Complaints Policy & Procedure

8th July 2014

Jane Viner
Director of Nursing, Professional Practice and People`s Experience

Policy Reference No: Risk 1

Version - v0.5

This information can be made available in other formats. If you need it in large print, Braille, audio, a language other than English, Easy Read format (for people with a learning difficulty), please contact the Patient Advice & Liaison Service (PALS) on 01803 655838 or the Patient Services Department on 01803 655743
Date of Issue: 1 July 2014  
Next Review Date: June 2016

Version: v0.5  
Last Review Date: May 2014

Author: Carol Pearson, Experience and Engagement Lead

Director(s) Responsible:  
Jane Viner  
Director of Nursing, Professional Practice and People’s Experience

Approval / Consultation Route: Work Stream 2, Trust Board

Approved By: Date Approved:
Work Stream 2  
July 2014
Trust Board  
August 2014

Links or overlaps with other policies:
Freedom Of Information Policy
Equality and Diversity HR Policy No.80
Being Open Policy 0898
Hazard and Adverse Management Reporting policy 0848
Litigation Policy

Amendment History

<table>
<thead>
<tr>
<th>Issue</th>
<th>Status</th>
<th>Date</th>
<th>Reason for Change</th>
<th>Authorised</th>
</tr>
</thead>
<tbody>
<tr>
<td>V0.2</td>
<td></td>
<td>22 March 2011</td>
<td>Update and addition of Joint Protocol, see Appendix 11</td>
<td>Liz Childs</td>
</tr>
<tr>
<td>V0.3</td>
<td></td>
<td>June 2012</td>
<td>Routine evaluation</td>
<td>Liz Childs</td>
</tr>
<tr>
<td>V0.4</td>
<td></td>
<td>November 2013</td>
<td>Routine evaluation</td>
<td>Jane Viner</td>
</tr>
<tr>
<td>V0.5</td>
<td></td>
<td>April 2014</td>
<td>Review in light of The Francis Report and the Clywd Report</td>
<td>Jane Viner</td>
</tr>
</tbody>
</table>

This document has been drafted in accordance with the Freedom of Information Act 2000 and is classified as ‘OPEN’. It has undergone Equality Impact Assessment Screening and is compliant with Human Rights and Equality and Diversity Legislation.
# Complaints Policy

1. **Introduction**
2. **Key roles and responsibilities**
3. **Key areas of responsibility when managing written complaints**
   1. **Chief Executive’s Office**
   2. **Patient Services Department**
   3. **Divisions / Departments**
4. **Managing verbal complaints**
5. **Complaints received through other routes or addressed to staff other than the Chief Executive**
6. **Reaching local resolution – other approaches to consider**
7. **Handling unreasonable complainants**
8. **Remedy**
9. **Ombudsman’s Investigations**
10. **Definitions and limitations**
11. **Who can make a complaint**
12. **Learning from Complaints**
13. **Reporting arrangements**
14. **Training**
15. **Contact details**
<table>
<thead>
<tr>
<th>Appendix</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Guidance on conducting an Investigation into a Complaint</td>
<td>17</td>
</tr>
<tr>
<td>2</td>
<td>Guidelines on writing a Statement as part of an investigation into a complaint or incident</td>
<td>18</td>
</tr>
<tr>
<td>3</td>
<td>Guidance on preparing a letter of response</td>
<td>20</td>
</tr>
<tr>
<td>4</td>
<td>Record of a Verbal Complaint</td>
<td>24</td>
</tr>
<tr>
<td>5</td>
<td>Best Practice on Meeting with Complainants</td>
<td>25</td>
</tr>
<tr>
<td>6</td>
<td>Guidance on handling unreasonable complainants</td>
<td>27</td>
</tr>
<tr>
<td>7</td>
<td>“Managing Public Money” – Annex 4.14 – Complaints and Remedy</td>
<td>28</td>
</tr>
<tr>
<td>8</td>
<td>Ombudsman’s “Principles for Remedy”</td>
<td>29</td>
</tr>
<tr>
<td>9</td>
<td>Terms of Reference for Learning from Complaint Group</td>
<td>31</td>
</tr>
<tr>
<td>10</td>
<td>Joint Protocol between South Devon Healthcare and Torbay and Southern Devon Health and Care Trust</td>
<td>33</td>
</tr>
</tbody>
</table>
Complaints Policy

1 Introduction

Complaints are one form in which patients, their families and carers can tell us about their experience of the care we deliver. This feedback is crucial and the Trust’s overarching principle is that of respecting the views of service users and those important to them, and to use the feedback to improve our care.

1.1 Relevant documents and legislation.
“The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009”, came into effect on 1 April 2009. These Regulations are supported by Department of Health (DH) guidance entitled, “Listening, Responding, Improving – a guide to better customer care.” In addition, the Parliamentary and Health Service Ombudsman (the PHSO), who is now responsible for investigating NHS complaints that cannot be resolved locally, has published “Principles of Good Complaints Handling”.

1.2 The publication of The Francis Report in February 2013 and the Governments response to this report “Hard Truth- the journey to putting patients” have strengthened this approach—Arising from the Francis Report, the DH commissioned a further review of hospital complaints handling; “Review of the NHS hospital complaints system, putting patients back in the picture”, most of the recommendations of this report have been picked up in the Hard Truth’s document.

1.3 The NHS Constitution makes clear what people should expect when they complain. The Care Quality Commission will require registered providers of services to investigate complaints effectively and learn lessons from them.

1.4 South Devon Healthcare NHS Foundation Trust (the Trust) has amended its Complaints Policy and Procedure in line with these recommendations and will adopt further recommendations arising from the revised CQC inspections as these are released.

2 Handling Complaints - Delivering our Values

2.1 The Trust subscribes to the NHS constitution values:
- Working together for patients
- Respect and Dignity
- Commitment to quality of care
- Compassion
- Improving lives
- Everyone Counts

2.2 The Trust upholds the view that everyone has the right to expect a good service from public bodies and to have things put right if they go wrong. Good complaints handling means that patients their relatives and carers receive the service they are entitled to expect. It must focus on outcomes that are fair, proportionate and sensitive to
complainant’s needs. The process should be clear, straightforward and readily accessible.

2.3 Complaints are a valuable source of feedback for the Trust. They provide an audit trail and can be an early warning of failures in service delivery. They provide an opportunity for the Trust to improve its services and reputation.

2.4 It is important to acknowledge that patients and their families may be reluctant to complain due to fear of consequences, and every effort must be made to enable patients to tell us about their experiences, and not to feel disadvantaged by doing so.

2.5 The Trust’s key priorities in handling complaints are to:

i) Create a culture which encourages and welcomes patient and service user feedback, with a clear commitment not to discriminate against complainants, or the patients on whose behalf they are acting, which is demonstrated by staff responding appropriately.

ii) Provide clear and widely available information about how complaints are handled in language and formats that are appropriate to the complainant’s needs.

iii) Provide complainants with sufficient support to enable them to participate fully in the complaints process.

iv) Promote a prompt, open, flexible dialogue with the complainant throughout the duration of the investigation and response, and beyond.

v) Conduct a thorough, honest and balanced investigation and provide a full and understandable response.

vi) Act on feedback to improve services.

vii) Provide robust evidence of learning and follow up action, where necessary.

