

Complaints Policy

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Approved by	Policies and Procedures Group	Date Approved	0.1 5/2/19
Ratified by	Performance and Planning	Date Ratified	1.0 24/7/19 1.1 25/7/19
1.1 Minor amendment 25/7/19 – change 'IR1' to 'incident'.			
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Status	Ratified		
Target Audience (who does the document apply to and who should be using it)	Wiltshire Health and Care staff		
Accountable Director	Managing Director		
Policy Author/Originator – Any comments on this document should, in the first instance, be addressed to whc.policyqueries@nhs.net	Risk and Complaints Manager		
If developed in partnership with another agency, ratification details of the relevant agency	N/A		

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Equality Impact and Parity of Esteem

Wiltshire Health and Care staff strive to ensure equality of opportunity and parity of esteem for all service users, local people and the workforce. As an employer and a provider of health care, we aim to ensure that none are placed at a disadvantage as a result of its policies and procedures. This document has therefore been equality impact assessed in line with current legislation to ensure fairness and consistency for all those covered by it regardless of their individuality. This means all our services are accessible, appropriate and sensitive to the needs of the individual.

References: NHS England 'Everyone Counts: planning for patients 2014-15 / 2018-19' and The Mental Health Crisis Care Concordat (DH 2014).

Safeguarding

Wiltshire Health and Care have a strong commitment to care that is safe, of a high quality and that upholds our patients' rights. All our patients have the right to live lives free from abuse or neglect and, where they are able to, to make or be supported to make informed decisions and choices about their treatment, care and support. Where patients are not able to make their own decisions, Wiltshire Health and Care staff are committed to ensuring that treatment, care and support is undertaken in accordance with the person's best interests. In order to fulfil these commitments, Wiltshire Health and Care follow the Safeguarding principles and responsibilities laid out in sections 42-46 of the Care Act (2014) and are informed by, and apply, the guiding principles and provisions of the Mental Capacity Act (2005) (refer to Wiltshire Health and Care Safeguarding Adults Policy and Procedure, and Mental Capacity Act Policy and Procedure).

Regarding children, WHC is responsible for providing services in accordance with Section 11 of the Children's Act (1989) and works under the principles of Working Together to Safeguard Children (2018).

Special Cases

There are no special cases where this policy does not apply.

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1. Document Details

1.1 Introduction and Purpose of the Document

Wiltshire Health and Care (WHC), is committed to listening to the views of all stakeholders. By listening, we can understand how the services we offer are received and can continue to develop and improve.

WHC recognises that sometimes things go wrong, and that there is a need for a formal process through which stakeholders can raise concerns.

The complaints function of WHC is managed by the Patient Advice and Liaison Service (PALS). The team is led by the Risk and Complaints Manager and responsible to the Director of Quality, Professions and Workforce for WHC.

Compliments, comments, complaints and suggestions from patients are encouraged and welcomed. Should patients be dissatisfied with the care provided, they have a right to be heard and for their concerns to be dealt with promptly, efficiently and courteously. Under no circumstances should patients be treated any differently as a result of making a complaint or raising a concern.

The purpose of this document is to set out how WHC will manage complaints and other forms of feedback.

The aims of this policy are to:

- State how WHC will listen to and learn from patient feedback and use information to improve services.
- Ensure that complaints are effectively managed and lessons can be learnt.
- Support employees to conduct investigations which are thorough, fair, responsive and open.
- Ensure that the complaints process is accessible to everyone and respects individuals' rights, including confidentiality throughout the process.
- Assure complainants and staff that a thorough investigation takes place and a full explanation is provided.
- Ensure that patients are treated without prejudice.

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2. Regulatory/Legal Framework

- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
- The National Health Service (Complaints) Regulations 2006
- The Care Quality Commission inspections rely on information based on sound data
- The Data Protection Act 2018 requires that personal data is processed in accordance with the Data Protection Principles
- The Freedom of Information Act 2000 requires organisations to make some documents publicly available
- The Access to Health Records Act 1990
- Information Standards

2.1 Further Reading and Links to Other Policies

The following is a list of other policies, procedural documents or guidance documents (internal or external) to which employees should refer for further details:

Ref. No.	Document Title	Document Location
1	The NHS Complaints Procedure	http://www.nhs.uk
2	The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009	http://www.legislation.gov.uk
3	Statutory Instrument 2006 No. 2084. The National Health Service (Complaints) Amendment Regulations 2006	http://www.legislation.gov.uk
4	The Mid Staffordshire NHS Foundation Trust Public Inquiry (Francis Report)	http://www.midstaffpublicinquiry.com/
5	Everyone Counts: Planning for Patients 2013/14	http://www.england.nhs.uk
6	Complaint Handling in NHS Trusts (Patient Association)	http://www.patients-association.com
7	Good Practice Standards for NHS Complaint Handling (Patients Association)	http://patients-association.com
8	NHS Governance of Complaints Handling (Parliamentary and Health Service Ombudsman)	http://www.ombudsman.org.uk
9	Health and Social Care (Community Health and Standards) Act 2003	http://www.legislation.gov.uk
10	Social Services Complaints Procedure for	http://www.adviceguide.org.uk

