

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	<p>and complaints where possible, referring to their line manager, manager on call or the CT if at any stage they do not feel they can resolve the concerns.</p> <p>All staff need ensure that their departments and wards have PALS and Complaints leaflets at hand for patients and service users.</p>
Board of Directors	Responsible for the ratification of the Trust's Complaints Policy. Receipt of the Trust's annual report on Complaints and receipt of regular updates on themes and learning from complaints.
Quality Assurance Committee	Approval and oversight of the Trust's Complaints Policy and oversight of complaints reports produced by the Department.
Patient Experience Sub Committee	The Patient Experience Sub-Committee receive reports from the Head of Claims, Complaints and PALS that include intelligence on complaints and PALS to identify themes and provide assurance that lessons are learnt and improvements made.

5. POLICY DETAILS

Dealing with Concerns Raised at the Point of Care

A concern or complaint is an expression of dissatisfaction when expectations (even unreasonable ones) have not been met. Even the best managed wards and departments will receive complaints. People may express concerns or complain because they are anxious, frightened, upset or in pain. Often they

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are unhappy about an aspect of communication that is lacking. Whatever the reason, it is important to ensure that they feel able to express their concerns without feeling that their care may be affected in any way.

These comments are a constructive method of gaining feedback on how users view our service. How we handle complaints, queries and concerns affects our reputation with service users and the community that we serve and any member of staff can successfully deal with a concern, complaint or enquiry.

When you encounter someone with a concern:

- Don't immediately advise them to speak to PALs or make a formal complaint. Often, action at this point can solve problems locally, prevent escalation of concerns and ensure the patient's experience is satisfactory;
- Remain calm, be friendly and always introduce yourself;
- Respect the need for privacy – take them to a private/quiet area if possible. If it is a patient in a bed, pull the curtains/close door and ensure you are on eye level and close enough to have a quiet conversation;
- Ask how they would like to be addressed, e.g. Mr, Mrs, Ms or first name if you have not met before;
- If possible, deal with the matter there and then, or within 1 working day;
- Always ensure that the health needs of the patient continue to be met;
- Take responsibility – if you are unable to help, find someone who can;
- Listen carefully and, if necessary, make notes;
- Ensure you establish the key concerns and what is the ideal outcome for the patient, i.e. what do they want you to do, say, arrange, fix;
- Try to put yourself in their shoes – would you feel unhappy if this were happening to you or your relative?;
- If possible, provide an explanation about how the problem may have arisen and what steps have been taken to prevent a recurrence;

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- Apologise for the fact they are unhappy and thank the individual for bringing the issues to your attention;
- Tell them what you will do and when you aim to feed back;
- Don't be defensive – never blame or criticise other colleagues, departments or Trust policies;
- Ensure the person is satisfied with the action you have taken;

If you are unable to resolve the matter:

- Ask the Ward or CBU Manager, Matron, or other relevant practitioner to come and talk to the person with concerns.
- PALS can offer advice and liaison if the person prefers to speak to someone not connected to direct care delivery.

If the person wishes to make a formal complaint either:

- Follow the process as detailed above and send the information to the CT within 24 hours of receipt.

Patient Advice and Liaison Service (PALS)

The PALS service is a free and confidential service run by the hospital for patients, families and carers. The PALS service has an important role to play in the resolution of informal complaints and concerns and aims to provide immediate information and assistance for patients, their families and carer's and informal resolution to all concerns in the first instance. If this is not possible the PALS officer will provide complainants with information and access to the formal complaints process.

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All staff should be aware of the assistance that the service can give to people who do not necessarily wish to make a formal complaint but would benefit from the help PALS can offer. Where appropriate, staff should direct people to PALS only if they are unable to resolve the issue at ward/departmental level unless any of the following apply:

- There has been a serious outcome of care, including permanent harm/death
- There is potential adverse publicity
- There is potential litigation.

In these cases, the matter should always be passed to a senior manager or the Head of Claims, Complaints and PALS immediately. The PALS Officer can be contacted on 01925 275512 from 9am – 5pm, or via the PALS Office.

Support for Patients, Families and Carers

For many different reasons, people using Trust services often need support if they wish to complain, or want to suggest ideas for improvement. It is vital that staff are able to help people find and use this advice and support effectively.

The Trust will ensure equal access to the complaints process regardless of age, disability, gender and race. Reasonable adjustments will be made to accommodate access to the complaints process, based on the complainant, patient or representative informing the CT of their needs. Where necessary, the Trust will provide assistance through an interpreter when the complainant's first language is not English. The Trust will also provide a British Sign Language interpreter to sign if the complainant is deaf. However this may require some advance notification to arrange. Patients requiring support from Independent Mental Capacity Advocacy teams (IMCA) or other advocacy services should be referred appropriately and supported by Trust safeguarding.

