

COMPLAINTS POLICY AND PROCEDURE

1. PURPOSE

The purpose of this policy is to provide a structure for dealing with all patients / residents / clients complaints for services within Partnerships in Care (PiC). The existence of this document should not preclude any member of staff from seeking the views of patients / residents / clients, relatives, carers and referrers on the services they have received. The benefits obtained from positive action in respect of these cannot be overstated. Equally important is the ability to listen with an open mind to all comments and suggestions from these sources and to actively promote these whenever feasible or appropriate.

This policy may be read in conjunction with:

- [The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#)
- The respective health and social care regulations for England, Scotland and Wales
- [Principles of Good Administration, Complaints Handling and Remedy \(Parliamentary and Health Service Ombudsman\) & associated advice sheets](#)
- [Report of handling of complaints by NHS hospitals in England by Ann Clwyd MP and Professor Tricia Hart](#)
- PiC Operational Policy – *Confidentiality*
- PiC Operational Policy – *Partnership with Patients / Residents*
- PiC Operational Policy – *Staff–Patient / Resident Relationships & the Prevention of Abuse*

This policy should be implemented within the context of the PiC Values:

- Valuing people – respecting our staff, patients, their families and communities
- Caring safely – for ourselves, our patients, our customers and communities
- Working together with everyone
- Uncompromising integrity, respect and honesty
- Taking quality to the highest level

2. SCOPE

This policy applies to all services, and past or present patients, residents and clients treated and accommodated within the services, provided by PiC.

This policy will also be interpreted for use within the services provided by Care First to both organisations and individuals.

Any member of staff who is concerned about aspects of a patient's care should discuss this immediately with their local Manager; if this is not possible or appropriate then they should contact the Complaints Officer.

A complaint may be made by:

- A patient / resident; or
- Any person who is affected by or likely to be affected by the action, omission or decision of the PiC facility or service, which is the subject of the complaint.

A complaint may be made by a person (in this policy referred to as a representative) acting on behalf of a person mentioned above in any case where that person:

- Has died
- Is a child
- Is unable by reason of physical or mental incapacity to make the complaint him or herself; or
- Has requested the representative to act on his or her behalf

In the case of a patient or person affected who has died or who is incapable, the representative must be a relative or other person who, in the opinion of the Complaints Officer, had or has a sufficient interest in their welfare and is a suitable person to act as representative.

These decisions should be made in consultation with the local Senior Management Team.

If in any case the Complaints Officer is of the opinion that a representative does or did not have a sufficient interest in the person's welfare or is unsuitable to act as a representative, they must notify that person in writing, stating their reasons.

These decisions should be made in consultation with the local Senior Management Team and the PiC legal department.

In the case of a child, the representative must be a parent, guardian or other adult person who has care of the child and where the child is in the care of a local authority or a voluntary organisation, the representative must be a person authorised by the local authority or the voluntary organisation.

These decisions should be made in consultation with the local Senior Management Team and the PiC legal department.

In this Policy any reference to a complainant includes a reference to this representative.

Any decision by the Complaints Officer as to the outcome of a complaint should not necessarily preclude any action by a Head of Department.

Time limit for making a complaint

A complaint must be made within:

- a) Six months of the date on which the matter which is the subject of the complaint occurred; or
- b) Six months of the date on which the matter which is the subject of the

- complaint came to the notice of the complainant.
- c) Where a complaint is made after the expiry period, the Complaints Officer may investigate it if they are of the opinion that –
 - d) Having regard to all the circumstances, the complainant had good reasons for not making the complaint within that period; and
 - e) Notwithstanding the time that has elapsed it is still possible to investigate the complaint effectively and efficiently.

3. PRINCIPLES OF GOOD COMPLAINT HANDLING

The Parliamentary and Health Service Ombudsman who is responsible for investigating complaints that cannot be resolved at a local level has published six principles in good complaint handling. These principles will be applied by the Ombudsman when dealing with complaints appeals. It should also be noted that these principles will be used by the Ombudsman to evaluate the quality of good complaint management in provider organisations.

