

Document title:	COMPLAINTS POLICY		
Document reference number:	CP2	Version number:	3.1
Document type: (Policy/ Guideline/ SOP)	Policy	To be followed by: (Target Staff)	All staff
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Approval group/ committee(s):	Experience of Care Group		16 September 2024
Professionally approved by: (Director)	Matthew Sisto, Director of Patient Experience		
Executive Director:	Zephan Trent, Executive Director of Strategy, Transformation & Digital		
Ratification group(s):	Policy Oversight and Ratification Group (PORG)		09 October 2024
CQC Quality Statement	Compliance Team to provide relevant statement		
Key word(s) to search for document on Intranet / TAGs:	Author to complete	Distribution method:	<input checked="" type="checkbox"/> Intranet

Initial issue date:	03 April 2017	Last Review date:	09 October 2024	Next Review date:	01 April 2026	Expiry Date:	01 July 2026
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Controlled Document

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What we do together matters

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Related Trust documents (to be read in conjunction with)

(Refer to the main body of the text)

CP3: Adverse Incidents Policy and Procedure.
 CPG9(b): Accessing Health Records Procedure
 CP10: Claims Policy and Procedure.
 CP25: Freedom of Information Policy
 CP53: Freedom To Speak Up / Whistleblowing Policy
 CLP37: Safeguarding Children Policy.
 CLP39: Safeguarding Adults Policy.
 CP59: Data Protection & Confidentiality Policy
 CP84: Violence Abuse Prevention & Reduction (VAPR) Policy and Procedure.
 HR27A / B: Conduct and Capability Policy.
 HR26: Employee wellbeing & management of sickness and ill-health policy.

Document review history:			
Version No:	Authored/Reviewer:	Summary of amendments/ record documents superseded by:	Issue date:
1.0	Head of Complaints & Customer Service Improvement	Not Documented	01 April 2017
1.1	Head of Complaints	Review Date Change	01 December 2019
2.1	Head of Complaints	Full review as per schedule; Extended to May 2023 – PORG Chair's Action Feb 23	16 January 2020
2.2	Head of Complaints	Full review as per schedule; Extended to May 2023 – PORG Chair's Action Feb 23. Ext to June - PORG May 23	16 January 2020
3.0	Claire Lawrence, Head of Complaints	All content revised and updated in light of the Trust's new Complaints Process that was launched in January 2023.	05 July 2023
3.1	Claire Lawrence, Head of Complaints	Policy & Procedure merged and mapped into new template Two sections have been added: 'Complaints Related to A Data Protection Breach' and 'Complaints Containing an Allegation of Abuse' Section 24 – Locally resolved complaints process clarified 25.12 updated to accurately reflect Early Dispute Resolution process Section 26 – amended in view of changes made to complaint response template	09 October 2024

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		Appendix 3 (HUP Procedure) amended with additional criteria to identify a HUP complaint.	
			Date

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Policy at a Glance

[Click here to view Policy at a Glance](#)

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1 Introduction

- 1.1 This document outlines Essex Partnership University Trust (EPUT)'s approach to complaints about the services we provide. It contains information about how we manage, respond to, and learn from complaints and feedback given about our services.
- 1.2 We are committed to meeting the requirements of the Local Authority Social Services and NHS England Complaints Policy (2009) and to uphold the principles of the NHS Constitution. Our complaints process has been designed to fulfil and where possible, exceed the expectations of the Parliamentary and Health Service Ombudsman (PHSO) for NHS Complaint Standards (2022).
- 1.3 We aim to create a positive experience for people making a complaint, by ensuring that they are supported, listened to and involved in how we resolve their concerns.
- 1.4 Our complaints process has been designed to provide open and honest responses, by investigating complaints thoroughly and fairly. We will apologise and take accountability for mistakes made, and we will endeavour to put matters right wherever possible.
- 1.5 We look for ways to resolve complaints at the earliest opportunity, but we recognise that some complaints require more detailed consideration and investigation. The time it takes to investigate a complaint will depend on the complexity of the matter, so we take this into account and set expectations about timescales with the person who raised the complaint. We keep them updated, and if we need more time to investigate we will explain the reason for this.
- 1.6 The Trust has a strong learning culture, and we recognise the value of complaints for providing opportunities to develop and improve our organisation. Our staff are encouraged and supported to routinely share learning from complaints, so that we can continuously build on insight and best practice.
- 1.7 The different available routes to raising complaints with the Trust are explained in this document.
- 1.8 This policy replaces all other policies and procedures that relate to EPUT's management of Complaints that predate the publication and validation of this policy.

2 Principles

- 2.1 The Trust's Complaint policy was co-produced by service users who have experience of making a complaint to the Trust, and staff who have experience in investigating and responding to complaints. The 5 key principles that underpin the policy are:
 - We are Service User Led and Outcome Focussed
 - Our approach is Fair and Accountable
 - We communicate and respond in a timely manner

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- Our Staff feel Supported
 - We have a Just and Fair Learning Culture
- 2.2 This Policy will ensure that individuals making complaints are treated with respect and are not penalised for making a complaint or raising a concern. A number of processes are in place to help ensure this principle is adhered to:
- The Trust promotes an open culture with all staff
 - All staff are encouraged to learn from complaints and not assign blame
 - Complaint records are kept separately from patient/residents records
 - If a member of staff is found to have penalised an individual for making a complaint / raising a concern this would be dealt with under the Trust's conduct process where appropriate.
- 2.3 The Trust welcomes and encourages feedback from service users/residents, carers and their families and members of the public. Feedback, including compliments and complaints, is valuable to the Trust, helping improve services by learning lessons from people's experiences. The Trust will provide a range of opportunities for people to comment and raise concerns (whether as complaints or not). These include:
- Complaints Satisfaction Surveys
 - PALS
 - Service user/resident and carer feedback through local organisations
 - Friends and Family Test / I Want Great Care
 - Forums and inpatient meetings
- 2.4 The Trust will offer a speedy and efficient system, that is open, fair (to all involved) and flexible to the needs of people wanting to make a complaint. This includes a commitment to endeavour to resolve concerns raised directly to the relevant service within 24 hours where possible.
- 2.5 The Trust adopts the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling as a code of good practice to be followed by all staff and investigators who look into issues referred to them.
- 2.6 All allegations made will be taken as true at face value with an intervention from the Trust that is full and fair. Individuals will be given clear and specific reasons for any decision taken on their complaint (based on the evidence), and that those decisions address all of the concerns raised by the complainant.
- 2.7 The Trust will be clear in all its communications, using plain English and avoiding jargon throughout and implementing other appropriate means of communication as needed.

3 Scope

- 3.1 This policy and associated procedure is intended for use by all those employed by and working on behalf of (e.g. agency, bank, contractors etc.) the Trust. It applies to

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all sites to ensure that all staff are aware of and can apply best practice when dealing with complaints.