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Ensuring that Patients, Families and Carers are not Treated Differently as a Result of a Complaint

The Trust expects all staff to treat patients and/or complainants with respect at all times and where a complaint or concern is raised, staff should ensure that the patient's on-going health needs are met. The fact that a complaint is made should not have any adverse effect upon a patient's care. When dealing with a complaint trust staff are instructed that they should:

- Reassure the complainant/patient that the health needs of the patient will continue to be met;
- Ensure full details of any complaint made to them are forwarded to the CT;
- Ensure no correspondence concerning a complaint is held in the patient's health records;
- Ensure no investigation correspondence i.e. staff accounts/reports are held in the patient's health records or sent externally;
- Record the date time and details of the complaint on DATIX.

Under no circumstances should staff display any form of discrimination towards either the patient and/or complainant as a result of a complaint being raised. If any form of discrimination is proven, then the Trust's disciplinary procedures will be invoked and where applicable, the matter may be referred to a professional body.

Consent for the Release of Information

Under the Data Protection Act (1998), confidential patient information should never be disclosed to a third party unless the patient has given their consent.

Where a complaint is made on behalf of a patient who is 18 years of age or over, the CT will seek the patient's written consent, within 3 working days of receipt of the complaint, by providing a consent form for the patient to sign. This empowers the Trust to disclose personal information (relating to the

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complaint) to the representative as part of the complaints procedure. The CT is responsible for ensuring that no complaint response letter containing personal information is sent without consent.

If a complainant is the next of kin of the patient whose care the complaint is the subject of, the wishes of the patient must be sought before releasing any information. Where consent is provided by the patient's next of kin or other representative, the Head of Claims, Complaints and PALS will seek assurance that where possible, this has been done with the patient's permission.

Where it is considered that, under the terms of the Mental Capacity Act (2005), the patient lacks capacity to provide informed consent for disclosure of information; the Head of Claims, Complaints and PALS must be satisfied that the representative acting on behalf of the patient has formal authority to act on behalf of the person who lacks capacity. Further guidance can be found in the Trust Mental Capacity Act Guideline.

Once consent has been obtained, information must only be disclosed to those people who have a demonstrable need to know for the purpose of investigating the complaint. Care must be taken at all times throughout the complaints procedure to ensure that any information disclosed about the patient is confined to that which is relevant to the investigation of the complaint. If the appropriate consent is not received once an investigation has been completed the information will not be released to the complainant until the consent is received.

The Patient Advice and Liaison Service (PALS) has a much shorter turnaround of patient issues and relies on verbal consent being obtained, where the person raising a concern or issue is not the patient. This is always recorded on the PALS record that is completed at every contact before closing the case.

Formal Complaints of Patients, Families and Carers

The first contact the Trust has with a person who is unhappy with the service they have received is crucial. A patient, or a patient's representative, may wish to raise a concern, not necessarily wishing to make a formal complaint. The way in which this is handled can, on many occasions, prevent this from progressing to the formal complaints process.

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A formal complaint may be lodged verbally or in writing (by letter, or email). If a formal complaint is received in writing, this should be forwarded to the CT immediately to ensure that response times can be met in line with this policy and current legislation.

Whilst it is preferred that formal complaints should be made in writing, it is recognised that many people, for a number of reasons, may not be able to do so. In these cases, the CT is responsible for establishing and agreeing the facts of the complaint with the complainant. Consent is required in writing from the patient to confirm that the individual has the right to act upon the patient behalf. It is a legal requirement that all formal complaints are acknowledged within 3 working days.

Exclusions from the Formal Complaints Process

The Trust is not statutorily obliged to investigate complaints received from:

- A responsible body, for example a local authority, NHS body, primary care provider or independent provider, unless there was an element of shared care across the boundaries.
- An employee about any matter relating to that employment. The complaints procedure is concerned with resolving complaints made by patients, not staff complaints or grievances. Staff should use the appropriate Human Resources policies and procedures if they wish to raise concerns.

Where it is determined that a complaint is not to be investigated as per the points above, the complaints manager will write to the complainant as soon as reasonably practicable to inform them of this and the reasons why. If a patient's death has been referred to the Coroner's Office this does not affect the relatives' right to make a formal complaint.

In instances whereby a complaint is deemed to be a Serious Incident, the Trust will report this incident to the Strategic Executive Information System StEIS and formally close the complaint, as the Serious Incident Policy will be conducted. The Trust will ensure that the complainants are aware of this.

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Timeframe to Respond

The Trust aims to resolve complaints within 30 working days to Low and Moderate graded complaints and 60 working days to High graded complaints. If these timescales are not going to be met, the complainant will be contacted with an updated timeframe.

CBU Process for Investigation of Complaints

The investigation process is detailed in the Local Resolution Process diagram. The CT will send every investigator a guide on how to investigate complaints thoroughly.