In summary, good complaint handling means:

- 1. Getting it right
- 2. Being customer focused
- 3. Being open and accountable
- 4. Acting fairly and proportionately
- 5. Putting things right
- 6. Seeking continuous improvement

4. MAKING A COMPLAINT

Oral complaints may be logged in the patient's clinical record but must be logged in the ward / house Informal Complaints Resolution Log with notes of any action taken. However, if a complainant continues to be dissatisfied or is unwilling for the complaint to be dealt with verbally, they should be asked to formally express their concern by writing to the Complaints Officer. If the complainant needs help in writing this, or indeed any other correspondence relating to complaints, assistance will be given by staff. Whenever practical, anyone giving assistance should not be implicated in the complaint. They can where practical speak with the Complaints officer who will assist them.

Staff should remember that the method of complaining (oral or written) does not determine the category of complaint investigation (formal or informal). Oral complaints may be determined to be formal or written complaints informal.

4.1. Advocacy

Patients / residents will always be given the opportunity to involve an independent advocate if they wish and staff will give all assistance to this end.

5. OPTIONS

5.1 Stage 1 - Local Resolution

Many less serious complaints are expressed verbally, and can be dealt with as they arise by staff at ward or department level. Staff will encourage and facilitate patients / residents / clients to raise matters in this way, and resolve these promptly and informally whenever possible. Staff should not simply advise patients / residents / clients to contact the Complaints Officer, without first taking all reasonable action to try to resolve the problem locally and informing the patient / resident of what action has been taken.

Staff should deal with complaints rapidly and, if circumstances permit, in an informal manner. (It is expected that most simple oral complaints will be dealt with at the time or within two working days). Such complaints from current patients / residents / clients should be dealt with usually by the Ward Manager / person in charge of the ward / house, or by the patient's / resident's key worker as appropriate.

All such complaints will be recorded in the patient's / resident's clinical record, and in the ward / house Informal Complaints Resolution Log. This briefly describes the complaint or compliment, the action taken and whether the complainant is happy with the outcome. The PiC form 'Record of Informal Complaint Resolution' is included in [Appendix C](#) of this policy.

Logs will be subject to regular scrutiny (at least monthly) by the Complaints Officer (also by other such staff as are locally appropriate – for example the Ward / House Manager or Ward / House Management Team) to ensure that appropriate actions are being taken and to monitor any patterns of complaints. These reviews will be recorded within the ward / house Complaints Log. Any complaints deemed to fall within the "Formal" category of complaint should immediately be referred to the Complaints Officer for formal investigation.

Where a member of staff receiving a complaint is unable to investigate it adequately or feels unable to give the assurance that the complainant is looking for, the matter should be referred to the Complaints Officer for advice.

All staff must be aware of the obligation to **always** bring to the attention of their Ward / House / Departmental Managers, complaints or matters, which appear to fall into categories a) to c) (outlined below), regardless of whether or not a complaint has actually been made.

Examples of investigation issues are as follows:

The following will always require full investigation, but this list is not exclusive:

- a) Allegations, which, if proved, might render staff or other patients / residents liable to legal action. This would include such matters as defined by Safeguarding Vulnerable Adults / Children and regulated by Section 127 of the Mental Health Act, 1983.

This includes:

- i) Physical assault / ill treatment
 - ii) Sexual abuse
 - iii) Deliberate damage to, or theft of, patient's / resident's property
 - iv) Psychological / emotional abuse
 - v) Financial irregularities
 - vi) Discrimination
 - vii) Deprivation
 - viii) Neglect and acts of omission
 - ix) Bullying and harassment
- b) All proposed forms of care / treatment, which might be interpreted as a limitation of a patient's human rights or dignity.
- c) Allegations which appear to the Complaints Officer to impute neglect or the use of regular and specific psychological ill-treatments or victimisation.

The following issues may not require full investigation by the Complaints Officer:

- d) Disagreements or disputes of a "domestic" or "household" nature that cannot be resolved informally which in any communal living environment would be regulated and resolved by discussion, understanding and compromise.
- e) Matters, which relate to the properly approved programme for that ward / house or patient / resident.

5.2 Investigation

All complaints referred formally to the Complaints Officer will be investigated. The Complaints Officer will determine the manner of the investigation according to the circumstance of the complaint. This may involve examination by the Complaints Officer of the immediately available facts and, where practicable, a recommendation for resolution of the problem. Or it may involve the appointment of an Investigating Officer who is independent of the situation and / or complainant. The Complaints Officer will oversee all complaints investigations.