4 Definitions / Glossary

Term	Definition / Meaning
CLO	Complaint Liaison Officer
HUP	Habitual, Unreasonable and Persistent (complaint)
PALS	Patient Advice & Liaison Service
PHSO	Parliamentary and Health Service Ombudsman

5 Duties

- 5.1 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 require that the Trust designates the Chief Executive to take responsibility for ensuring compliance with the arrangements. The Trust designates the Executive Director of Strategy, Transformation and Digital to be responsible to the Chief Executive for ensuring compliance with the Regulations and the Trust Complaints Policy and Procedural Guidelines and that action is taken in light of the outcome of any investigation.
- 5.2 The Executive Director of Strategy, Transformation and Digital has overarching responsibility for the complaints process.
- 5.3 All Directors of the Trust are responsible and accountable for the implementation of this policy and associated procedures within their area of responsibility. They will ensure that all complaints are managed in accordance with the policy and procedure and ensure agreed timeframes and assurances are met.
- 5.4 The Head of Complaints will act as the Trust's lead for the management and handling of complaints. This post will oversee the Complaints and PALS Team and ensure any learning from complaints is triangulated with all other forms of patient/resident feedback, through the Learning Lessons Collaborative Group, to ensure it informs on-going work to improve the patient/resident experience.
- 5.5 The Head of Complaints will
 - Provide complaint and compliment data for the Trust's monthly reports and include information on lessons learned on a quarterly basis.
 - Provide a quarterly report, highlighting any trends and emerging themes, to the Patient and Carer Experience Steering Group
 - Complete an annual Complaints Report for publication on the Trust website, which also contains data about compliments that have been received.
 - Be responsible for ensuring that regular assurance reports are developed which will include aggregated information about complaints, qualitative and quantitative analysis of information, action plans to deal with the management

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of risks identified and information about lessons learnt and compliments received by the Trust.

- Work collaboratively with partnership organisations to ensure there is a coordinated approach to handling complaints and queries that cross over between organisations.

5.6 All members of staff have a responsibility to:

- Familiarise themselves with the content of the complaints policy and procedure, and work within the standards and guidelines
- Take responsibility for responding to a concern/complaint made directly to them by ensuring they listen to the complainant and take the appropriate action in line with the complaints procedure.
- Review their practice as a result of any complaint raised or received and ensure that service users/residents, their relatives and carers are not treated differently as a result of raising a concern/complaint

5.7 Line managers of staff who are the subject of a complaint will provide support to those staff. This is fully described in section 31 of this policy.

5.8 Non-Executive Directors will undertake reviews of randomly selected complaint responses, to monitor adherence to process and any identified learning.

6 Definition of a Complaint

6.1 A complaint is an expression of dissatisfaction about any matter reasonably connected with services supplied by this Trust. This includes NHS services and local authority services delegated to the Trust under its partnership agreements.

6.2 Complainants will generally be existing or former patients/residents of the Trust's services, or people who are directly affected by the Trust's actions and decisions in relation to a patient's care, such as the family or carer of a patient

7 Consent

7.1 A complaint can be made on behalf of another person, if the complainant;

- has been requested by the person to act as a representative on their behalf.
- has delegated authority to do so, for example in the form of Power of Attorney.
- is an MP acting on behalf of and by instruction from a constituent about their own care and treatment. (implied consent)

or if the person at the centre of the complaint (e.g. patient):

- has died;
- is a child;
- is unable to make the complaint themselves because of

(i) physical incapacity; or

(ii) lack of capacity within the meaning of the Mental Capacity Act 2005.

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- 7.2 In order to provide the complainant with the full outcome of the investigation, the Trust is required by law to ensure:
- (i) consent is obtained from;
 - the person at the centre of the complaint e.g. patient/ servicer user or
 - whoever has legal authority to make decisions on the person's behalf
 - (ii) the consent is given freely, i.e. the person understands that:
 - they are authorising the representative to act on their behalf
 - they are consenting for The Trust to discuss their complaint and share their personal information with the complainant
 - they are consenting for the Complaints Team to look at any relevant personal information, such as their clinical records as part of their investigation of the complaint, and that other relevant people inside (and potentially outside) EPUT may need to see this information as part of the investigation
- 7.3 The consent can be written, verbal or received by email but the decision must be recorded on our complaints system (Datix).
- 7.4 If any part of the complaint is about the complainant's own experience of our service (e.g. how they were treated as a carer or visitor to the patient) we do not require the patient's consent to respond to those elements if doing so would not breach the patient's confidentiality. In these circumstances we would identify which issues required consent and which ones we can respond to without consent, and this would be explained to the complainant.
- 7.5 Where consent is declined or not obtained, we will consider the merit of investigating the concerns that have been raised, so that we can take action to address any potential issues that are identified. However, the outcome of any investigation would not be shared with the complainant where we do not have consent to do so.

8 Matters Excluded

- 8.1 The following types of complaint are outside of the Trust Complaints procedure:
- i. Complaints made by an NHS body which relates to the services provided by another NHS body, except where a joint response is required under this procedure.
 - ii. Complaints made by an independent provider about any matter relating to arrangements made by an NHS body with that independent provider unless otherwise stated in the contractual arrangements.
 - iii. A complaint made by an employee about any matter relating to their contract of employment. Separate mechanisms exist under the Trust 'Grievance Policy Procedure.

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- iv. A complaint which has already been investigated by the Trust or is being or has been investigated by the Ombudsman except where they have referred an issue back to the Trust for further investigation.
- v. A complaint arising out of the Trust's alleged failure to comply with a data request under the General Data Protection Act 2018 or a request for information under the Freedom of Information Act 2000. The Trust Information Governance Manager should be consulted with regard to complaints arising out of data subject requests under the General Data Protection Act 2016.
- vi. A complaint by non-patient third parties, who have not been affected by an action, omission or decision of the Trust.

9 Patient Advice & Liaison Service (PALS)

- 9.1 A guide to the role of PALS in the management of concerns and complaints is provided in Appendix 2.
- 9.2 PALS can help sort out any concerns or queries you may have about the services the Trust provides, giving you information and support.
- 9.3 PALS is the recommended route if the service concerned has been unable to resolve matters for you directly, and if either of the following applies to your concerns:
 - The complaint relates to an ongoing/ current issue, which requires immediate or urgent action.
 - You do not wish to make a formal complaint.
- 9.4 PALS staff will escalate your concerns to a senior member of staff within the service, and follow this up on your behalf to provide you with a response as quickly as possible.
- 9.5 If PALS are unable to provide a satisfactory resolution to the concerns raised (e.g. because they are complex and require a more thorough investigation) they may refer you to the Complaints Team for further assistance.
- 9.6 For more information about the PALS procedure please see Appendix 2.