Process for the Handling of Joint Complaints between Organisations

If a complaint received by the Trust involves another NHS body or Local Authority, the Trust will work closely with those other organisations to ensure that the complainant receives one full response to their concerns, and that the complainant has one key point of contact in relation to their complaint.

The CT will, (before contacting any other involved organisation), seek consent from complainant/their representative consent to share information with the relevant external organisation/organisations. Where this consent is not received, the CT will seek to clarify any issues with the complainant about remit and responsibility, the parts of the complaint the Trust is unable to answer, and advise that these are forwarded to the relevant body.

In cases where Warrington and Halton Hospitals NHS Foundation Trust is the lead organisation, the complaints manager will take the lead in coordinating a response from all involved parties which addresses all points raised within the complaint.

The CT will:

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- Contact each NHS body or Local Authority and provide details of the complaint which relates to each organisation.
- Confirm a timeframe for the other organisation to provide their written response to the concerns raised.
- Ensure all reports are received and a written response to the complainant detailing all the issues raised, concerning all involved organisations, is drafted and provided to the Chief Executive for signature.

The CT will, as soon as possible, confirm to the complainant which part of the complaint will be investigated by which organisation. Complaints will be graded upon receipt, and an overarching action plan will be developed and monitored by the CT. Where learning points are taken up, these will be shared across all agencies involved.

Where the lead organisation is not Warrington and Halton Hospitals NHS Foundation Trust, the CT will ensure that any information required by the other body in dealing with any aspect of the complaint relevant to the Trust is provided as soon as possible following request. The Head of Claims, Complaints and PALS will ensure that the information is accurate, appropriate, and answers all issues raised.

The CT will also ensure that, where necessary, appropriate representatives from the Trust attend any meeting held by the other body in the course of their complaints process.

Occasionally the Trust receives complaints that are not related to the care or services provided by the Trust, but are the responsibilities of another organisation. Where this happens the CT will contact the complainant within three working days to acknowledge receipt of the complaint, to confirm that we are unable to deal with the complaint and ask the complainant if they would like the complaint to be forwarded to the correct organisation.

During the course of an investigation, it may become necessary to notify external agencies where a serious incident has occurred e.g. CCG, HM Coroner, Police, Health & Safety Executive. This decision will be made following consultation with the Deputy Director of Integrated Governance and Quality Improvement, Chief Nurse, and Medical Director.

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It may also become necessary to obtain external clinical advice during the course of an investigation where it is felt that an independent opinion of a patient's care is required to aid resolution of the complaint. Where appropriate, this decision will be made by the Head of Claims, Complaints and PALS, on the advice of the Chief Nurse, Deputy Director of Integrated Governance and Quality Improvement Associate/Deputy Directors of Operations and Nursing and/or Medical Director.

Returned Complaints

A complainant may sometimes remain dissatisfied with the Trust's investigation, response and/or action following receipt of the final response and any meeting that may have taken place. Where a complaint is returned for further review the CT will:

- Contact the complainant to discuss the reasons for their continued dissatisfaction and will agree a further written response to be sent, or offer to arrange a meeting, according to the complainant's preference.
- Will agree the timeframes for a further investigation to be completed and a further written response to be sent by the Trust
- Notify the relevant CBU of the complainants continued dissatisfaction and provide details of any outstanding issues to be investigated further.

CBU leads will ensure that all returned complaints are managed and investigated in accordance with the above Local Resolution Process.

On completion of any further investigation a written response will be sent to the complainant on behalf of the Chief Executive. The further final response letter should:

- Cover all the relevant aspects of the complaint which the complainant remained dissatisfied with.
- State if the complainant feels there are any further outstanding issues they should contact the Head of Claims, Complaints and PALS to discuss their concerns further

Or

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- State why the Trust believes local resolution has been achieved and if the complainant remains dissatisfied they have the right to request that their complaint is reviewed by the Parliamentary and Health Service Ombudsman (PHSO).

Guidelines for Handling Unreasonably Demanding Complainants

The Trust views complaints as a valuable and positive contribution to the development of high quality healthcare and is committed to the effective and timely resolution of complaints. However, these guidelines are necessary for responding to the very small numbers of complainants who are unreasonable in their expectations of the Complaints Procedure.

It is important to remember that a person making a complaint may be distressed due to the events that have happened. They may be bereaved or have health problems. This policy should only ever be considered when all other avenues and reasonable measures to deal with the complainant have been exhausted.

Definition of an unreasonable complaint

Where previous or current contact shows that they meet at least two of the following criteria:

- Persist when the Trust complaints procedure has been fully and properly exhausted e.g. when an investigation has been deemed as “out of time” or where the complainant is unwilling to pursue the next stage by referring to the Parliamentary and Health Service Ombudsman (PHSO).