The Investigating Officer may meet with the complainant to establish the exact nature of the complaint and to try to establish what the complainant would see as a satisfactory resolution. The investigation may include personal interviews with staff and other patients / residents; reviewing documentation and obtaining written witness statements.

Written witness statements will be asked for at the discretion of the investigating officer. Written witness statements must be submitted using the PiC form 'Written statement for complaints'. This includes a section to outline the details of the alleged incident along with a list of questions that need to be addressed in the statement.

All complaints will require full formal reporting, including the process, how this relates to the evidence, how the outcome was reached and the learning outcomes for the

organisation. Every formal complaint will be accompanied by the PiC form 'Complaints Investigation Report'. This report breaks down the components of each complaint, the sources of evidence for the investigation along with whether each component is not to be taken further, some action needed or action needed. It should be noted that the 'documents referred to:' section on the form can be altered to reflect local recording systems.

In more complex cases a review team may be established to examine the findings. As part of the process, the Complaints Officer may call for a preliminary report to help establish whether there is likely to be a case to answer. Standard forms are included in [Appendix C](#) of this policy.

5.3 Complaints Investigations and the Disciplinary Process

Some complaints investigations may have the potential to result in disciplinary action against PiC staff. It should be normal practice for a complaint investigation to be completed before any disciplinary action is commenced but this should not preclude staff from being suspended where appropriate in accordance with the PiC Disciplinary Procedure. The PiC Disciplinary Procedure may be used where appropriate whatever the outcome of the complaint investigation.

6. SAFEGUARDING VULNERABLE ADULTS / CHILDREN

Where a complaint involves Safeguarding issues, please refer to the relevant PiC Policy and local Safeguarding policies.

A system should be in place to ensure that only one system of complaint recording is in place which includes those that may be dealt with within the Safeguarding policy.

Where uncertainty arises as to which system should be implemented i.e. Safeguarding or the Complaints system this should be referred to the Senior Management Team for guidance.

7. RATIONALE FOR DECISIONS

In reaching a decision, the Complaints Officer shall be diligent in ensuring that all of the facts are obtained which seem to be relevant and appropriate to the case. Evidence shall be considered fairly and without prejudice to any individual. Complaints should not be required to be proven "beyond reasonable doubt" – a decision should therefore be reached based on the "balance of probabilities".

8. COMMUNICATION WITH THE COMPLAINANT

Written communications with the complainant must follow the PiC format.

All complaints must be acknowledged in writing within two working days of receipt by the Complaints officer using the PiC 'Acknowledgement Letter for Complaints'. (The exception to this is that a full reply to the complaint can be sent within 5 working days).

All efforts must be made to conclude and resolve the complaint within 20 (25 in England) working days. In the event of any delay it is the responsibility of the Complaints Officer to inform the complainant in writing of this. The Complaints Officer will outline the reasons why by writing to the complainant using the PiC 'Holding Letter for Complaints'.

All complainants will receive a written outcome summarising the findings and any decisions regarding further actions to be taken signed by the Registered Manager or in their absence a nominated deputy using the PiC 'Outcome Letter for Complaints'.

The PiC standard letters are included in [Appendix B](#) of this policy.

10. UNREASONABLY PERSISTENT COMPLAINANTS

Complainants that could be described as unreasonably persistent through either the quantity or reasonableness of their complaints require a considered approach. At no time should a complaint be excluded from consideration under this policy. In cases where the Complaints Officer considers that a complainant is unreasonably persistent they should consider putting in place a system for managing this that is appropriate and proportional to the situation. This should not be considered in isolation by the Complaints Officer and may involve the clinical team, advocates or other relevant people. Any decision to implement such a system would require the approval of the Senior Management Team. Where uncertainty arises, advice should be sought from the Director of Policy and Regulation or the PiC Legal Department.

11. LIMITATION OF HUMAN RIGHTS

Staff should be especially aware that any action which might be interpreted as a limitation of a patient's human rights / dignity will only be acceptable if previously ratified by the Senior Management Team following examination of Care Plan proposals. The only circumstance when this might arise would be if such action was therapeutically necessary, carefully structured and monitored, and considered as the only option to save the patient's life or to prevent undue suffering or serious deterioration. Advice should be sought from the PiC Legal Department.