2.6 These priorities support the Trust’s own values and its strategic priority of improving the patient experience.

2.7 The PHSO has set out principles that are expected from public bodies when dealing with complaints. The Trust endorses these principles and will assess its performance against them.

i) Getting it right

ii) Being customer focused

iii) Being open and accountable

iv) Acting fairly and proportionately

v) Putting things right

vi) Seeking continuous improvement

2.8 Ongoing training and development, continual assessment of performance and the active involvement of all staff are prerequisites of a complaints procedure which delivers real improvements and sees complainants as equal partners.

2.9 The Trust Board and Executive Team will ensure these priorities are met through monthly reports to the Board, which include the themes arising in the complaints, how learning points are being undertaken as well as performance monitoring of the complaints procedure.
Complaints Procedure

This details the procedure for the correct handling of complaints. It should be read in conjunction with the other policies noted above and the supporting appendices.

1 Introduction

The procedure has been drawn up to ensure that -

i) Complaints are dealt with efficiently

ii) Complaints are properly investigated

iii) Complainants are treated with respect and courtesy

iv) Complainants receive help to understand the complaints procedure

v) Complainants receive advice on where they may obtain assistance with the procedure

vi) Complainants receive a timely and appropriate response

vii) Complainants are told the outcome of the investigation

viii) That action is taken, if necessary, to ensure the Trust learns from the complaint

ix) Good practice is recognised and acknowledged

2 Key roles and responsibilities

2.1 The Chief Executive is responsible for ensuring the Trust complies with the complaints regulations. The Chief Executive will delegate the responsibility for the effective delivery of the Trust’s Complaints Policy and Procedure to the Director of Nursing, Professional Practice and People’s Experience.

2.2 The Director of Nursing, Professional Practice and People’s Experience will, in turn, delegate to the Deputy Director of Engagement and Experience the responsibility for the management of the Trust’s complaints handling in line with its Complaints Policy and Procedure.

2.3 Under the management of the Deputy Director of Engagement and Experience, the Engagement and Experience Lead will be responsible for the operational management of the Patient Services Department (PSD), comprising the Complaints and the Patient Advice and Liaison Service (PALS) functions, and will facilitate the complaints handling process. The PALS role in the complaints handling process will be in addition to its role in providing advice, information and support about Trust services.
2.4 The Trust Board and senior managers have key responsibilities to ensure that the culture of the organisation reflects that the Trust takes complaints and feedback seriously and expects them to be acted on.

2.5 At a divisional level, the Associate Nursing Director (AND) will be responsible for ensuring complaints are investigated and responded to in line with the Policy and Procedure and for ensuring, where appropriate, that lessons are learnt and remedial action is implemented and evaluated. The ADN will be supported in this by the Divisional Associate Medical Director and Divisional Manager.

2.5 All staff, regardless of their role and seniority, are responsible for supporting Complainants, with help and information about the Procedure and for trying to resolve complaints quickly and appropriately as they arise. This will be done in line with the Trust’s own values and with particular emphasis on treating complainants with respect and dignity and ensuring complainants, or the patients on whose behalf they are acting, are not discriminated against.

2.6 During complaint investigations staff will be required to provide comments, and when indicated written statements.

2.7 The corporate responsibility for ensuring lessons are learned across the organisation is primarily through the “Learning from Complaints” committee led by the Deputy Director of Engagement & Experience and the Experience & Engagement Lead.

3 Key areas of responsibility when managing written complaints

3.1 Chief Executive’s office and Director of Nursing, Professional Practice and People’s Experience.

3.1.1 Chief Executive’s office will receive written complaints addressed to the Chief Executive (CE). Date stamp letters on the same working day, pass to PSD.

3.1.2 Forward any complaints received by email to the PSD.

3.1.3 The Chief Executive’s Office will receive response letters and the completed investigation plan document from divisions, by email. Once signed by the Chief Executive, the response letter is scanned and email to PSD. In the absence of the Chief Executive the response letters will be signed by the Director of Nursing, Professional Practice and People’s Experience.

3.1.4 Dispatch the signed letter by first class post and clearly marked “Private and Confidential”.

3.1.5 Any complaint from someone which specifically states they have or are applying for a gender recognition certificate; please seek immediate advice from Experience and Engagement Lead and Trust Equality and Diversity Lead before commencing the complaint process.
3.2 **Patient Services Department (PSD)**

3.2.1 Receive written complaints and forwarded mails sent to the CE.

3.2.2 Review complaint to assess whether it falls within the parameters of the NHS Complaints Regulations. See Section 11, “Definitions and Limitations” and Section 12, “Who can make a complaint”.

3.2.3 On the day of receipt of the letter, where possible, telephone the complainant to:

i) Thank complainant for letter

ii) Confirm or establish precise nature of the complaint

iii) Confirm the extent to which the Complaints Procedure can respond to the issue

iv) Discuss other options available to the complainant, e.g. Patient Advice and Liaison Service (PALS) and the role of the Independent Complaints Advocacy Service (SEAP)

v) Establish the complainant’s expectations and discuss the likelihood of meeting these

vi) Discuss our standard response time of 8 weeks and agree a timescale for a full response to complaint. If it is immediately evident that the scale and number of issues that form the complaint may mean we will be unable to respond in 8 weeks then discuss that possibility with the complainant.

vii) Identify any special needs in relation to Equality and Diversity e.g. response in another language, large format etc.

viii) Confirm the preferred means of communication, e.g. letter, email, telephone.

3.2.4 Within 3 working days of receiving the letter, prepare and send an acknowledgement letter to the complainant. Enclose a copy of Trust Complaints Leaflet, “We want to know what you think”. And “Health Complaints Advocacy Service” SEAP leaflet.

3.2.5 Conduct a risk assessment based on all information obtained through the complaint letter and conversation with the complainant.

3.2.6 If the complaint carries the risk of litigation or a potential admission of liability discuss this with the Litigation Department.

3.2.7 Log the complaint on the Safeguard database and give a unique identification number.

3.2.8 Review the safeguard database to see if there is an incident already logged and let the division know an incident form has been completed via the complaint synopsis.
3.2.9 Email the complaint letter, the Trust acknowledgement letter, investigation plan document and information received to: Divisional ADN, Divisional Clinician, Complaints Coordinator, Governance Lead, Chief Executive and Deputy Director of Nursing.

3.2.10 Where the complaint refers to issues in two or more divisions, the departments or services involved will identify which will take the lead in coordinating the response.

3.2.11 Where the complaint concerns a Clinical Director, pass it to Medical Director for investigation.

3.2.12 Where the complaint concerns a Divisional General Manager, pass it to the Director of Operations for investigation.

3.2.13 Where the complaint concerns an Associate Nursing Director, pass it to the Director of Nursing, Professional Practice and People`s Experience for investigation.

3.2.14 Record the pertinent issues identified during dialogue with the complainant and the risk assessment on the Contact Form and send this and a copy of the complaint letter to the relevant division/divisions.

3.2.15 Prepare the Investigation Plan which records the investigation and actions to be taken following the complaint and send this to the division leading the investigation.

3.2.16 Where a complaint covers both South Devon Healthcare and Southern Devon and Torbay HealthCare NHS Foundation Trust refer to the Joint Protocol, Appendix 10. Where a complaint covers other organisations, agree with those organisations how the complaint will be managed and which organisation will lead on the response.

3.2.17 Receive a copy of the signed response letter from the Chief Executive. Attach this and any other documentation, such as details of remedial action, to Safeguard database.