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- Change the substance of the complaint or continually raise additional issues when the complaint has been answered. Care must be taken to ensure that new facts are not excluded from the primary complaint when they are genuinely identified late in the process. Care must also be taken not to discard new issues which are significantly different from the original complaint - these should be considered as new complaints.
- An unwillingness to accept documented evidence of treatment given as being factual or will not accept that facts can be difficult to verify when a long period of time has elapsed.
- Do not clearly identify their precise issues of complaint despite reasonable efforts of staff to clarify their concerns.
- Focus on a trivial matter to an extent where it is out of proportion to its significance and continue to focus on this point. Careful judgement must be used in applying the description “trivial”.
- Repeatedly verbally abuse staff during the investigation of their complaint and have threatened physical violence or present a danger to staff.
- Place unreasonable demands by an excessive number of contacts. This may be in person, by telephone, email or letter.
- The publication of online threats or abuse regarding staff in a variety of web based platform. For example social media or public blogs.

Options for handling unreasonable/vexatious complaints

Where a complainant has been identified as unreasonable in accordance with the above criteria, the decision to treat a complainant as unreasonably persistent or vexatious will only be taken by, and with, the authorisation of the Chief Executive of the Trust. Sanctions may include exclusion from the Trust for all but emergency care.

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The Chief Executive will notify the complainant in writing of any action and the reason the Trust finds this necessary. Once a complainant has been deemed as unreasonable, discretion must be used to determine when this status is withdrawn. The Trust Board will be informed where there are vexatious complainants. It may also be necessary at this stage to seek legal advice from the Trust solicitors.

Withdrawal of unreasonable or vexatious status

Having deemed a complainant as unreasonable or vexatious, this status may be withdrawn at any time. This should be exercised where for example, the complainant agrees to, and demonstrates a more reasonable approach or they submit a further complaint for which the normal complaints procedure would appear appropriate. The Trust Chief Nurse will discuss options with the Chief Executive and if considered appropriate, the Trust's complaints procedure will apply and the complainant will be notified.

Regulatory and Statutory Issues

Duty of candour

New rules to toughen transparency in NHS organisations and increase patient confidence were announced following a public consultation that closed in January 2012. This has resulted in the Government creating new regulations that require the NHS Commissioning Boards to include a contractual duty of openness in all contracts from April 2013. This ensures that all NHS organisations are required to tell patients if their safety has been compromised in a way that has resulted in moderate (non-permanent) harm and/or severe (permanent) harm and/or death as a result of something not being done.

At all times during the investigation of a complaint, any Trust employee will provide clear and honest information to complainants, explaining, updating and summarising a range of information.

Independent Complaints Advocacy

Since April 2013, NHS Advocacy is provided by Merseyside and Cheshire Independent Complaints Advocacy. This service replaces the previous service (ICAS) and will continue to be delivered by the Carers Federation. Health watch Advocacy provides practical support and information to people who want to make an NHS complaint.

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Email: merseysideandcheshire@healthwatchadvocacy.co.uk

Tel: 0808 801 0389

Medical or Complaint Investigation Records

If complainants require access to, or copies of their medical records during the complaints process this must be done in conjunction with the Data Protection Act (1998). If the patient about whom the complaint is regarding is deceased, access to the medical records will be dealt with by the Trust under the Access to Health Records Act (1990).

Requests relating to access to health and medical records will be processed upon receipt of the appropriate form being completed by the complainant, patient and/or next of kin. The complainant will be sent an Access Request Form for the relevant medical records. This will then be processed by the relevant department.

Time Limits for making a formal complaint

Generally, the Trust will accept complaints which are made not later than 12 months after the date on which the matter which is the subject of the complaint occurred, or 12 months after the date on which the matter came to the notice of the complainant.

The Trust is not statutorily obliged to investigate complaints made later than the timeframes documented in The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, which states a complaint, must be made not later than 12 months after:

- a) the date on which the matter which is the subject of the complaint occurred; or
- b) If later, the date on which the matter which is the subject of the complaint came to the notice of the complainant.

However, in certain circumstances the Trust can apply discretion if it is satisfied that the complainant had good reasons for not making the complaint within that time limit and that it is still possible to investigate the complaint effectively and fairly. For example if a Serious Incident or mortality review indicates harm has been caused and Duty of Candour is instigated, a family may then raise a legitimate complaint regardless of the timeframe.

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In this circumstance, the Deputy Director of Integrated Governance/ Head of Claims, Complaints and PALS will review the complaint with the appropriate service head. If a decision is taken not to investigate the complaint for the reason listed above, this decision and the reasons why will be communicated by the Head of Claims, Complaints and PALS to the complainant in writing as soon as possible.

Complaints referred to the Parliamentary and Health Service Ombudsman (PHSO)

Whilst every effort will be made to address concerns raised, and resolve all complaints received. If a complainant remains dissatisfied, they have the right to request that their complaint is reviewed by the PHSO.