10 Complaints About Services Contracted to or by the Trust

- 10.1 Where the Trust makes arrangements for the provision of services through an NHS contract or with an independent provider, it will ensure that the NHS Contract and/or independent provider has in place arrangements for the handling and consideration of complaints about any matter connected with its provision of services which shall be in line with this policy and procedure and passed to the Trust.
- 10.2 When the Trust undertakes to provide a service through a commercial arrangement with another organisation, the contract shall also state how complaints under that

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arrangement will be managed (which will usually be by the Trust) and this procedure will be used, unless the contractual arrangements provide otherwise.

11 Mixed Sector Complaints

- 11.1 Where a complaint involves more than one NHS provider, or one or more other bodies such as a Local Authority or a purchaser, there should be full cooperation and coordination in seeking to resolve the complaint through each body's local complaints procedure. NHS bodies and Local Authorities will need to ensure that, between them, they address all matters of concern to the complainant. Whichever body the majority of the complaint relates to will take the lead in this matter and will write to the complainant explaining this and asking for their permission to pass the relevant parts of the complaint on to the pertinent bodies.
- 11.2 If a complaint is a joint NHS/Social care complaint (requiring a Trust and Local Authority Social Care response), such complaints will be rated at least as 'moderate risk' and the Complaints Manager will agree with the relevant Social Care provider who will lead on the matter and how to coordinate the response. The issues raised about the Trust will be investigated according to this procedure.
- 11.3 If the complaint comes from an Integrated Care Board (ICB), on behalf of a complainant, the ICB will decide, with the Trust, how to handle the issue and will discuss this with a member of the complaints team. When an ICB decides, with the complainant's consent, that the Trust is the appropriate body to deal with the complaint, the complaint will be handled as if the complainant had complained directly to the Trust from that date.
- 11.4 If the Trust receives a complaint that is solely concerned with services provided by another organisation, a member of the complaints team will seek the complainant's permission to pass the complaint to the other organisation's Complaints Team. Any doubts over which body is responsible for handling the complaint should be resolved before the complaint is dispatched. This should then be recorded in writing.

12 Complaints Related to a Patient Safety Incident (PSI)

- 12.1 Complaints received by the Complaints Team are cross-checked against The Trust's Incidents Database (Datix) to identify any potential related Patient Safety Incidents.
- 12.2 If a complaint is found to be linked to an Adverse Incident or Serious Incident, the Patient Safety Team will be engaged to ensure a co-ordinated response is provided.

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13 Complaints Related to a Data Protection Breach

- 13.1 If a complaint relates wholly or partly to a data protection breach, the Complaints Team will refer it directly to the Information Governance Team so that it may be dealt with in line with the Trust's Data Protection & Confidentiality Policy (CP59).

14 Legal Cases & Potential Litigation

- 14.1 It should not be assumed that a complainant who has used a solicitor to lodge a complaint has decided to take formal action. However, the Complaints Team should be notified of any such complaint.
- 14.2 Where a complaint identifies a case of clinical error (or appears to be clinical error), the person dealing with the complaint should immediately inform the Complaints Team who will seek advice from the Trust's Claims Advisor regarding the Trust's Corporate Procedural Guidelines for Negligence and Insurance Claims.
- 14.3 In all such complaints relating to clinical error, there should be a full and fair investigation regardless of whether the complainant has indicated that they propose to start legal proceedings. The principles of good claims management and risk management should be applied.
- 14.4 A complaint must only be suspended if the Trust has legal advice that it would prejudice a legal process. (Department of Health guidance).
- 14.5 Where a complaint contains a request for information under the Freedom of Information Act (FOIA), or a Subject Access Request (SAR), the Complaints Team will refer it directly to the Trust's Legal Team so that it can be dealt with in line with the Trust's Freedom of Information Policy (CP25) and Accessing Health Records Procedure (CPG9(b)).
- 14.6 Requests made by the Parliamentary and Health Service Ombudsman (PHSO) for patient records in relation to a complaint investigation should be dealt with by the Complaints Team and should not be referred to the Legal Team.

15 Complaints Involving Vulnerable Adults or Children

- 15.1 Where it is known or suspected that a complaint involves an adult or child who is vulnerable to harm, the Associate Director for Safeguarding will be informed and appropriate action will be taken in accordance with the Trust's Safeguarding Adults Policy (CLP39) or Safeguarding Children Policy (CLP37).

16 Complaints Containing an Allegation of Abuse

- 16.1 Where a complaint contains an allegation of abuse, the Complaints Team will refer to the Associate Director for Safeguarding, and action will be taken by the

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Safeguarding Team in accordance with the Trust's Safeguarding Adults Policy (CLP39) or Safeguarding Children Policy (CLP37).

17 Anonymous Complaints

- 17.1 Where a service user/resident or carer or other concerned individual wishes to make an anonymous complaint, the Trust will review it outside of the complaints process. If a complaint is received totally anonymously, the Complaints Team will log it and pass it to the relevant Director for their consideration.
- 17.2 Whilst the Trust will act on anonymous information where it has concerns (in line with the intentions behind the Trust's 'Freedom To Speak Up / Whistleblowing Procedure', or the Safeguarding Policies) the Trust will not bring any complaints about an individual or team to the attention of anyone mentioned or to the Team Manager unless it is a general issue.
- 17.3 The Trust's policy about raising a concern about practice, (Human Resources Policy, Whistle Blowing) offers staff a process to raise issues/concerns. This process recognises that staff may wish to remain anonymous when raising concerns. This does not preclude staff from using the complaints policy where they are considered to have sufficient interest in the patient's/resident's welfare.

18 Provision of Redress & Ex-Gratia Payments

- 18.1 Financial redress will not be appropriate in many complaints, but the Trust will consider proportionate remedies for those who have incurred additional expenses, losses or damages if the Trust determines this was a result of poor service or maladministration.
- 18.2 This does not include a request for compensation involving allegations of clinical negligence or personal injury where a claim is indicated as these would be considered through the legal process as per the requirements of the Trust insurers.

19 Independent Review by the Parliamentary & Health Service Ombudsman (PHSO)

- 19.1 Complainants may refer their case to the Parliamentary and Health Service Ombudsman for review where:
- They are not satisfied with the result of the Trust's investigation
 - The complaint has not been resolved within six months (or such longer period as may be agreed before the expiry of that period with the complainant)
 - The Trust has decided not to investigate the complaint on the grounds that it was not made within the time limits.
- 19.2 A complainant can approach the Parliamentary and Health Service Ombudsman directly with his/her complaint, but it is unlikely that the Ombudsman will take up the

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complaint prior to the completion of the Trust's Health Service Complaints Procedure. However, the Ombudsman does have the power to consider complaints that have not been put to the Trust and/ or where the stages of the complaints procedure have not been exhausted.

19.3 The Trust will make these arrangements for Ombudsman review known to all complainants at the end of the process and will include the Parliamentary Health Service Ombudsman's contact details in the final response letter.

19.4 Any reports from independent reviews conducted by the Ombudsman will be used as valuable sources of feedback for the Trust to learn from.