3.2.18 Close the complaint.

3.2.19 Survey complainants to gain feedback of their experience

3.3 **Divisions / Departments**

3.3.1 Receive copy of complaint letter or email and associated documentation from PSD.

3.3.2 Identify all aspects of the complaint that need investigation and response. See Appendix 1, “Guidance on conducting an Investigation into a Complaint”

3.3.3 Initiate the investigation by requesting statements from the staff involved in the care or incident being complained about. The approach to an investigation must match the seriousness of the issues raised and appropriate escalation to a senior manager should be undertaken to determine the level of action required. Provide “Guidelines on writing a Statement as part of an investigation into a complaint or incident” to all staff asked to provide one. Appendix 2.
3.3.4 Allocate a lead person for the investigation who will be responsible to updating the ADN on the progress of the investigation.

3.3.5 Identify and obtain the documentation to be reviewed to gain a full and complete picture of the case.

3.3.6 Take a flexible approach to options other than a formal written response, which may offer a better chance of achieving local resolution. See Section 6, “Reaching local resolution – other approaches to consider”. If departing from the Trust’s guidance, recognised quality standards or established good practice, record why.

3.3.7 If the investigation identifies the need for an independent clinical opinion, talk to the Patient Services Department about how to go about this.

3.3.8 If during the course of the investigation, it becomes apparent that the complaint is more serious than originally thought, the lead should discuss this with the ADN urgently.

3.3.9 Maintain contact with the complainant to ensure they are kept properly informed about any significant change to the agreed timetable and focus for the investigation and final response.

3.3.10 Keep full, accurate and timely records (including dates and times) of such contacts and any significant elements of the investigation. Remember that all documentation, whether electronic or hard copy, is potentially disclose able to third parties.

3.3.11 A senior member of staff in the division to review the relevant investigation documentation and draft a letter of response, in the name of the Chief Executive. See Appendix 3, “Guidance on preparing a letter of response”. Ensure the response is –

   i) Accurate - checked against available evidence including the medical records

   ii) Consistent - between the staff member’s version of events as well as evidence between departments

   iii) Evidence based which can be provided if asked for.

3.3.12 If the response asserts that, in our view, the patient’s care and/or the Trust’s position were appropriate, you must provide evidence to support such claims, by for example, referring to national guidance or best practice.

3.3.13 If the response carries the risk of an admission of liability, discuss this with the PSD and the Litigation Department.

3.3.14 Where appropriate complete an incident form and utilise any investigation Root Cause Analysis reports that have been completed if an incident form exists.

3.3.15 If there are delays in receiving responses from relevant staff then this can be escalated through the clinical line management system for resolution.
3.3.16 The division’s Associate Nurse Director, or a senior member of staff nominated by her, who has had no involvement with the investigation, to review the response and ensure it meets the standards set out in “Guidance in preparing a letter of response” – see Appendix 3. When satisfied, to sign the Investigation Plan.

3.3.17 Email the final response letter and the completed Investigation Plan to Chief Executive and to the PSD.

3.3.18 Share the response letter with staff involved in the complaint together with details of remedial and follow-up action.

3.3.19 Implement any remedial or follow-up action that has been agreed. Keep records of action taken, including dates, key personnel and evidence to demonstrate compliance.

4 Managing verbal complaints

4.1 Most complainants want their concerns dealt with quickly and effectively. When staff are approached by someone wishing to make a complaint they should –

i) Establish whether they want their concern investigated and resolved informally at a local level, or as a formal written complaint via the Chief Executive’s office. If the latter, staff should provide the complainant with a copy of the patient information leaflet, “We want to know what you think”, which explains how to make a complaint.

ii) Maintain the confidentiality of the patient and his/her medical condition, if appropriate.

iii) Ensure that if the complaint is being made by a third party, the consent of the patient is obtained before sharing confidential information with the third party. If it is not possible to obtain such consent, e.g. if the patient has died or is incapable of giving it, senior managers will consider the particular circumstances in deciding whether to investigate the complaint. Advice on this point is available from the PSD and Data Protection lead.

iv) Make every effort to resolve the concern and satisfy the complainant there and then. If this is not possible, refer the complainant to a more senior person, such as the Ward Manager, Matron, Associate Director of Nursing or the On-Call Manager, for further attempts to resolve the matter. Consider offering PALs support.

v) Make a written record of the complaint and its outcome using the pro forma, “Record of a Verbal Complaint” Appendix 4.

vi) Ensure the written record of the verbal complaint is kept separately from the patient’s health record and send a copy of the record to the divisional office.
5 Complaints received through other routes or addressed to staff other than the Chief Executive

5.1 Complaints received by email, or electronically through the Trust’s public website, will be passed to the PSD and dealt with in the same way as a letter written to the CE.

5.2 Telephone calls from complainants wishing to make a formal complaint will be forwarded to the PSD.

5.3 Telephone calls received from complainants wishing to make an informal, verbal complaint will be dealt with as in Section 4, “Managing verbal complaints”.

5.4 Letters of complaint sent to members of staff other than the CE, will either be acknowledged, in writing and within 3 working days, by the staff member to whom the letter is addressed or passed to PSD who will complete the acknowledgement.

5.5 If, in exceptional circumstances, it is appropriate for the addressee to respond to the complaint directly, this must be discussed with the PSD to ensure a consistent approach.

6 Reaching local resolution – other approaches to consider

6.1 All reasonable attempts should be made to resolve the complaint to the complainant’s satisfaction. In most cases early and regular contact from the Trust followed by a timely, full, clear and open response, plus a genuine apology where this is appropriate and a clear commitment to remedial action, offer the best chance of reaching local resolution.

6.2 In some circumstances, however, more needs to be done. The following approaches are available and divisions should see them as possible tools to support resolution.

   i) Mediation/Conciliation
   ii) Advocacy, e.g. Health Complaints Advocacy Service (SEAP)
   iii) Professional/ Clinical 2nd Opinion
   iv) Meetings between complainant and appropriate Trust staff to assist resolution. See Appendix 5, “Best Practice on Meeting with Complainants”
   v) Cross-organisation co-operation

6.3 Further information about these approaches can be obtained from the PSD.

7 Handling unreasonable complainants

7.1 On rare occasions, despite our best efforts to resolve a complaint, a complainant can become unreasonable. The Department of Health has issued guidance on handling unreasonable complaints and the Trust has adopted this as best practice. See Appendix 6, “Handling unreasonable complainants”.
8 Remedy

8.1 If the investigation into the complaint has established that the Trust is in the wrong, it must try to put things right.

8.2 A full explanation of what went wrong plus details of what action has or will be taken to change and improve practices are essential. These should be accompanied by a full and sincere apology.

8.3 Over and above this the Trust should, wherever possible, put someone in the position they would have been if the fault had not occurred. This may, for example, mean financial compensation for loss of earnings or travel costs or for the loss of personal property.

8.4 The issue of financial compensation for inconvenience and distress is complex and the existing guidance focuses on principles. When the issue of financial compensation for inconvenience and distress is raised it should be discussed with senior divisional staff and the PSD. Decisions reached must be done so after full reference to the Ombudsman’s “Principles for Remedy” and the Treasury’s advice on “Managing Public Money” – Annex 4.14 - Complaints and Remedy. See Appendix 7, “Managing Public Money” – Annex 4.14 – Complaints and Remedy, and Appendix 8, Ombudsman’s “Principles for Remedy”.