The PHSO have the power to request any formal documentation from the Trust that may relate to the investigation of a complaint. The CT will submit copies of all complaints files and any relevant medical records to the named Investigating Officer at the PHSO, all documentation will be sent by recorded delivery. The CT will check any copies of medical records to be sent to ensure confidentiality and all documentation relates to the patient concerned. The CT will ensure all documentation is sent within the timescales specified by the PHSO (usually 10 working days). The PHSO will then make a deliberation and will inform the Trust if they intend to investigate.

If following the PHSO investigation the complaint is not upheld, the PHSO will write to the Trust to advise of the results of the investigation and the CT will record this on DATIX and the file will remain closed.

If following the PSHO investigation the complaint is upheld, the PHSO will write to the Trust to advise of the results of the investigation and any recommendations.

The CT will forward the full details of the investigation and recommendations to the CBU, Associate Directors for Operations and Nursing. A clear timescale for further response / action from the CBUs will be provided. Once further actions have been completed a further written response will be sent to the complainant, with a copy being sent to the PHSO if requested. The file will then be closed on DATIX.

Legal Action or criminal proceedings

Complaints must be investigated even where the complainant has indicated that they intend to pursue legal action against the Trust.

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Where an investigation is associated with an alleged, or actual criminal offence, the Trust will consult with its legal advisors and/or the police to determine whether investigating the complaint might prejudice subsequent legal or judicial action. If so, the Trust will notify the complainant in writing that further investigation is not possible.

Support for Staff

The Trust recognises it can be extremely distressing for staff when they are involved in a complaint investigation whether this is an internal review or an external investigation conducted by the Health Service Commissioner. Therefore, staff involved in any part of the complaints process may require additional support from their immediate line manager throughout this process. The trust also provides a confidential staff counselling service via OH.

The Trust's key aims are:

- To appropriately value, support and protect staff.
- To ensure any disciplinary processes prompted by a complaint is fair and objective.
- To provide support in the best interests of the individual concerned.
- To provide individuals with appropriate and relevant information necessary for them to make a positive contribution to any investigative or procedural case.
- To minimise negative effects on staff caused by involvement in investigations and proceedings.
- To reduce instances of staff leaving or being absent from the profession due to poor experiences of investigations and/or proceedings.
- To reduce instances of inappropriate exclusion of staff.
- To protect patients and improve service provision.

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Divisional leads, CBU leads, line managers and heads of department have a responsibility to ensure that their staff are appropriately supported during this process and in serious cases or where the member of staff is experiencing difficulty, and managers must advise staff of the availability of the confidential staff support service provided by the Occupational Health Department.

Training and Development

The Head of Claims, Complaints and PALS delivers a rolling programme of complaints investigation training. Please contact the CT for details.

Disciplinary Processes

If, following the investigation of a complaint, it is decided to pursue a disciplinary investigation; the complainant will be notified of this as part of the final response, details of individuals will not be included. The complainant has no right to be notified of the outcome of the disciplinary investigation and the complaints process ceases.

Organisational Learning

Good complaints handling is not limited to providing a response or remedy to the complainant it should focus on ensuring that the feedback received through complaints is used to learn lessons and contribute to service improvement. Lessons learnt from complaints will be fed back to the trust staff via a number of sources including: DATIX, ward meetings, action plans and safety briefs to ensure change in practice were necessary.

Following investigation the CBU lead should include details of any risk reduction measures, lessons learnt and actions taken as a result of the complaint in their final report. Managers are responsible for following up relevant action plans and monitoring progress of any actions agreed by providing feedback

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within the CBU's and ensuring that all action plans are entered on the Datix system and are regularly updated. Action plans and outcomes of the learning will be included in Governance and other quality reports to show evidence of "closing the loop" with regard to complaints.

Lessons learnt and safety lessons identified by complaints investigations are disseminated to internal and external stakeholders through:

- Quarterly Governance report to the Board of Directors and Commissioners;
- Quarterly reports on action plans resulting from complaint investigations will be provided to the Patient Experience Committee;
- Reports will be generated to support monitoring of themes and trends at Divisional, CBUs and corporate Quality Group meetings;
- Quarterly Complaints and Clinical Benchmarking information is provided to Trust Board of Directors by the relevant CBUs;
- Learning from Joint Complaints is shared with any external organisations involved via the complaints investigation process;
- Quarterly Learning from Experience report to Quality Committee.