20 Learning Lessons from Complaints

20.1 The Trust is committed to promoting a just and learning culture that is open and accountable when mistakes occur.

20.2 Every member of staff has a responsibility to promote a 'learning from complaints' culture, so that we take opportunities to learn from complaints rather than seeking to assign blame.

20.3 As part of the complaints investigation process, the Complaints Liaison Officer (CLO) will identify lessons and opportunities for service improvement, and these will be agreed in collaboration with the service, and where appropriate, with the person who made the complaint.

20.4 All lessons and improvement actions identified from a complaint will be:

- Recorded with the complaint record on Datix.
- Followed up monthly with the Deputy Director of Quality & Safety for each Care Unit to ensure that actions have been completed and learning is embedded.
- Considered for Trust-wide sharing in the monthly Lessons Identified Newsletter.
- Considered for sharing within various reports e.g. quarterly Care Unit Reports, Quality & Safety reports, Annual Report.

21 Making a Complaint to the Trust

21.1 People using EPUT services can raise concerns and complaints directly to The Trust in the following ways:

- By raising it with a member of staff from the service the complaint is concerning, either by telephone, email or by speaking to a member of staff from the service in person.
- By contacting the Patient Advice & Liaison Service (PALS) either by email (epunft.PALS@nhs.net) or by telephone (0800 085 7935).
- By contacting the Complaints Team either by email (epunft.complaints@nhs.net) or by telephone (01268 407817).
- By writing to EPUT's Chief Executive: Mr Paul Scott, The Lodge, Lodge Approach, Runwell, Wickford, Essex, SS11 7XX.

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- By completing the web form on the 'Complaints & Compliments' page, accessible via the 'Contact Us' page of the EPUT website: [Complaints & Compliments | Essex Partnership University NHS Trust \(eput.nhs.uk\)](https://www.essexpartnershipnhs.uk/complaints-compliments)

21.2 People who require assistance with raising a complaint can contact an Independent Complaints Advocacy Service between 09.00 and 17.00:

- POhWER on 0300 4562370
- VoiceAbility on 0300 303 1660
- Healthwatch on 01702 41632 (for Southend residents)

21.3 A complaint should be made as soon as possible after the action giving rise to it, to enable a full investigation whilst all the facts regarding the complaint are still readily available. We therefore ask that you make a complaint within 12 months of the event, or within a year of when you became aware of the problem you are complaining about.

21.4 It may not be possible for us to investigate complaints that are raised outside of this time limit, and if we find that we are unable to investigate a complaint because of the time elapsed, we will respond and explain this.

21.5 The time limit outlined in paragraph 1.3 will not be applied arbitrarily. Where it is possible to investigate a complaint effectively and fairly despite there being a delay in raising it, we will do so. We will also take into account where it would be unreasonable in the circumstances of a particular case for the complaint to have been made earlier.

21.6 In any case where the Trust has decided it is unable to investigate a complaint on the grounds that it was not made within the time limit, the complainant can request the Parliamentary and Health Service Ombudsman (PHSO) to consider it.

22 Our Assurance

22.1 If you make a complaint about one of our services, we are committed to:

- Listening carefully
- Taking you seriously
- Doing all we can to put matters right
- Taking accountability for any mistakes we have made
- Learning from what happened, and taking action to improve our services

Your care will not be adversely affected by any comments or complaints you make – in fact, it is more likely to help things improve for everyone.

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23 Complaints Raised with the Service (Informal Complaints)

- 23.1 Complaints and concerns can be raised directly to the service the complaint is about, either by telephone, email or by speaking to a member of staff from the service in person.
- 23.2 If the member of staff first contacted is unable to immediately resolve the concerns raised, they may need to refer to a more senior staff member within the service for assistance.
- 23.3 Wherever possible, we will attempt to resolve matters locally, thus providing a prompt resolution. This may be achieved with a conversation, or by an email exchange. In some cases we may arrange a meeting for you with a senior person from within the service to discuss your concerns.
- 23.4 The service may pass details of complaints that are resolved locally to the Complaints Team, so that the issues raised can be recorded on our complaints database (Datix), along with the outcome that was agreed, actions taken and lessons identified. The service must do this where lessons are identified as a result of the complaint, or where the person raising the complaint specifically requests that it is logged.
- 23.5 If the service is unable to provide a satisfactory resolution to the concerns raised, they may refer the person to the PALS or Complaints Team for further assistance.

24 Complaints Made to the Complaints Team (Formal Complaint)

The Complaints Team is part of the Patient Experience directorate within EPUT.

24.1 The Complaints Team is the recommended route if:

- Your concerns relate to a past event, which does not require immediate/ urgent action.
- The complaint is complex, and could not be satisfactorily resolved without a formal complaint investigation.
- You wish to make a formal complaint.

24.2 Complaints are received into the complaints team by:

- Email: (epunft.complaints@nhs.net)
- Telephone: 01268 407817
- Letter (Complaints Team, Essex Partnership University NHS Trust, The Lodge, Lodge Approach, Runwell, Wickford, Essex, SS11 7XX)
- Website submission: Complaints & Compliments | Essex Partnership University NHS Trust (eput.nhs.uk)
- By referral from PALS or another EPUT service, with the consent of the complainant.
- Via an external source (e.g. where a person has raised a complaint about our service to their MP, the CQC, NHS England etc. and it is forwarded to EPUT)

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- 24.3 Complaints received directly to the Complaints Team are logged as Formal Complaints (please see exceptions to this listed below under point 5.5). The details are recorded on our Complaints Database (Datix), and the complaint record is kept separately from a patient's medical records.
- 24.4 Complaints will not be logged and investigated if they are:
- Directed elsewhere for resolution (with the consent of the complainant) e.g. to PALS, to a different NHS Trust or an external organisation.
 - Not in scope of the NHS Complaints Procedure (see section 7 of the Complaints Policy)
 - Not accepted for investigation by the Trust for another reason e.g. on the grounds that it was not made within the time limits (see section 1.3 above), or because the complaint is considered unreasonable (see Appendix 3 of the Complaints Procedure, section 2.13).
- 24.5 We acknowledge Formal Complaints within three working days of receipt.
- 24.6 Complaints are allocated to a Complaints Liaison Officer (CLO) within the Complaints Team, who will provide you with a single point of contact and keep you informed and updated throughout the process.
- 24.7 The Complaints Liaison Officer will attempt to contact you directly to discuss your concerns, so that they can:
- Clarify their understanding of the issues and the outcome you are looking for.
 - Discuss the different options for resolution and agree with you how to proceed.
 - Provide an anticipated timescale for the investigation and response to your complaint.
- 24.8 The Complaints Liaison Officer will write to you after this discussion to confirm what was agreed and to summarise their understanding of your concerns. This will give you the opportunity to let us know if there is anything you feel we have missed, misunderstood or you would like to change.
- 24.9 If the Complaints Liaison Officer is unable to contact you by telephone, they will write to you to introduce themselves, to summarise their understanding of your concerns and to explain the next steps.
- 24.10 If you wish to raise additional issues for investigation at any point whilst your complaint is under investigation, these will be added to the original complaint if they relate to the same period of care or are broadly connected to the original complaint. If they relate to a separate period of care and are not connected to the existing complaint, they may be logged as a separate complaint.
- 24.11 If additional issues are added to the original complaint, the CLO will let you know how this will impact the response timescale.
- 24.12 With your agreement, the CLO may be able to facilitate a direct resolution of your complaint by the service. They could arrange for you to speak or meet with somebody

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senior within the service, or arrange a resolution meeting with the service that they could attend with you. This might be a preferable option if:

- The complaint relates to an ongoing/ current issue, which requires immediate/ urgent action.
- The complaint is not complex, and could be resolved without carrying out a formal complaint investigation.