9 Ombudsman’s Investigations

9.1 If, after everything possible has been done to resolve a complaint, the complainant remains dissatisfied, they can ask the PHSO to review the matter.

9.2 The Trust’s information leaflet and final response letters will explain this right.

9.3 All dealings with the Ombudsman’s office will be handled through the CE and the PSD.

9.4 When investigating a complaint, the Ombudsman will seek access to all relevant records and documentation kept by both the PSD and the division. All such records and documentation must be made available to the PSD within the requested timescale.

9.5 More information about the work of the Ombudsman can be obtained through the PSD or the Ombudsman’s website, see Section 15, “Contact details”.

10 Definitions and limitations

10.1 A complaint is an expression of dissatisfaction by an identifiable person either orally, in writing or electronically, and which requires a response.

10.2 Oral complaints resolved to the complainant’s satisfaction not later than the next working day are not covered by this procedure.
10.3 Complaints must be made not later than 12 months after either, the date the incident occurred or, if later, the date the matter came to the notice of the complainant. This may be waived if the Trust is satisfied the complainant has good reasons for not raising it earlier and that it is possible to investigate the complaint effectively and fairly.

10.4 This procedure only relates to complaints made by members of the public about services provided, or funded, by the Trust. It does not relate to requests for information under the Freedom of Information Act 2000 or Data Protection Act 1998. Staff grievances are covered by separate Trust policies. Nor does it relate to the management of potential litigation cases which are dealt with under a separate policy.

10.5 If a representative makes a complaint on behalf of a child, the Trust must not consider the complaint unless we are satisfied there are reasonable grounds for the complaint being made by the representative and not the child. If the Trust is not satisfied, we must explain our decision in writing to the representative.

10.6 If a representative makes a complaint on behalf of a child or a person who lacks capacity within the meaning of the Mental Capacity Act 2005, and the Trust is satisfied that the representative is not acting in their best interests, the Trust must write to the representative explaining why the complaint will not be further considered.

11 Who can make a complaint

11.1 A person who receives or has received services from the Trust or who is affected, or likely to be affected, by the action, omission or decision of the Trust.

11.2 A representative acting on behalf of a person who a) has died b) is a child (see paragraph 10.6) c) is unable to make the complaint themselves due to physical incapacity or lack of capacity within the meaning of the Mental Capacity Act 2005(a).

11.3 A representative who has been asked to act on behalf of a patient, as detailed in paragraph 10.6.

11.4 Consent: when a complaint is made on behalf of another person, the Trust will do its best to ensure that that person has the right to make the complaint. We may ask the complainant for confirmation of their right to make a complaint if necessary.

12 Learning from Complaints

12.1 All staff have a responsibility to acknowledge where care has not been of the required standard and to do everything in their power to learn and to amend practice as required.

12.2 Learning from complaints should happen throughout the organisation depending on the issues of concern. In some instances the issue may relate to a single department, but the theme may be applicable to other areas. It is the role of the senior staff in the divisions to ensure that issues and the resulting action plans are appropriately shared.
12.3 Where appropriate staff should incorporate the learning into their annual appraisal process with their manager.

12.4 The capture and sharing of significant learning from complaints is led by the Trust’s Learning from Complaints, See Appendix 9, Terms of Reference for this group.

13 Reporting arrangements

13.1 The PSD will provide a monthly report to Work Stream 2. This will, in turn, be included with the notes of Work Stream which are attached to the papers for Trust board meetings.

13.2 The PSD will provide divisions with a weekly report detailing the current status of each complaint that is active, and other reports as requested.

13.3 The PSD will meet its obligations to provide reports to the Department of Health and to other statutory bodies as required and as specified in the Regulations.

14 Training

14.1 The Trust understands the importance of staff training and development to ensure it to deliver effective complaints handling. The Patient Services Department will deliver training for front-line staff. When requested, the department will also provide whatever support and training it can to individual departments and staff groups.

15 Contact details

- Patient Services Department
  Board Room Corridor
  Hengrave House
  Tel: 01803 655743

Experience and Engagement Lead
Hengrave House
Hidden corridor
Tel: 01803 654850

- PALs
  Board Room Corridor
  Hengrave House
  Tel: 01803 655838

- Health Complaints Advocacy Service (SEAP)
  SEAP Advocacy
  PO Box 375
  Hastings
  TN34 3UY
  Tel: 0330 440 90003  Fax: 01424 204687
• Just Solutions Mediation  
  Combe House  
  Littlehempston  
  Totnes  
  Devon  TQ9 6LW  
  Tel: 01803 863088  
  www.justsolutions.org.uk

• The Parliamentary and Health Service Ombudsman  
  Millbank Tower  
  Millbank  
  London SW1P 4QP  
  Tel: 0345 015 4033

Appendix 1 –

Guidance on conducting an Investigation into a Complaint

• The aim of an effective investigation should be to gather sufficient clinical, factual and other information to identify what has occurred and what action, if any, is required.

• Before starting the investigation it is important to understand all the elements of the complaint and to clarify what the complainant thinks would resolve matters. Unless the complainant’s letter is particularly clear about their expectations, an early telephone call to them is often the best way of clarifying what they want. Such a call can also reinforce the importance we are giving to the complaint.

• Confirming the issues is essential in developing an investigation action plan. The Complaints Toolkit, produced by the Healthcare Commission and available on the Complaints page on the Intranet, provides a template for an investigation action plan. This can be used to identify what needs to be done, what information is required and who needs to be contacted for input in respect of each issue.

• It may be appropriate to construct a chronology of events to help in the development of the investigation action plan, particularly if the complaint is complex.

• As part of the planning process, it is essential to identify who needs to be approached for information on each issue of the complaint, for example any named individual or clinician complained against, line management or witnesses.

• You should also consider the various pieces of evidence that may need to be collated, such as relevant clinical records, professional standards, clinical advice, policies, processes and national guidance.

• When asking for responses from anyone involved make sure your request is quite clear about the issues to which you want a response. It is not sufficient to merely ask for comment – you need to pose specific questions which will help build a complete understanding of what happened.
- Emphasise that all responses, be they correspondence, emails or interview notes, are
  - Legible
  - Signed
  - Dated
  - Address all the issues
  - Factual, rather than giving opinions.

- You should remind respondents that any written information they provide is disclosable under Data Protection and Freedom of Information legislation.

- The Complaints Toolkit also has a template for a witness statement which can be used during complaints investigations. (See the Trust’s guidance on writing statements. It is available on the Intranet.)

- It is good practice, where possible, to have clinical responses verified by senior or comparable clinicians not involved in the care that is the subject matter of the complaint.

- After information has been gathered, it has to be collated, analysed and evaluated to determine what can be agreed; whether there are any disputes or inconsistencies; if there is any independent verification; whether there is evidence of failures in standards, service or process that led to the complaint; and if so, what can be done to rectify the situation and prevent a recurrence.

- Remember – do not file investigation information in the patient’s clinical records.

**Appendix 2**

**Guidelines on writing a Statement as part of an investigation into a complaint or incident**

**Introduction**

As part of the investigation into a complaint or incident, you may be asked to write a statement. The advantages of making accurate and honest statements are:

- A full and accurate recollection of events is more likely to be made if recorded as soon after the event as possible.
- You will be able to confidently give evidence if a legal case arises.
- It enables the Trust to manage complaints and incidents positively and effectively.