12. STAGE 2 – NON-LOCAL RESOLUTION / APPEAL

Complainants who remain dissatisfied with the outcome of internal Stage 1 actions may appeal against the decision both within and outside of PiC. Outcome letters will advise complainants of this and how it may be facilitated.

Complainants who remain dissatisfied with the outcome of external Stage 1 actions may appeal against the decision outside of PiC only.

As regards non-local review or appeal within PiC, this will be carried out (where requested by the complainant) by the PiC Director of Policy and Regulation or by someone delegated by them. The written outcome of any such appeal should advise the complainant of their further options as noted in section 7.

The options open to complainants for appeal are set out below: For all patients, residents or clients (including those of Care First):

Director of Policy and Regulation
Partnerships in Care
2 Imperial Place
Maxwell Road
Borehamwood
Hertfordshire
WD6 1JN

or

For patients / residents in PiC services in England:

The Parliamentary and Health Service Ombudsman
Millbank Tower
Millbank
London, SW1P 4QP

or

The Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH

For patients / residents in PiC hospitals / units in Scotland:

Scottish Public Services Ombudsman
Freepost EH641
Edinburgh
EH3 0BR

or

The Scottish Care Commission
Suite 3
Sovereign
House
Academy Road
Irvine
KA12 8RL

For patients / residents in PiC services in Wales:

Public Services Ombudsman for Wales
1 Ffordd y Hen Gae
Pencoed
CF35 5LJ

APPENDIX A**COMPLAINTS PROCEDURES****1. STAGE 1 – LOCAL RESOLUTION****1.1 Informal**

The form of such investigation will be determined locally by the member of staff dealing with the complaint and will be appropriate to the matter in hand. Details will be recorded in the clinical files and in the Ward Informal Complaints Resolution Log ([Appendix C](#)), with notes of action taken. Each Informal Complaints Resolution Log sheet should be sequentially numbered and bound together to make up the Ward Informal Complaints Resolution Log.

These procedures may not however be used to respond to those more serious complaints which always require full formal investigation.

1.2 Formal

Complaints will be acknowledged by the Complaints Officer within two working days of receipt. (The exception to the two days is that a full reply to the complaint can be sent within 5 working days). Receipt is defined as the time the complaint was first received by any representative of the organisation. The PiC standard 'Acknowledgement Letter for Complaints' will be used for this purpose. This letter outlines the patient's right to involve an external advocate, should they wish. All efforts must be made to conclude and resolve the complaint within 20 (25 in England) working days from receipt. Complainants shall be kept informed by the Complaints Officer should there be any delay in meeting these targets using the PiC standard 'Holding Letter for Complaints'. Ideally the 20 (25 in England) day deadline should only be extended by agreement with the complainant. Complaints Officers should ensure that they record any details of any discussion and agreed / disagreed extensions. Standard letters are included in [Appendix B](#) of this policy.

If there is more than one issue contained within a letter of complaint, each item should be given a separate reference number.

The Complaints Officer may arrange for the complainant to be interviewed and a full written statement taken by a person independent of the complaint (who may also be the Complaints Officer). Following the interview the details of this will be confirmed to the complainant.

All staff implicated will be informed of allegations made against them within two working days of receipt.

Any complaint considered likely to lead to litigation will be reported to the Regional Executive / Operations Director. The possibility of legal proceedings will not delay investigation of a complaint. The Regional Executive / Operations Director or nominated deputy shall determine whether the Police should be informed, however in some cases the police may become involved and may request that the complaint investigation be delayed pending the outcome of their investigation.

Any complaint appearing to involve allegations of a sexual nature, or of racial discrimination, will also be subject to the provisions of any separate policies the hospital / unit / home may have for dealing with such matters.

On completion of the investigation an outcome letter will be sent to the complainant within the 20 days (25 in England) as set out above and copied to any other appropriate person. The PiC 'Outcome Letter for Complaints' will be used for this purpose and includes a summary of the conclusions and evidence used in the investigation, and whether the complaint was upheld, partially upheld or not upheld. The letter will also outline any action taken in response to the complaint and contain an apology where appropriate. It will also include a statement of the remaining options open to the complainant should they be dissatisfied with the outcome, including appealing both within PiC and externally.