24.13 Alternatively, the CLO will conduct a formal complaint investigation, liaising with the complainant and the service.

25 Formal Complaint Response

25.1 Following a formal complaint investigation, you will be sent a response that will address the issues raised, as agreed and confirmed by the Complaints Liaison Officer.

25.2 The response will be approved and signed by an appropriate senior person within The Trust; this person will be either the Chief Executive or someone who has been authorised by the Chief Executive to act on their behalf in respect of the responsibility for ensuring compliance with the arrangements made under the Local Authority Social Services and NHS England Complaints Policy (2009).

25.3 The response will set out how the complaint has been considered, and explain the findings of the investigation. Where failings in our service are identified, we will explain what happened, take accountability and set out what action we have taken to put matters right.

25.4 The response will detail any lessons identified and improvement actions that are taken as a result of the complaint investigation.

25.5 In the response we will notify the complainant of their right to refer the complaint for an independent review by the Parliamentary and Health Service Ombudsman (PHSO).

25.6 The date the response is sent will be recorded on the Datix complaint record, and the case will be closed.

26 Next Steps: If the Complainant is not Satisfied with the Response

26.1 If the complainant is not satisfied with the response, we will re-open the complaint in the following circumstances:

- If we have misunderstood or failed to address a complaint issue.
- If we have overlooked or misinterpreted key information or evidence in our original investigation that would have impacted the outcome.
- If the complainant brings new information or evidence to our attention that is relevant to the complaint and may impact the outcome.

26.2 In these circumstances we will investigate further and send you a second response.

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26.3 If the circumstances explained in section 27.1 do not apply, we will not re-open the complaint but we will remind you of your right to request an independent review of your complaint by the Parliamentary and Health Service Ombudsman (PHSO).

26.4 To request an independent review of your complaint you may contact the PHSO Customer Helpline by phone on 0345 015 4033, or by visiting their website: <https://www.ombudsman.org.uk/making-complaint>

27 Training requirements

27.1 We ensure that all staff have the appropriate resources, support and protected time to consistently meet the expectations of the Complaints Policy, according to their role.

27.2 Training on complaints and PALS forms part of the induction training for all staff.

27.3 Complaints Training is available through the Managers Development Programme, and is also available on request to the Complaints Team.

28 Monitoring and audit

28.1 The Complaints Team will provide:

- Monthly performance reports highlighting complaints received, complaints closed, and the number and age of outstanding complaints.
- Monthly Lessons Learned reports to send to the Deputy Directors of Quality & Safety and to the Service Directors for assurance that improvement actions have been completed and learning embedded.
- Quarterly Thematic Reports for each Care Unit, providing trend analysis, response times and highlighting any issues. These reports will include details of how lessons identified through complaints have had an impact on improving service quality.
- A complaints annual report will be produced for the Trust Board which will be published on The Trust's website

29 Habitual, Unreasonable & Persistent (HUP) Complaints

29.1 The guidance relating to managing HUP complaints is intended for use as a last resort after all reasonable measures have been taken to try to resolve matters.

29.2 Please see the Complaints Procedure (CP2) Appendix 3 for full guidance.

30 Supporting Staff

30.1 The purpose of the complaints procedure is not to apportion blame amongst staff but to investigate complaints with the aim of resolving matters, and learning lessons as an organisation.

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- 30.2 The Complaints Team will advise the member of staff's Line Manager that the Trust has received a complaint about a member of staff that they manage.
- 30.3 The Line Manager will arrange to meet with the staff member to discuss the complaint and offer any support he/she may need. It is essential that line managers provide immediate and ongoing support as required.
- 30.4 The Trust has a policy and procedure in place for Employee wellbeing & management of sickness and ill-health, which provides a personal support line service to staff. Should it be identified that a staff member needs additional support, the manager must make the staff member aware of the service and how to access it. Support offered must be recorded in the staff member's personal file.
- 30.5 It will be the decision of the relevant Operational Manager, with advice from Human Resources, whether or not the complaint investigation identifies grounds to investigate under the Conduct and Capability Policy.
- 30.6 Any information collected in the complaints procedure can be used in the Conduct and Capability procedures, but the two procedures must remain separate, and confidentiality maintained at all times.
- 30.7 If there is any staff member at serious risk of personal criminal proceedings or action by any regulatory body, they will be advised to contact their trade union or professional representative for support.
- 30.8 Any staff members who are asked to act as witnesses in any complaints interventions or investigations will be given support by their Line Manager. The Line Manager will discuss any issues with the staff member and make suggestions of further support where this is necessary. The Complaints Team will provide advice to any staff member involved in a complaint.

31 Confidentiality & Record Keeping

- 31.1 Complaints will be handled in the strictest confidence, and should be kept separately from patient /resident medical records. Care will be taken that information is only disclosed to those who have a demonstrable need to have access to it.
- 31.2 Anyone disclosing information to others not directly involved with the complaint may be dealt with under the Trust's internal procedures.
- 31.3 All data will be processed in accordance with Trust policy.
- 31.4 The Trust must not discriminate against either a person who has raised a complaint, nor the individual whose care and treatment is the subject of a complaint. There must be no detrimental impact on the care provided to a person as a result of a complaint being raised by them or on their behalf. Any identified discrimination will be managed according to Trust policies.

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- 31.5 A complete documentary record will be maintained for each concern or complaint and recorded on Datix which is the name of the Trust's electronic complaints reporting system. This will include all written or verbal contacts with the person making a complaint, staff involved in the investigative process and all actions taken in investigating the complaint.
- 31.6 The complaint file is a confidential record and as such will be stored securely, and easily retrieved and understood in the event of further enquiry.
- 31.7 In accordance with the Records Management Policy, complaint files are kept and disposed of confidentially. Currently, complaint files are retained for 10 years.

32 Approval and implementation

- 32.1 All policies, procedures and guidelines will be approved by the Experience of Care Group, which is the specialist group with the authority to approve local Complaint policy and procedure documents. These will then be forwarded to the Policy team for submission and ratification by the Policy Oversight and Ratification Group.
- 32.2 It is the author's responsibility to inform the Experience of Care Group of the approved documents when they are uploaded to the Trust's Intranet.