**Preparation for writing your report**

You will need:
- A copy of the complaint or incident form
- A copy of the clinical records if appropriate

Take your time to reconstruct, as far as is possible, your thinking of the problem at the time in question.
The Report

You should include

- Your name
- Professional qualifications with dates and PIN number, if appropriate
- Your post in the Trust
- Position at the time of the incident being complained about or the incident
- Date and time of the incident being complained about or the incident
- Other staff working in the area at the time of the incident being complained about or the incident
- Names, addresses and designations of witnesses of the incident being complained about or the incident
- Duty hours at the time of the incident being complained about or the incident.

Then write the “story” of what happened as far as you were involved, in as much detail as possible.

- Write only what you saw, heard and did.
- Give full names and grades of other personnel you mention.
- Be as accurate as possible with dates and times.

Do not report verbatim what is written in the case notes.
Do not write that someone did something unless you saw it happen.

When you have completed your statement sign and print your name and date it

A statement should be

- A record of what you did and why
- An accurate reconstruction of what happened
- Honest, even if you have to state that practice was not of a standard you were taught to expect
- Thorough, as a full recollection of the patient and the circumstances including whether you were involved in the care of other patients, with demands on your time; or any small detail which may be important, e.g. if it was a weekend, bank holiday or the weather was unusual
- A record of why you did certain things rather than others
- Provided within the requested time scale to ensure the investigation is concluded in a timely manner and to ensure your recollection is as fresh as possible.

A statement should not

- Be written hastily
- Be dismissive
- Seek to blame others
- Make statements beyond your knowledge and recollection
- Comment on the aftermath and not the incident
- Make subjective or petulant statements
- Comment on what you would have done according to normal practice
- Filed in the patients clinical notes

If you cannot remember something do not make it up
Summary

• Use the case notes and records to help you and take time to write the report
• If you are at all concerned about its format and content, remember you will not be penalized for telling the truth
• There are a number of people who will be able and willing to advise and assist you, for example, your line manager, Consultant, Associate Director or Nursing, Clinical Governance coordinator, staff in Patient Services
• Remember that all statements are disclosable under the Freedom of Information Act

Appendix 3

Guidance on preparing a letter of response

Responses should be thorough, clear, honest and open and should reflect a learning culture where complaints are welcomed, resolved and lessons learned. Bear in mind that each complaint is unique and your response needs to be sensitive to this. However, there are basic guidelines on response letters that should be followed in each case.

1 Follow the principles of Plain English, especially regarding font size, sentence length, layout, use of capitals, underlining, and the use of jargon and abbreviations.

2 Ensure you respond to the correct person. If you are not writing to the patient, you must have written authority from the patient before you can tell the complainant the results of the investigation. If you are in any doubt, check with the Patient Services Department on x55743.

3 Start your letter with a brief reference to the last letter sent by the Trust, e.g. “Further to our letter of ………..”. Don’t assume that the acknowledgment letter was the last letter. If the division has sent a holding letter this may be the last correspondence.

4 Use the following formats
   • Date – 10 March 2014
   • Our reference: JL/your initials /complaint reference, i.e. Our reference: JL/DS/SD 6321

5 Confirm that we are now able to respond to the complaint and summarise what the complaint was about. Do not go into great detail but the complainant must be confident that we have understood the essence and context of the complaint. E.g. “Further to my letter of 10 March 2014, I am now able to respond to your complaint about the delay in your surgery following your admission to Cromie ward, Torbay Hospital, on 1 February 2014”.

6 If the date of the response is outside the timescale that was originally agreed with the complainant, include a specific apology for the delay in the reply, e.g. "I am sorry for the delay in responding to you".
After the introduction, offer an apology or an acknowledgment of how the complainant is feeling. This acknowledgement is important and helps to set the tone of the letter.

Even if the Trust has acted entirely appropriately it is clear that the complainant did not see it that way at the time. Possible responses could be something like –

“I would like to apologise for the distress which this incident has caused you.”

“I am very sorry if you felt that Doctor/Nurse/Mrs……….. was rude to you.”

“I was saddened to hear that your mother has died and I do appreciate that this must be a very difficult time for you. Please accept my condolences”.

“I was concerned to learn that you felt that you were not treated sympathetically when you attended the Day Surgery Unit, at Torbay Hospital, on 1 March 2014”.

Refer to the fact that we have completed our investigation and express the hope that the complainant finds the information helpful.

Respond to each part of the complaint and explain the findings of the investigation. This can be complex so it is advisable to break it down into smaller sections. Dealing with the issues chronologically can be a useful approach. If the complainant has used a particular format for summarising their concerns, use this as a guide to compiling your response. For example, they may have numbered their points and you could structure your response using the same numbers.

Use language that will be familiar to the complainant, avoids jargon and unfamiliar abbreviations. If you have to use medical terminology, explain it so a lay person can understand it.

If the complainant has used the actual names of members of staff, use them yourself. Include the job title when you refer to a member of staff by name for the first time.

Use direct but personal language. Use “I”, “you”, “we” as much as possible. Rather than “It was considered…” say “We / The doctor / Sister Smith considered…”

Double check that you have covered every point made in the complaint, no matter how trivial.

Avoid telling the complainant something that they know and have experienced. Rather than saying “On Monday 5 May 2013 you were admitted for your hysterectomy”, better to say, “I understand that you were admitted for your hysterectomy on Monday 5 May 2013”.

As you deal with each section of the complaint, you should make the Trust’s position clear. This means either that we acknowledge we made a mistake, apologise for it and explain what we are doing to prevent it happening again, or that we do not accept the complaint and give the reason why. Refer to national guidance or Trust Policies when claiming that our care was appropriate.
16. Be thorough and honest about what the Trust can or cannot do to prevent the same thing happening again. If we need to take remedial action, state when this will be completed and how we will monitor the improvements.

17. It can be helpful to offer a meeting with the complainant. This is particularly the case when there has been a bereavement or if there are a lot of medical issues involved. Face to face meetings, where complex issues can be discussed openly and sensitively, and in language which is understandable can often resolve issues and is time well spent. If you are considering offering a meeting you should refer to the notes, “Best Practice on Meeting with Complainants”, which is available on the Complaints page on the intranet, and as an Appendix to the Policy and Procedure.

18. Always check PAS or within the division to get the latest information about the patient. It is professional to demonstrate that we know the patient’s current situation. For example, we may have arranged or changed an appointment, or perhaps the patient has died.

19. When you have dealt with all the issues, make the last paragraph positive.

- “In conclusion, I very much hope that this helps to explain why ………………… Please accept my apologies for the distress and anxiety that you experienced.”
- “I was very pleased to learn that your wife has fully recovered and has now returned home.”
- “I understand that you now have a date for your surgery. I hope this goes well and that you are soon fully recovered”.
- “I understand you had an appointment with Dr ………….. on 12 March 2013. I trust the outcome was satisfactory and you are now making a good recovery.”

20. In conclusion use one of the following:

- **If not upheld**

  “In summary, I am confident that, based on the results of our investigation, the care you received was appropriate. However, I am sorry that you feel your care was not to the standard that you would have expected, and would like to thank you for bringing this matter to my attention. The Trust welcomes comments from patients, relatives and carers as these help us to improve our services.”