Quality Assurance Group

Following the recommendations made in several reports into NHS Complaints Handling, there has been a consensus that there needs to be improvements in providing assurance to the Board that there are robust systems and processes in place, in order to deal with complaints from patients, families or carers. This will come in part, through proper use of internal governance systems, and following the correct legislative documents; namely the Complaints Regulations 2009. A further part will come through the production of papers for the Board around complaints, including things such as number of new complaints, themes/trends and grading of complaints etc., and the Trust already has reports of this type implemented. The QAG group will further see this assurance enlightened, by enabling the Board to hold to account the systems and processes, and the individuals responsible, for ensuring that complaints are answered in an open, honest and transparent fashion whilst also in a timely manner.

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The key elements are mainly detailed in Appendix 4. The aim of the group is to ensure the Trust Complaints Policy is adhered to. There is a rolling programme of complaint reviews by divisions, complaint responses are timely, and of sufficient quality, trends have been identified, lessons learned and actions have been identified and acted on.

The Complaints Quality Assurance Group will provide assurance to the Board, via Quality Committee, that the Complaints Policy is appropriate and meets the requirements of the NHS Complaints Regulations 2009, and the Parliamentary Health Service Ombudsman's recommendations, in their detailed in their report, *'My Expectations for Raising Concerns and Complaints, Parliamentary and Health Service Ombudsman, 2013.'*

The group will also support the Trust's values and enhance divisional accountability, through increased senior scrutiny and evaluation of complaints handling.

Document monitoring

This document will be monitored and reviewed on an annual basis

Glossary of Terms

CBU	Clinical Business Unit
Concern	An issue raised by a patient, or a representative of a patient, with the potential to become a formal complaint. Concerns may be resolved informally and within

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	24 hours if possible.
Complaint	An expression of dissatisfaction” received from a patient, or a representative of a patient about any aspect of the local health services which require a response, whether it be verbally or in writing.
PALS	Patient Advice and Liaison Service
CT	Complaints Team
PHSO	Parliamentary and Health Service Ombudsman
SOP	Standard Operating Procedure

Associated Documents

- The Care Act 2014
- The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2015
- Data Protection Act 1998
- The Local Authority Social Services and National Health Service complaints (England) Regulations 2009
- Public Interest Disclosure Act 1998

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- Trust Incident Reporting and Investigation Policy
- Trust Mental Capacity Act Guidelines
- Trust Violence and Aggression Policy
- Trust Risk Management Strategy
- Trust Being Open/Duty of Candour Policy

Sources/References

- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (No. 309, Office for Public Sector Information)
- Department of Health Listening, Responding, Improving – A guide to better customer care (Gateway reference 11215, February 2009)
- Advice sheet 1: Investigating complaints Department of Health, 200
- Advice sheet 2: Joint working on complaints – an example protocol Department of Health, 200
- Advice sheet 3: Dealing with serious complaints Department of Health, 200
- Care Quality Commission Essential Standards for Quality and Safety 2009
- NHSLA Risk Management Standards for Acute Trusts 2013
- The Mid Staffordshire NHS Foundation Trust Public Inquiry, Robert Francis QC, 2013

Do not retain a paper version of this document, always view policy / guidance documents from the desktop icon on your computer.

- A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture, Ann Clwyd, 2013
- Good practice standards for NHS Complaints Handling, Patients Association, 2013
- Complaints Matter, CQC, 2014
- My Expectations for Raising Concerns and Complaints, Parliamentary and Health Service Ombudsman, 2013.

APPENDIX ONE

Appendix 1: Risk Grading of Complaints

Step 1: How serious is the issue?

Seriousness	Description
Low	Unsatisfactory service or experience not directly related to care. No impact or risk to provision of care
OR	

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Unsatisfactory service or experience related to care, usually a single resolvable issue. Minimal impact and relative minimal risk to the provision of care or the service. No real risk of litigation.

Medium

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.

High

Significant issues regarding standards, quality of care and safeguarding of or denial of rights. Complaints with clear quality assurance or risk management issues that may cause lasting problems for the organisation, and so require investigation. Possibility of litigation and adverse local publicity. Any complaint received via an MP should be classed as high risk.

OR

Serious issues that may cause long-term damage, such as grossly sub-standard care, professional misconduct or death. Will require immediate and in-depth investigation. May involve serious safety issues. A high probability of litigation and strong possibility of adverse national publicity.

Step 2: How likely is the issue to recur?

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Likelihood	Description
Rare	Isolated or 'one off' – slight or vague connection to service provision.
Unlikely	Rare – unusual but may have happened before.
Possible	Happens from time to time – not frequently or regularly
Likely	Will probably occur several times a year
Almost certain	Recurring and frequent, predictable

Step 3: Categorise the risk

	Likelihood				
Impact score	1	2	3	4	5
	Rare	Unlikely	Possible	Likely	Almost certain
5 Catastrophic	5	10	15	20	25
4 Major	4	8	12	16	20
3 Moderate	3	6	9	12	15

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2 Minor	2	4	6	8	10
1 Negligible	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

APPENDIX TWO

Appendix 2: Complaint Investigation Report

Complaints Investigation Report	
Complaint reference:	
Name:	

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Date first received:	
Date of acknowledgement:	
Date of feedback meeting with complainant (if applicable):	
Date of response:	
Key issues of complaint set out by complainant:	
Details of policies or guidelines relevant to the complaint:	
How have you investigated the complaint:	
Summary – findings against each key issue identified by complainant:	
Key Findings and Conclusions:	
Actions required/undertaken:	
Investigation Officer:	
Verified by:	

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APPENDIX THREE

Appendix 3: Staff Support Letter

Insert name of CBs /Dept.