33 Preliminary equality analysis

- 33.1 The Trust is committed to the provision of a service that is fair, accessible and meets the needs of all individuals.
(Refer to appendix 4)

34 References

This should list any documents that have been specifically referred to in the text of the policy (examples reference formatting below) – please delete as appropriate and send any documents which require a reference check to [xxxxx](#) prior to submitting to PORG for ratification.

[CLP37: Safeguarding Children Policy](#)

[CLP39: Safeguarding Adults Policy](#)

[CP59: Data Protection & Confidentiality Policy](#)

[CP84: Violence Abuse Prevention & Reduction \(VAPR\) Policy and Procedure.](#)

[NHS Complaint Standards \(2022\)](#)

[The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#)

[NHS England Complaints Policy](#)

[The NHS Constitution](#)

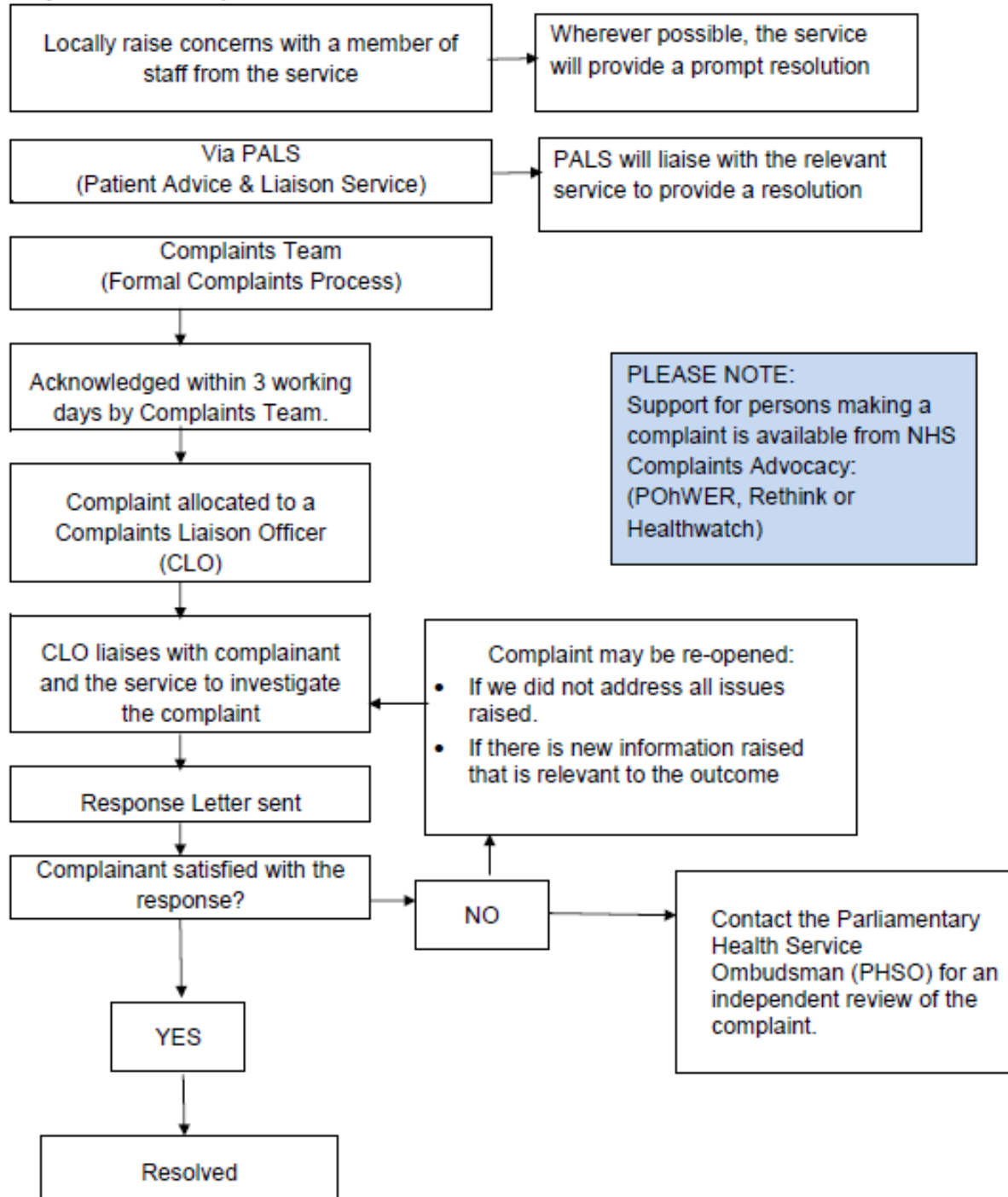
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Appendix 1: Flowchart Guide for Making a Complaint

[Click here](#)

Flow chart guide for persons wishing to make a complaint

Ways to raise a complaint:



ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST**Appendix 2: Patient Advice & Liaison Service (PALS) Operational Procedure**

The Patient Advice & Liaison Service (PALS) provides confidential advice, support and information related to EPUT services. The service provides a point of contact for patients/residents, their families and carers.

1. Aims of the PALS service

- 1.1 To respond promptly to enquiries and requests for information from patients, service-users, residents and their families and carers, as well as to the general public, in relation to EPUT services.
- 1.2 Where appropriate, to signpost enquiries to alternative NHS Trusts or partner organisations for assistance.
- 1.3 To offer an informal route for resolving issues and concerns as rapidly as possible, where a formal investigation is not needed to provide a resolution. By liaising with the relevant EPUT service, we aim to provide a response to concerns within five days.
- 1.4 To record the details of all enquiries and concerns raised with PALS on Datix, including the outcome of concerns and any lessons learned.
- 1.5 To provide insight to the EPUT Executive Team by reporting regularly to the Patient and Carer Experience Steering Group on key themes from PALS enquiries and concerns, to highlight issues and influence improvements and changes to services.
- 1.6 To liaise as necessary with other Health and Social Care organisations to provide 'seamless' resolution of patient concerns.
- 1.7 To provide information about the NHS Complaints procedure, including how to get independent help through Advocacy Services, to make a complaint.

2. Matters outside the remit of PALS

- 2.1 PALS cannot provide counselling or medical advice.
- 2.2 PALS is not an emergency service, and should not be contacted for urgent medical attention. If you are experiencing a mental health crisis please contact NHS 111 and select option 2. In the case of a medical emergency dial 999.
- 2.3 PALS is not the correct route for staff who want to raise employment concerns. These should be directed to Human Resources or raised via Freedom to Speak Up by email: f2su.eput@nhs.net or by phone: 07814 226709.
- 2.4 The PALS team does not have the authority to implement changes to EPUT services, (which is the responsibility of the relevant Directorates), but it is able to pass on feedback and suggestions for change.