- **If partially upheld**

  “In summary, I believe that certain aspects of your care did not reach the high standard of care that we aim to provide to all patients. I apologise for this, and would like to thank you for bringing this matter to my attention. The Trust welcomes comments from patients, relatives and carers as these help us to improve our services. I hope my letter has reassured you that we are addressing those aspects of patient care which need improving.”
• **If upheld**

“In summary, I believe that your care did not meet the high standard that we aim to provide to all of our patients. I would like to apologise for the shortfalls we have identified, and to thank you for bringing this matter to my attention. The Trust welcomes comments from patients, relatives and carers as these help us to improve our services. I hope my letter has reassured you that we are addressing those aspects of patient care which need improving.”

• If the complaint is either upheld or partially upheld then please include a list of actions that will be taken as a result of this complaint.

21 **The end of the letter must include the following text -**

If you have any further questions or concerns, or if there are aspects of this response that you are unhappy with, please do not hesitate to contact xxxxxxx, Associate Nurse Director, on 01803 xxxxxx and they will do their best to assist you. If, after any further attempts at resolving your complaint, you remain dissatisfied, you can put your complaint to the Parliamentary and Health Service Ombudsman (the Ombudsman). The Ombudsman can carry out independent investigations into complaints about poor treatment or service provided through the NHS in England. The Ombudsman’s services are free.

If you have any questions about whether the Ombudsman may be able to help you, or about how to make a complaint, please contact their helpline on 0345 015 4033, email phso.enquiries@ombudsman.org.uk or fax 030 0061 4000. Further information about the Ombudsman is available at: www.ombudsman.org.uk.

You can write to the Ombudsman at:

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

### Record of a Verbal Complaint

<table>
<thead>
<tr>
<th>Ward / Department</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Complainant</td>
<td></td>
</tr>
<tr>
<td>Name of Patient, if different</td>
<td>Hospital No.</td>
</tr>
<tr>
<td>Address of Complainant</td>
<td></td>
</tr>
</tbody>
</table>

| Complainant contact details |  |
| Nature of Complaint |  |

| Action taken to resolve complaint |  |
| Outcome |  |

| Date and time complaint made |  |
| Initials to confirm Complaint | Leaflet given |
| Your Name |  |
| Your signature |  |

A copy of this form must be sent to your Divisional Office.
For further copies of the form and for any questions relating to verbal complaints, contact your Divisional Office. Medicine – Ext: 55016, Surgery – Ext: 54809, WCD – Ext: 54657
Appendix 5

Best Practice on Meeting with Complainants

Face-to-face meetings with complainants can offer the best chance for reaching a satisfactory resolution to a difficult complaint. However, if meetings are not properly planned and managed it can become even harder to find an acceptable outcome. The following points have been drawn to offer staff guidance and best practice on meeting with complainants. If you want to discuss any aspects of this please contact the Patient Service Department on Ext: 55743.

1) Well before the planned meeting, ask the complainant to clarify in writing, and as specifically as they can, those issues that remain outstanding and what they are looking for by way of a resolution. This last point can be difficult for complainants but in our experience if they can be clear about how they want the complaint resolved we have a better chance of finding a resolution. It also means that if they say, for instance, that they want a member of staff disciplined, or they want compensation, we have the opportunity to get back to them promptly to say that such demands cannot be dealt with through a complaints meeting.

2) Once you are clear about what the complainant is looking for, decide which members of staff need to attend. This should include not only the people who can best answer the complainant’s concerns but people who will be open and constructive.

3) If the complainant has asked that a particular member of staff is present, but you feel that their presence will not promote resolution of the complaint, you need to give the complainant good reasons as to why the named person will not be at the meeting. These reasons need to be given to the complainant well before the meeting takes place as you need to minimize the risk of unwelcome surprises at the meeting.

4) Hold a pre-meeting with the staff attending the meeting to make sure there is agreement on
   - the purpose of the meeting, i.e. what you want to achieve
   - any areas which are not open for discussion, i.e. areas where you feel you have already gone as far as you can to satisfy the complainant
   - who will chair the meeting (see 7, below)
   - where the meeting will take place
   - how much time will be given to the meeting

5) Make sure that any member of staff who will be attending the meeting but who has not been able to come to the pre-meeting, knows what has been decided.

6) If, at the pre-meeting, you decide that it is not going to be possible or appropriate to deal with any particular issues that the complainant has identified, you must tell them this before the meeting and give clear and transparent reasons. Again, remember you want there to be no surprises.
7) When deciding on the best person to chair the meeting remember that they do not necessarily need to have been involved in the issue which is the subject of the complaint. However, they do need to have
- excellent interpersonal and mediation skills
- credibility with all the other participants
- a grasp of the relevant issues
- the ability to summarise key discussions and decisions and secure agreement on these points

If in doubt, talk to the Associate Nurse Director for your division to decide who to ask to chair your meeting.

8) Before the meeting, tell the complainant which members of staff will be there, who will chair the meeting, how much time will be given to the meeting, how the meeting will be recorded and any other relevant information.

9) Make arrangements for a proper record to be made of what was said at the meeting. Best practice is for the meeting to be recorded electronically. However, all parties need to be comfortable with this approach and you must get their signed permission well before the meeting. Talk to the Patient Services Department about proper recording equipment. If it is decided not to record the meeting, someone needs to take notes. Importantly, this needs to be someone who will have no other role at the meeting as it is unrealistic for the notes to be taken by someone who may need to be involved in the discussion. Rather than make a verbatim record of everything that is said, the note-taker must understand that their role is to record the important facts, comments and decisions from the meeting. They therefore need to be sufficiently skilled and experienced in note-taking. They also need to have the skills to be able to transcribe their notes quickly and accurately after the meeting.

10) Use an appropriate venue. Make sure everyone knows where it is and arrange to collect visitors from a central point.
- Does it need to be wheelchair accessible?
- Are there enough comfortable chairs?
- Will the layout enable all participants to see each other?
- Will you be free from disturbance – phones, callers etc?
- Is the lighting and ventilation adequate?
- Provide water/coffee and refreshments.
- Remember that some complainants have gathered a large number of documents which they will have with them. Make sure there is an appropriate table or desk for them.
- If possible, book the room for longer than the agreed meeting time. This is particularly important if the complainant is being supported by family and friends or an SEAP advocate. They may want time after the meeting to debrief and we should facilitate this.

11) Once the venue and time and date have been agreed, confirm these arrangements in writing to the complainant. Don’t rely on verbal messages.

12) Before the meeting ends make sure there is agreement about what is going to happen next. Be clear about who will be responsible for what and set clear and realistic timescales. Make sure the complainant has a contact person/number.
Appendix 6

Guidance on handling unreasonable complainants – Department of Health

Dealing with difficult complainants

Prolific complainants can be difficult to deal with
People who bring prolific complaints to the NHS can be difficult to deal with. Whether they are right to persist with their complaint or not, they need your support to resolve the issue. You will be aware of your trust's complaints procedure that tackles how to handle prolific complainants. But ensuring that such complaints are resolved relies on how you manage the individual. Labeling people as persistent, habitual or vexatious complainants should be the weapon of last resort.

If you label a complaint as vexatious from the start then it will never be anything else. This may get in the way of your ability to understand why the complainant is so persistent, and may only prolong the time it takes to reach a conclusion.

All complaints are real - whatever you think
It is important to remember that if a person contacts you with what they believe is a complaint, then it is to them, whatever you think. If the complainant raises the same or similar issues repeatedly despite receiving a full response, there may be underlying reasons for this persistence.