Warrington and Halton Hospitals NHS Foundation Trust

Lovely Lane

Warrington

WA5 1QG

Insert telephone number

Insert Name and address to which letter is being sent

Insert Date

Re: Complaint (reference number)

I am writing to invite you to an informal meeting to discuss a recent complaint made about the care provided to (patient name) on (ward/department).

I have been designated as the lead investigator for the CBU's and as part of the investigation I am talking to staff members who were involved in the care and treatment of the patient during the period of time identified in the complaint.

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Several issues have been raised in the complaint and I need to discuss your recollections and reflections on these. I will have the case notes available when we meet, so that we can review the relevant records.

I know that you may be anxious about being involved in the investigation of this complaint and it is hard to acknowledge that our patients might not be satisfied with the care we have provided. At the end of the letter there is some information on who can offer you support during this investigation. Please be assured that the only object in investigating complaints is to ensure that we can learn from the feedback we receive from patients and their families and improve our services.

Following my investigation I will produce a report of the findings so that a written response can be sent to the complainant. Locally, we will develop an action plan that will identify any improvements that need to be implemented to ensure we maintain high standards of care and a positive patient experience.

The proposed day, date and time of the meeting is (date/ time) and may take up to one hour. I will take notes of the discussion, or you may be asked to write an account of your involvement with the patient and your understanding of the events in question. If asked to write an account you can find guidance in the Complaints and Concerns Policy. You may bring along a colleague should you wish. If you want to do this, your colleague must ensure that patient confidentiality during and after the investigation is maintained.

If you have some concerns about this process, we may be able to offer support in the following ways:

- Advice on the Occupational Health Service and/or Staff Counselling Service, ext. 2345
- The Chaplaincy Team who are available for all staff to speak on an informal and strictly confidential basis, please contact the Chaplaincy Co-ordinator, ext. 2146
- Medical Educational Supervisor, Director of Medical Education, Supervisor of Midwives, Clinical Leads, and CBU are all Heads of Nursing (and Midwifery) or other team member.
- Line Manager and or the CBU's all Clinical Governance Facilitators
- Head of Claims, Complaints and PALS , ext. 2191

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Please do not hesitate to contact me on the telephone number at the top of the letter with any questions.

Yours sincerely

Name/title of investigator

cc. Manager of the Ward/Dept

APPENDIX FOUR

Appendix 4: Quality Assurance Group Terms of Reference

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1. PURPOSE

The aim of the group is to ensure the Trust Complaints Policy is adhered to, there is a rolling programme of complaint review by divisions, complaint responses are timely and of sufficient quality, trends have been identified, and lessons learned and actions have been identified and acted on.

The Complaints Quality Assurance Group will provide assurance to the Board, via Quality Committee, that the Complaints Policy is appropriate and meets the requirement of the NHS Complaints Regulations 2009 and the Parliamentary Health Service Ombudsman's recommendations in their 'My Expectations for raising concerns and complaints.'

(https://www.ombudsman.org.uk/sites/default/files/Report_My_expectations_for_raising_concerns_and_complaints.pdf)

The group will also support the Trust's values and enhance divisional accountability, through increased senior scrutiny and evaluation of complaints handling.

2. AUTHORITY

The Group is authorised by the Quality Committee to investigate any activity within its Terms of Reference. It is authorised to seek any information it requires from any employee and all employees are directed to cooperate with any request made by the Committee.

3. REPORTING ARRANGEMENTS

The action notes of the Group meetings will be formally recorded and submitted with the Quality Committee, with a high level report.

4. DUTIES & RESPONSIBILITIES

The Group will undertake the following duties:

1. Quality assess a 'RED' triaged complaint from the appropriate division to assess the following:
 - All aspects of the complaint were addressed.
 - The response was appropriately allocated, and the response was appropriately co-ordinated.
 - The response was open, honest and transparent.
 - The complaint was responded to within timescales.