- 2.5 PALS is not an advocacy service, but it can provide details of advocacy services upon request.

3. PALS Assurance

- 3.1 We will show courtesy and compassion to our service users, and will strive to resolve enquiries and concerns as quickly as possible, keeping the enquirer updated regarding progress and actions taken.
- 3.2 We will take whatever actions are reasonably necessary to resolve concerns, including liaising with other NHS bodies or external agencies as appropriate.
- 3.3 We will maintain patient confidentiality and seek consent to share confidential information as appropriate in order to resolve issues.
- 3.4 If the matter raised is not within the remit of the PALS service or The Trust, we will endeavour to provide contact details for the appropriate person or organisation that can help.
- 3.5 If we have been unable to resolve a concern to the enquirer's full satisfaction, we will provide advice regarding options for further recourse (e.g. formal complaints procedure).

4. Roles and Responsibilities

- 4.1 All EPUT staff are responsible for assisting service users/residents, their relatives and carers in raising concerns informally through PALS. This includes providing details of how to contact PALS on request.
- 4.2 All EPUT staff have a responsibility to assist the PALS team in responding to enquiries and concerns raised through the PALS service in a timely manner. This includes the prompt provision of requested information pertinent to the enquiry.
- 4.3 PALS Officers have a responsibility to escalate to their Line Manager or to the Head of Complaints for action to be taken, or to seek advice, regarding:
- Matters of urgent concern
 - Emerging complaint trends or recurring issues that are identified
 - Lack of co-operation or response from EPUT services in relation to PALS enquiries and concerns.
 - Habitual, unreasonable and persistent (HUP) users of the service (see Appendix 3 for more detail).

What we do together matters

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- 4.4. PALS Officers have a responsibility to refer to the Safeguarding Team where they know or suspect that an adult or child is vulnerable to harm.
- 4.5 PALS Officers are required to obtain the consent of the patient/ service user to disclose any confidential information to a third party. If the required consent is not obtained, the enquirer must be advised that it may not be possible for further action to be taken by the PALS Services
- 4.6 Any disputes about confidentiality and disclosure of information to PALS shall be referred to the Trust Caldicott Guardian for decision.
- 4.7 The PALS and Complaints Manager is responsible for ensuring that all PALS enquiries and Local Resolutions received by the Trust are recorded on the Datix recording system.

5. Accessibility of PALS

- 5.1 The PALS phone line is open from 10.00-16:00 from Monday-Friday (excluding Bank Holidays) on 0800 085 7935, or alternatively by e-mail on epunft.pals@nhs.net or by post to: PALS & Complaints, The Lodge, Lodge Approach, Runwell, Wickford, Essex, SS11 7XX.
- 5.2 The PALS service is publicised on The Trust's website and throughout EPUT services via leaflets and posters. Staff will bring this material to the attention of anyone wishing to make a complaint or if they have a concern they would like the Trust to look into.
- 5.3 Information regarding the PALS and Complaints procedure can be provided in an accessible format for people who have a disability, impairment or sensory loss.

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST**Appendix 3: Procedure for Managing Habitual, Unreasonable & Persistent (HUP) Complaints****1. Introduction**

This procedure aims to establish the main characteristics which constitute a Habitual Unreasonable or Persistent (HUP) complaint. It will also identify what process can be followed for dealing with complaints of this nature. It is important to note that the implementation of this procedure does not mean that care of the person, who is raising the complaint, will be withdrawn.

- 1.1 It is imperative to distinguish between people who make several complaints because they genuinely believe something has gone wrong, and people who are persisting for answers on a case after their questions have been answered and even after they have been advised to follow up their complaint with the Parliamentary Health Service Ombudsman (PHSO). It is important to remember that people who make a complaint may be frustrated, upset, or aggrieved and therefore it is important to consider the merits of the case, rather than the approach of the person.
- 1.2 Sometimes people who are unwell may contact the PALS and Complaints Team on numerous occasions and they may exhibit behaviours and actions which are beyond their control. We are committed to ensuring that we continue to consider the care and the wellbeing of people that may be unwell especially if the nature of their complaint raises concerns about their mental and emotional wellbeing. The Complaints Team will ensure that they liaise with the relevant health professionals regarding how best to support the person and manage their complaint.
- 1.3 All incidents of abuse directed at staff need to be documented and reported on Datix, as appropriate, and action should be taken in line with the Trust's Violence, Abuse Prevention & Reduction (VAPR) Policy and Procedure (CP84) .
- 1.4 Even though someone has made HUP complaints in the past, it cannot be assumed that the next complaint does not warrant a thorough investigation. Each complaint must be read and assessed individually and viewed via the vision of the person and only then should a decision be made, as to whether the complaint is habitual, unreasonable, persistent, or genuine and fair.
- 1.5 A person's complaint may be deemed to be a HUP if previous or current contact demonstrates that they have met any of the following criteria. This must be clearly documented at the time of them occurring to establish an evidence based trail:

2. The following criteria should be used to identify a HUP complaint:

- 2.1 If a complaint issue is pursued persistently, despite the Trust's view that the complaints procedure has been thoroughly and fairly applied.
- 2.2 If the person making the complaint raises new issues that seem to prolong contact with the Trust, to no productive or reasonable end. Care must be taken not to overlook new issues, which are significantly different from the original complaint.

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- 2.3 If the person making the complaint is unwilling to accept documented evidence of treatment given as being factual e.g., medical records, nursing records or psychology and therapy records.
- 2.4 If a person denies receiving an adequate response to their complaint even though correspondence specifically answering their concerns/questions has been supplied
- 2.5 If a person refuses to recognise and accept that facts can sometimes be difficult to verify once a long period of time has elapsed
- 2.6 If physical violence has been used or threatened towards staff at any time. This will cause personal contact with the person who has complained and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication.
- 2.7 The person who has complained has, harassed or been abusive, including (but not limited to) racist, sexist, homophobic abuse, or been verbally aggressive towards staff dealing with their complaint.
- 2.8 In the course, of pursuing a complaint the person complaining has had an excessive number of contacts with the Trust. Discretion is required to determine how many contacts constitute as excessive, along with good judgement based on the specific circumstances of each individual case. For example:
 - continually contacting us in the process of looking at the issue or complaint
 - numerous calls or emails in one day or excessive contact over a short period of time
 - repeatedly sharing information that has already been shared, or that is irrelevant to the complaint
 - continually reframing the issue or complaint in such a way that it makes it difficult for us to do our job effectively.
- 2.9 If meetings or conversations are known to have been recorded electronically without the prior knowledge or consent of all parties involved. At the onset of an investigation, it may be necessary to highlight to the person who has raised the complaint about the unacceptability and potential illegality of such behaviour.
- 2.10 If the person raising a complaint makes defamatory remarks about staff or the Trust on social media or to the press.
- 2.11 If the person raising the complaint makes demands that are unreasonable for the nature or scale of our service, for example:
 - demanding responses in unreasonable timescales
 - insisting on speaking with senior colleagues or escalating to senior colleagues when not getting the desired answer from a member of the Complaints Team
 - making repeated approaches about the same issue without raising new information
 - making vexatious requests for information
 - repeatedly changing the substance of a complaint
 - demanding further responses or refusing to accept a decision where explanations for the decision have been given and they have been advised to follow up their complaint with the Parliamentary Health Service Ombudsman (PHSO).