How do you identify a prolific complainant?
A prolific complainant is someone who raises the same issue despite having been given a full response. They are likely to display certain types of behavior such as:

- complains about every part of the health system regardless of the issue
- seeks attention by contacting several agencies and individuals
- always repeats full complaint
- automatically responds to any letter from the trust
- insists that they have not received an adequate response
- focuses on a trivial matter
- is abusive or aggressive.

What do you do if the complainant is difficult?
If you are faced with a complainant who you believe is unreasonably persistent you need to identify appropriate action with the relevant clinician. Remember that this action should be tailored to the complainant's needs and include regular feedback and reviews. Take a look at some of the protocols that other NHS trusts have developed. The Health Service Ombudsman Service has a good complaints policy framework that it is worth considering:

Policy outline - vexatious or unreasonably persistent complainants
Regardless of the manner in which the complaint is made and pursued, its substance should be considered carefully and on its objective merits

Complaints about matters unrelated to previous complaints should be similarly approached objectively and without any assumption that they are bound to be frivolous, vexatious, or unjustified.

Particularly if a complainant is abusive or threatening, it is reasonable to require him or her to communicate only in a particular way - say, in writing and not by telephone - or solely with one or more designated members of staff; but it is not reasonable to refuse to accept or respond to communications about a complaint until it is clear that all practical possibilities of resolution have been exhausted.
It is good practice to make clear to a complainant regarded as unreasonably persistent or vexatious the ways in which his or her behaviour is unacceptable, and the likely consequences of refusal to amend it before taking drastic action. Decisions to treat a complainant as unreasonably persistent or vexatious should be taken at an appropriately senior level; and senior management - probably the board or a committee of the board - should monitor such decisions.

Appendix 7

“Managing Public Money” – Annex 4.14 – Complaints and Remedy

ANNEX 4.14
COMPLAINTS AND REMEDY

Dealing with complaints

AA4.1 Public sector organisations should operate clear accessible complaints procedures. They are a valuable source of feedback which can help shed light on the quality of service provided, and in particular how well it matches up to policy intentions. So all complaints should be investigated. The Parliamentary and Health Service Ombudsman (PHSO) has published Principles of Good complaint Handling to help public bodies when dealing with complaints (see paragraph A.4.14.19).

AA4.2 Systems for dealing with complaints should operate promptly and consistently. Those making complaints should be told how quickly their complaints can be processed. Where groups of complaints raise common issues, the remedies offered should be fair, consistent and proportionate.

AA4.3 Public sector organisations should seek to learn from what their complaints reveal. If an internal or external review, or a PHSO investigation, shows there are systemic failings, defective systems or procedures should be overhauled and corrected.

Remedies

AA4.4 As section 4.12 explains, when public sector organisations have caused injustice or hardship because of maladministration or service failure, they should consider:

- providing remedies so that, as far as reasonably possible, they restore the wronged party to the position that they would be in had things been done correctly, and
- whether their policies and procedures need change to prevent the failure recurring.

The remedies available

AA4.5 Remedies can take a variety of forms, including (alone or in combination):

- an apology;
- an explanation;
- correction of the error or other remedial action;
- an undertaking to improve procedures or systems; or
- financial payments, eg, one off or as part of a structured settlement.
Appendix 8

Ombudsman’s “Principles for Remedy”.

Good practice with regard to remedies means:

1 Getting it right

• Quickly acknowledging and putting right cases of maladministration or poor service that have led to injustice or hardship.

• Considering all relevant factors when deciding the appropriate remedy, ensuring fairness for the complainant and, where appropriate, for others who have suffered injustice or hardship as a result of the same maladministration or poor service.

2 Being customer focused

• Apologising for and explaining the maladministration or poor service.

• Understanding and managing people’s expectations and needs.

• Dealing with people professionally and sensitively.

• Providing remedies that take account of people’s individual circumstances.

3 Being open and accountable

• Being open and clear about how public bodies decide remedies.

• Operating a proper system of accountability and delegation in providing remedies.

• Keeping a clear record of what public bodies have decided on remedies and why.

4 Acting fairly and proportionately

• Offering remedies that are fair and proportionate to the complainant’s injustice or hardship.

• Providing remedies to others who have suffered injustice or hardship as a result of the same maladministration or poor service, where appropriate.

• Treating people without bias, unlawful discrimination or prejudice.

5 Putting things right

• If possible, returning the complainant and, where appropriate, others who have suffered similar injustice or hardship, to the position they would have been in if the maladministration or poor service had not occurred.

• If that is not possible, compensating the complainant and such others appropriately.
• Considering fully and seriously all forms of remedy (such as an apology, an explanation, remedial action, or financial compensation).

• Providing the appropriate remedy in each case.

6 Seeking continuous improvement

• Using the lessons learned from complaints to ensure that maladministration or poor service is not repeated.

• Recording and using information on the outcome of complaints to improve services.

_These Principles are not a checklist to be applied mechanically. Public bodies should use their judgment in applying the Principles to produce reasonable, fair and proportionate remedies in the circumstances. The Ombudsman will adopt a similar approach in recommending remedies._
Appendix 9

Learning from Complaints Group

Terms of Reference

Purpose of the Group

To provide a forum for staff responsible for the management of complaints, both at Trust and at Divisional level, to review the effectiveness of complaints handling and the actions taken in response to complaints, to share good practice and to develop a culture of learning in the handling of complaints.

Terms of Reference

1. The membership of the group will comprise of:
   
   - Deputy Director of Nursing
   - 3 Associate Nurse Directors
   - 1 Associate Medical Director
   - Experience & Engagement Lead
   - PALS Officer
   - Patient Services Officer
   - Patient Services Support Officer
   - Litigation Manager
   - Team Manager of the IHCA Service, (SEAP), or deputy
   - Members of the Foundation Trust’s “Working with Us” Panel
   - Representative from the Complaints Department of Torbay and Southern Devon Health and Care NHS Trust
   - Representative from New Devon CCG
   - Equality and Diversity Manager

2. The Group will meet every two months.

3. The Group will consider
• All complaints which are considered by the Ombudsman
• Complaints where there is significant learning to be captured and shared
• Significant complaints where a second letter has been received
• Complaints where there has been a significant failure to meeting agreed response deadlines.
• Complaints which point to an emerging trend

4 Where appropriate, other members of staff will be asked to attend a meeting to discuss how a particular complaint has been handled. If appropriate, the ICAS advocate may be invited to attend.

5 The Group will share identified learning and good practice. The Group will consider a variety of formats – intranet, internet, talks to specific groups, All Managers Meetings, All Staff Briefings.

6 The Group will make recommendations to the Director of Professional Practice, Nursing and People’s Experience should it consider changes to the trust’s existing policy and procedure are necessary.

7 The group will report to Work Stream 2.

8 The business of the group will be conducted in an open and constructive manner and with the understanding that robust challenge from other members will be appropriate on the basis that it can promote shared learning and highlight where practice might need to change.

9 These Terms of Reference will be reviewed every twelve months.

Date for review December 2014
Protocol for the handling of Inter-organisation complaints within Health and Social Care in Torbay

**AIM**
To provide a framework for dealing with complaints involving more than one organisation and, where appropriate, to provide a joint reply.

**ORGANISATIONS**
Torbay Care Trust.
South Devon Healthcare NHS Foundation Trust

**BACKGROUND**
Inter-organisation complaints can be daunting for the complainant and confusing for the organizations involved. Examples of how such complaints could arise are:

1. Complaints which from the outset cover several areas, some of which are NHS responsibility while others are Social Services, eg. Multi-disciplinary team.
2. Complaints which start off as being about one organisation but investigations reveal possible failings by the other, eg hospital discharge arrangements.
3. Complaints which are about one organisation but arise from that organisation’s decision not to accept an assessment/recommendations of the other eg continuing care.