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- The language used was appropriate.
 - The complainant was advised of the next steps.
 - Lessons learned and actions plans have been documented with appropriate timescales for completion agreed.
 - Apologies were offered as appropriate.
2. Feedback by the presenting division, areas of good practice, and areas for improvement.
 3. Review monitoring of the implementation of the Trust's Complaints Policy.
 4. Review of the Trust's Complaints Annual Report.
 5. Highlight and report any emerging trends and themes, seeking assurance that appropriate actions and learning is in place across the Trust.
 6. Oversight that the Trust's Complaints Improvement Plan is being implemented effectively.
 7. Review the position of the PALS service.
 8. Review a briefing paper, provided by the Head of Claims, Complaints and PALS in relation to PALS cases incorporating themes and trends from the previous month.

5. MEMBERSHIP

Core Members

Chair of the Trust (Chair)

Chief Nurse (or nominated deputy) (Deputy Chair)

Medical Director (or nominated deputy)

Deputy Director of Integrated Governance & Quality

Trust Head of Claims, Complaints and PALS

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6. ATTENDANCE

Members

Members will be required to attend a minimum of 75% of all meetings.

Core Attendees

Other executive directors and officers of the Trust will be invited to attend the meeting as appropriate, when an issue relating to their area of operation or responsibility is being discussed. There will be a rolling programme of complaints reviewed across the Trust. The Medical, Nursing and Operational leads of the area being discussed, will expect to be in attendance. Clinicians will be given six weeks' notice, where possible.

7. QUORUM

A quorum shall be three members: the chair of deputy, either the Chief Nurse/Medical Director or their nominated representative, and a representative from the Clinical Governance Department (either Deputy Director of Integrated Governance & Quality or Trust Head of Claims, Complaints and PALS).

8. FREQUENCY OF MEETINGS

Meetings shall be held monthly.

9. ADMINISTRATIVE ARRANGEMENTS

Unless prior agreement is reached with the Chair of the Committee, the agenda and papers will be sent out five working days, before the date of the meeting. No Papers will be tabled at the meeting, without prior approval of the Chair. The Group will be supported by Clinical Governance Department.

10. REVIEW / EFFECTIVENESS

The Group will undertake an annual review of its performance against its duties, in order to evaluate its achievements. These terms of reference will normally be reviewed at least annually by the Committee.

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Equality Impact Assessment (EIA)		
Initial assessment	Yes/No	Comments
<ul style="list-style-type: none"> • Age • Disability - learning disabilities, physical disability, sensory impairment and mental health problems • Gender reassignment • Race • Religion or belief • Sex • Sexual orientation including lesbian, gay and bisexual people • Marriage and civil partnership • Pregnancy and maternity 	No	
Is there any evidence that some groups are affected differently?	No	
If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	No	
Is the impact of the document likely to be negative? <ul style="list-style-type: none"> • If so can the impact be avoided? • What alternatives are there to achieving the document without the impact? • Can we reduce the impact by taking different action? 	No	
Where an adverse or negative impact on equality group(s) has been identified during the initial screening process a full EIA assessment should be conducted. If you have identified a potential discriminatory impact of this procedural document, please refer it to the		

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Human Resource Department together with any suggestions as to the action required to avoid /reduce this impact. For advice in respect of answering the above questions, please contact the Human Resource Department.		
Was a full impact assessment required?		
What is the level of impact?		

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This leaflet tells you how to make a formal complaint about the care you, a family member or a friend have received at Warrington and Halton Hospitals.



We value your comments about the service you have received in our hospitals as this helps us to improve the quality of care for all our patients.



We would always recommend that you try to solve any issues at the time that they happen. You can ask to speak to the person in charge, for example the ward manager or matron.



You can contact the PALS officer who will often be able to support you to resolve any issues before the need to make a formal complaint.



If you feel your issue has not been dealt with at the time you can make a formal complaint. We investigate all formal complaints fully and respond to you in writing and/or arrange to meet with you.



We will confirm that we have received your complaint within three working days.



We will investigate your complaint fully (once we have the consent of the person the complaint is for).



Your complaint will be handled by our Patient Experience Team (PET) who will coordinate the response with the relevant wards or departments.



We will let you know when we will be able to respond to your complaint. How long the investigation takes will depend on how complicated the issue is.



We will keep all information about your complaint totally separate from your medical records. Your current or future medical treatment will not be affected in any way.



The NHS has set a time limit of 12 months for accepting complaints. That is 12 months from the actual event or from the time you became aware that you had

CONTACT DETAILS

If you want to discuss the issue contact **PALS**



Telephone: **01925 275 512** Warrington

If you want to make a formal complaint



By post: **Chief Executive**
Warrington & Halton NHS Foundation Trust
Lovely Lane
Warrington
WA5 1QG



Email: whh.complaints@nhs.net



Telephone: **01925 66 2281**

Contact your local Healthwatch if you would like the support of an advocate to make your complaint.



Healthwatch Warrington
Telephone: **01925 246 892**



Healthwatch Halton
Telephone: **03007 776 543**

Complaint



How to make a formal complaint about your hospital



Easy to read



Warrington and Halton Hospitals **NHS**
NHS Foundation Trust