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2.12 If the person raising the complaint refuses to engage with the complaints process by:

- refusing to respond to reasonable requests for information and/or evidence
- refusing to specify, or provide a summary of, their concerns

2.13 If the complaints raised are unreasonable (frivolous or vexatious) in nature i.e.,

- A “*frivolous*” complaint is one that has no serious purpose or value. Often it is about a matter that is so trivial, lacking in merit or substance that investigation would be disproportionate and serve no value in terms of time and cost.
- A “*vexatious*” complaint is one being made specifically to cause harassment, annoyance, frustration, worry, or even bring financial cost to the Trust.

3. Options for dealing with people who make HUP complaint

3.1 If the complaint has been identified as a HUP by consensus in the Complaint Team and with discussion with the Director of Patient Experience, in accordance with the above criteria, the Director of Patient Experience will refer to the Chief Executive Officer (CEO) or the Executive Director with responsibility for Complaints, to decide what action should be taken, and each case will be considered on its own merit.

3.2 The Trust should always strive to resolve matters before invoking this procedure, and/or the sanctions detailed within it, and should consider drawing up an agreement with the person as a first step. This arrangement should set out an agreed code of behaviour for all the parties involved, to allow the Trust to continue dealing with the complaint. If this agreement is breached consideration would then be given to implementing other actions as outlined below:

3.3 Decline further contact with the person, by telephone, letter or email – or any combination of these – provided that one form of contact is maintained, albeit restricted.

3.4 Alternatively, further contact could be restricted to liaison through a third party, such as a professional advocate, the Trust’s Family Liaison Manager or a staff member that already has a positive relationship with the person or family and is willing to undertake this role if there is no risk to them.

3.5 Inform the person/family that in extreme circumstances the Trust reserves the right to refer HUP complaints to the Trust’s Legal Advisors Solicitor, legal department and/or, if appropriate, the police.

3.6 Temporarily suspend all contact with person who is complaining or the investigation of a complaint, whilst seeking legal advice or guidance from the Integrated Care Board (ICB), PHSO, Information Commissioner’s Office (ICO), Department of Health or other relevant agencies.

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- 3.7 Any of the following people; CEO, Director of Patient Experience, Head of Complaints should inform the person in writing that their complaint has been identified as a HUP, and the reasons why should be clearly explained, along with notification of what action will be taken.
- 3.8 The notification of this decision must also be copied promptly to those individuals already involved in an investigation or working with this person/family, with the necessary information. A record must be kept, for future reference, of the reasons why the complaint has been classified as a HUP and the actions taken.

4. Non-compliance with restrictions

- 4.1 If someone does not comply with a restriction, employees have approval to stop contact at the time this happens. For example, if the restriction prohibits any telephone contact employees can remind that person of the restriction and end the call immediately.
- 4.2 If they continue to ignore the restriction, management will consider whether further restrictions are required, or alternative action (see point 3.5),

5. Withdrawing Habitual Unreasonable and Persistent Complaint status

- 5.1 Once the complaint has been reviewed and deemed a HUP, there needs to be a mechanism for withdrawing this status if necessary. For example, the status may be withdrawn if the said person or persons, involved in making a HUP complaint, subsequently demonstrate a more reasonable approach or if they submit a further complaint for which the usual complaints procedures would be appropriate.
- 5.2 The HUP status will be logged and reviewed every 6 months to consider if restrictions should remain in place.

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Appendix 4: Initial Equality Impact Assessment analysis

This assessment relates to: CP2: Complaints Policy

(Please tick all that apply)

Link to Full Equality Impact Assessment can be found in InPut [Here](#):

Does this Policy/Service/Function effect one group less or more favourably than another on the basis of:	Yes / No	What / where is the evidence / reasoning to suggest this?
Race, Ethnic Origins, Nationality (including traveling communities)	No	
Sex (Based on Biological Sex; Male, Female or Intersex)	No	
Age	No	
Sexual Orientation Including the LGBTQ+ Community	No	
People who are Married or are in a Civil Partnership	No	
People who are Pregnant or are on Maternity / Paternity Leave	No	
People who are Transgender / who have had gender reassignment treatments As well as gender minority groups	No	
Religion, Belief or Culture Including an absence of belief	No	

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Does this Policy/Service/Function effect one group less or more favourably than another on the basis of:	Yes / No	What / where is the evidence / reasoning to suggest this?
Disability / Mental, Neurological or Physical health conditions Including Learning Disabilities	No	
Other Marginalised or Minority Groups Carers, Low Income Families, people without a fixed abode or currently living in sheltered accommodation.	No	

Guidance on Completing this Document

This screening tool asks for evidence to ensure that these considerations are done in collaboration with groups that may be affected. Listed below are the ways that this evidence can be gathered to support this decision:

- Reviews with Staff who may be impacted by these changes
- Service User / Carer feedback or focus groups
- Guidance from national organisations (CQC / NHS Employers)
- The Equality and Inclusion Hub (on the Staff Intranet)
- Input from Staff Equality Networks or the Equality Advisor
- Reviewing this against good practice in other NHS Trust

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Initial Screening Question	Response
If you have identified no negative impacts, then please explain how you reached that decision. please provide / attach reference to any reasoning or evidence that supports this: (Nature of policy, service or function, reviews, surveys, feedback, service user or staff data)	No identified negative impacts on any particular group, the nature of the policy is applicable to all groups equally. The policy includes advice that information regarding the PALS and Complaints procedure can be provided in an accessible format for people who have a disability, impairment or sensory loss.
Is there a need for additional consultation? (Such as with external organisations, operational leads, patients, carers or voluntary sector)	No
Can we reduce any negative impacts by taking different actions or by making accommodations to this proposed Policy / Service / Function?	No
Is there any way any positive impacts to certain communities could be built upon or improved to benefit all protected characteristic groups?	No
If you have identified any negative impacts, are there reasons why these are valid, legal and/or justifiable?	N/A

Please complete this document and send a copy to EPUT's Compliance, Assurance & Risk Assistant / Trust Policy Controller) at epunft.risk@nhs.net as part of the Approval Process, if this proposal / policy etc. has no positive or negative impacts on protected characteristic groups, a Full Equality Impact Assessment will not need to be completed

To be completed by the Trust Policy Controller					
Is a Full Equality Impact Assessment Required for this Policy, Service or Function?			Yes	✓	No
Name:	Claire Lawrence				
Date:	20 th September 2024				