The letter will be signed by the Regional Executive Director / Registered Manager. All parties to a complaint, including any advocate, will be given the opportunity to respond formally to the outcome letter. Any actions to be taken will be the responsibility of the Head of Department concerned. The Head of Department is expected to inform the Complaints Officer when recommended actions have been completed. Should the Complaints Officer make recommendations, which in the opinion of the relevant Head of Department may be inappropriate, then the Head of Department shall report this to the Senior Management Team who will decide what further action, if any, should be taken.

Any withdrawal of a complaint will be investigated to ensure it represents a true denial that the matter originally complained of occurred. It will be to the discretion of the Complaints Officer whether the matter is still to be investigated should they feel there is ground for this.

The Complaints Officer will maintain a "Complaints Register" and records of all complaints brought to their attention with full details of the investigation including complainant, complaint, persons implicated, copies of documentation, decisions of the investigating team and how these were arrived at, and action / outcome. Copies of the complaint and outcome will be filed on the patient's clinical record.

2. PROCEDURAL ISSUES

2.1 Investigation

Complaints will be investigated thoroughly and expeditiously and will be summarised using the PiC complaints investigation form ([Appendix C](#)). The Complaints Officer will determine the form the investigation is to take, consulting with a Senior Manager of the department concerned; however, under no circumstances will the Senior Management Team, as a body, be involved in making such decisions, which should always be made independently of them. The Senior Management Team may, however, decide after full examination of all the facts that an alternative finding should be recorded, where in their judgement the Complaints Officer has:

- a) Failed to take into account all of the relevant facts

- b) Given undue or insufficient weight to particular facts

Where this occurs the Senior Management Team will make full records of their decision and the rationale for it.

2.2 Clinical Judgement

If the complaint appears to concern a matter of clinical judgement then the form of investigation and / or further action may be determined by the Clinical Director (or failing him, or where he is the subject of such complaint, by an alternative person nominated by the Regional Executive / Operations Director).

2.3 Senior Management Team

Complaints against the Senior Management Team, or members thereof, will be immediately referred to the PiC Director of Policy and Regulation who will determine the form and outcome of any investigation that may be required.

2.4 Co-operation

It is contractually required that all staff will co-operate fully with every aspect of an investigation. Staff should understand that they are required to make full and honest statements on all matters pertaining to the complaint and to the actions of all others involved.

2.5 Improvements

The Complaints Officer will be particularly mindful of the possibility of human and systems failures and will seek to identify improvements that can be made.

2.6 Disciplinary investigations

Some complaints investigations may have the potential to result in disciplinary action against PiC staff. It should be normal practice for a complaint investigation to be completed before any disciplinary action is commenced but this should not preclude staff from being suspended where appropriate in accordance with the PiC Disciplinary Procedure. The PiC Disciplinary Procedure may be used where appropriate whatever the outcome of the complaint investigation.

2.8 Publicity

Publicity will be given to the complaints procedure on the wards / houses and in departments, in addition to the explanation of how to complain and the stages of resolution available, which is included in the hospital / unit / house information booklet issued to all patients / residents and their nearest relatives on admission.

2.9 Confidentiality

All references to other patients / residents in complaint reports should be avoided, wherever possible, referring to them by name. Initials / patient number should only be used.

2.10 NHS Patient number

In accordance with NHS policy the NHS patient number will be logged against all complaints.

2.11 Personal Property

Where the circumstances of loss of / damage to personal property cannot be clearly determined the hospital / unit / house may, at the discretion of the Regional Executive / Operations Director, make an ex-gratia payment to the complainant with an express denial of legal liability.

Where a compensation payment is made to a complainant by agreement with them, then the hospital's letter confirming this should state that the payment is made "as full and final settlement".

3. MONITORING AND EVALUATION

The Complaints Officer will report to the Senior Management Team at monthly intervals on the background and outcome of all complaints. It will be for them to monitor the effectiveness and operation of these procedures and to note matters that might require action on their part.

The Complaints Officer will analyse the statistical correlation between complaints and individual patients / residents and highlight where, in their opinion, policy / procedure changes are warranted.

PiC collates data sets centrally and the Complaints Officer will provide this to the PiC Information Manager on a regular and frequent basis. This information will be collated and analysed quarterly and the reports distributed to the Corporate Clinical Governance Committee.

Complaints data is required by the various inspecting bodies and the Complaints Officer will collate this for the Registered Manager.

Staff members who have been subject to complaints, whether formal or informal, have a responsibility to reflect on any personal learning through supervision and appraisal.