Communication between organizations must be timely to prevent delays to local resolution. This framework is written to clarify and speed up the process of dealing with inter-organisation complaints within health and social care in Torbay. It is written in the spirit of joint working and adhering with the duty to cooperate that is built in to the revised Health & Adult Social Care Statutory Complaints Regulations April 2009.

**FRAMEWORK**

1. Complaints will be acknowledged by the receiving organisation within three working days (this can be either verbal or in writing).
2. The receiving organisation must obtain the consent of the complainant in order to share the complaint with other organisations.
3. On the basis that consent to share the complaint with other organisations is given, the receiving organisation will agree with the other organisations which one is to lead the investigation and response process.
4. In the event of several organisations receiving the complaint as an apparent original, contact will be made with the other organisations complaints managers and a decision made as to which organisation is most appropriate to be the ‘lead’ organisation.

5. On the basis that there are no complicating consent issues (see 6 below) the lead organisation will contact the complainant to clarify the complaint and agree the issues to be investigated, the desired outcomes, the process for investigation and response, and the estimated timescale. This agreement is known formally as a Complaint Resolution Plan and it can either take the form known of a written letter to the complainant setting out the agreement, or a file note of such verbal agreement. Any specific commitment in relation to timescales must be agreed with all organisations before discussing this with the complainant.

6. If the complaint is made by someone other than the patient, the receiving organisation will ensure that the complainant has the patient’s permission and will obtain the patient or service user’s consent, so that information from clinical records can be accessed and shared. The patient or service user will be asked to complete and return a consent form as soon as possible. (see appendices 1 and 2 for letter and consent form).

**NB: If consent to copy the complaint to the other organisations is not forthcoming, the Complaints Manager of the receiving organisation should try to establish why this is the case and seek to resolve the matter. However, if this is unsuccessful, the complainant should be told of their right to contact the other organization directly in order to pursue their complaint.**

7. A copy of the complaint letter, the acknowledgement letter, the consent documentation, and any documentation clarifying the investigation and response process, including the Complaint Resolution Plan, will be sent to the other organisations involved in the complaint.

8. Each organisation will investigate their part of the complaint in accordance with the Regulations and in line with the agreed Complaint Resolution Plan.

9. Once each organisation has completed their investigation it will provide the lead organisation with an appropriate response, in the form of a response to the complainant, which the lead organisation will be able to insert, without alteration, in the main response letter forming a single composite response.

10. The lead organisation will not have editorial licence to alter the content of the responses from the other organisations without their explicit agreement. The final response from the lead organisation to the complainant MUST be approved, within an agreed timescale, by all organisations involved before the
Final response is dispatched. Time for this agreement should be included when calculating response timescale with the complainant for the Complaint Resolution Plan.

11. If a comprehensive response is not possible within the agreed timescale due to delayed information from one or more organisations, the lead organisation will negotiate an extension to the timescale with the complainant and advise all organisations about this new timescale. However, following such an extension, if information is still delayed from one or more organisations, then the organisations should discuss and consider whether to send a response with the available information, indicating that responses to the outstanding issue(s) will follow separately from the lead organisation following liaison with the other relevant organisation(s). Those subsequent responses will be copied to all other organisations involved.

12. If a delay is likely to occur, the lead organisation must be informed immediately. The lead organisation will be responsible for informing the complainant. A revised Complaint Resolution Plan will be negotiated and agreed with the complainant.

13. The final response from the lead organisation to the complainant will be signed off by their appropriate signatory, as stated within the Complaint Resolution Plan.

14. The final response should include contact details of the lead organisation, which will ensure that any follow up from the complainant is acknowledged and passed to the relevant organisation.

**General Points:**

a) Each organisation will have a single contact officer for liaison on each case, who will coordinate any requests for information with this protocol. The liaison officer will usually be the Complaints Manager for each organisation (or one of the Complaints Officers).

b) Organisations will comply with the timescales laid down within the agreed Complaint Resolution Plan.

c) If one organisation is unable to provide a response within the agreed timescale, the lead organisation may send an interim response, giving an explanation for the reasons for the delay. Each case to be discussed on its own merits.

d) Any proposal to pursue conciliation or mediation to resolve the complaint will be on the basis that costs will be shared by all organisations involved. Agreement on this must be reached before discussing any proposal with the complainant.
e) The operation of this protocol should be reviewed at least every twelve months or when statutory changes dictate.

f) Organisations are encouraged to include the data on joint complaints in their annual reports.

g) Evidence of any joint protocol will be used as evidence in relation to Health and Social Care Act Regulation 19, Outcome 17 of the Care Quality Commission Essential Standards.
Appendix 1


Dear:

Re: Complaint ……………

Thank you for your letter of ………. Received in this office on ………..I am very sorry to learn about your concerns and will make immediate arrangements for these matter to be looked into ……

The concerns you have raised appear to involve the following organisations/services:

* Organisation A
* Organisation B

a*) I will need to liaise with organisation A/B in order to ensure you have a full response to your complaint. This may involve sharing information contained in your records, but please be assured this would only be in so far as to response to your complaint/s. I enclose a consent form and prepaid return envelope for this purpose.

b*) I note that your complaint is being made on behalf of ................ Under such circumstances, I am obliged under the Data Protection Act to seek consent to ensure that we may pass on information which we may need to take from .................’s records. I am therefore sending a consent form to .............. authorising us to respond to this aspect of your complaint.

c*) While I note that you are making this complaint about your experience it does relate to ............. and we would only be able to respond in detail by obtaining information contained in ............’s records. I am therefore sending a consent form to ................. authorising us to respond to this aspect of your complaint.

*Either Paragraphs a, b or c will be inserted into the letter depending on the status of the complainant.

It is normal practice to send you one detailed response, which covers all the issues of your complaint, and we hope to let you have this by …………. If, however, you have any concerns about the joint information sharing and you would prefer to have a separate response from each organisation, I would be grateful if you could let me know as soon as possible.

To be signed by Complaints Manager/Officer of lead organisation in accordance with local arrangements.
Consent form:

I ……..(Name and address and d.o.b)………
Hereby agree that my records may be accessed and relevant information shared with

South Devon Healthcare Foundation Trust
Torbay Care Trust

So that the complaint concerning ……………………………may be fully investigated.

I understand that this can continue up to the completion of the Complaints procedure.

Dated this ………………day of ………………………………..20….
Multi Organisation Complaints Process

Complaint arrives

Yes

Receiving organisation to contact complainant as soon as possible to discuss concerns and obtain permission to share with other organisations involved.

With other organisations decide who should lead based on most involvement

Lead organisation writes to complainant with Complaint Resolution Plan, advising names of other organisation(s) and who will lead within

Copy complaint letter, relevant information and Complaint Resolution Plan to all other organisations stating deadline for their responses to be returned to the lead organisation.

Arrange local involvement within same time frame.

Lead Complaints Manager to co-ordinate responses, agree final version with other organisations and send to complainant.

Resolved

Yes

Joint Complex Complaint Review complainant invited to discuss outstanding issues with relevant leads from each organisation

Resolved

No

Closed

No

Refer to Ombudsman