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	Adults	
11	Helping more people by investigating more complaints about the NHS	http://www.ombudsman.org.uk
12	Incident Management Policy	T\Wiltshire Health and Care Documents
13	Duty of Candour (Being Open) SOP	T\Wiltshire Health and Care Documents
14	Child Protection Procedures	T\Wiltshire Health and Care Documents \Safeguarding Referrals
15	Safeguarding of Vulnerable Adults Policy	T\Wiltshire Health and Care Documents
16	Minimising Violence and Aggression in the Workplace Policy	T\Wiltshire Health and Care Documents
17	Health Records Subject Access Requests Procedure	T\Wiltshire Health and Care Documents
18	Freedom of Information Requests Procedure	T\Wiltshire Health and Care Documents
19	Parliamentary and Health Service Ombudsman Report: Care and Compassion February 2011	http://www.ombudsman.org.uk
20	Parliamentary and Health Service Ombudsman Principles of Good Complaint Handling	http://www.ombudsman.org.uk
21	Listening Responding Improving: a guide to better customer care (including Seriousness Assessment)	http://webarchive.nationalarchives.gov.uk
22	Department of Health Records Management Code of Practice for Health and Social Care 2016	www.gov.uk
23	Access to Health Records Act 1990	http://www.legislation.gov.uk
24	SEAP Advisory Service	http://www.seap.org.uk
25	Complaint Regulations 2009	http://www.legislation.gov.uk
26	The NHS Constitution	www.gov.uk
27	Data Protection Act 1998	www.gov.uk
28	Freedom of Information Act 2000	www.gov.uk
29	NHS Choices	www.nhs.uk

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3. Main Policy Content Details

3.1 Overview

Although in everyday language, terms such as ‘complaint’ and ‘concern’ may be interchangeable, in this policy:

- A **Concern** is an expression of dissatisfaction requiring an oral response, which can be given within 24 hours.
- A **Complaint** is an expression of dissatisfaction requiring an oral or written response.
- A **Comment** is an expression of views which may or may not require a response.
- A **Compliment** is an expression of appreciation and/or recognition.
- A **Suggestion** is an idea for service development, and may or may not require a response.

Under the Government’s guidance on the implementation of the NHS Complaints Procedure (Ref 1) there are two stages for dealing with complaints:

- Stage 1 – Local Resolution.
- Stage 2 – Parliamentary and Health Service Ombudsman.

Complaints may be made about any matter reasonably connected with the exercise of the functions of WHC, including:

- Its provision of health care or any other services
- The function of commissioning health care or other services under an NHS contract or making arrangements for the provision of such care or other services with an independent provider or an NHS Foundation Trust.

Matters excluded from consideration under the arrangements are:

- A complaint made by an NHS body, which relates to the exercise of its function by the WHC.
- A complaint made by an independent provider or an NHS foundation trust about any matter relating to arrangements made by WHC with that independent provider or NHS foundation trust.
- A complaint made by an employee of WHC about any matter relating to their contract of employment.
- A complaint which is being or has been investigated by the Ombudsman.
- A complaint arising out of WHC’s alleged failure to comply with a data subject request under the Data Protection Act 2018 or a request for information under the Freedom of Information Act 2000.
- A complaint about which WHC is taking or is proposing to take disciplinary proceedings in relation to the substance of the complaint against a person who is the subject of the complaint.

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3.2 Who can provide feedback?

Complaints can be made by:

- A patient or service user
- The carer of a patient, with the patient's consent
- Any persons who are affected by or likely to be affected by, the action, omission or decision of WHC.

General feedback, including comments, concerns and compliments can be received from anyone.

A complaint may be made by a representative acting on behalf of a patient or any person who is affected by or likely to be affected by the action, omission or decision of the WHC, where that person:

- Has died
- Is a child who cannot demonstrate Gillick competency or meet the Fraser guidelines.
- Is unable by reason of physical or mental incapacity to make the complaint themselves.
- Has requested a representative to act on his behalf and given consent for this.
- Is a Member of Parliament acting on behalf of their constituents.

Where the patient or person affected has died or is unable to raise concerns themselves, the representative must be a relative or other person who, in the opinion of the PALs, has a sufficient interest in their welfare and is a suitable person to act as representative.

PALS are responsible for determining whether the complainant has 'sufficient interest' in the deceased or incapable person's welfare to be suitable to act as a representative. The need to respect the confidentiality of the patient is a guiding principle, guidance and advice may be taken from the Director of Governance and Company Secretary.

If in any case PALS establish that a representative does not have a sufficient interest in the person's welfare or is unsuitable to act as a representative that person is to be notified of this in writing and the reasons for the decision are to be provided.

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

3.3 Confidentiality and Consent

All complaints and correspondence will be treated confidentially; complainants will be informed which parties may be contacted to process the complaint. All complaints managed in accordance with the Data Protection Act 2018 and any other relevant legislation.

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3.3.1 Consent

It is good practice to explain that information from health records may need to be disclosed to those involved.

The PALS will request consent from patients between the ages of 16 and 17 where a complaint is made on their behalf. If this is not possible, the case will be referred to the Safeguarding Lead for WHC for their input prior to forwarding the case for investigation.

Where a complaint is made on behalf of an existing or former patient, consent must be obtained from the patient to disclose personal health information and the results of any investigation in order to uphold the duty of confidentiality to the patient. The complainant will be asked to return a consent form to the PALS within seven days. A longer time scale may be agreed.

If, once consent has been requested, there is a delay obtaining consent that affects the date on which the final response can be sent out, then the date the final response is due will be recalculated and the complainant advised accordingly.

3.4 Time Limits

Normally a complaint should be made within twelve months of the date on which the matter occurred, or the complainant became aware of the matter.

Where a complaint is made after these times, PALS may choose to investigate if they are of the opinion that the complainant had good reason for not making the complaint within that period and it is still possible to investigate the complaint effectively and efficiently.

In any case where the PALS decide not to investigate a complaint on the grounds that it was not made within the time limit, the complainant will be informed in writing with further guidance if necessary. The complainant can ask the Parliamentary Ombudsman to consider their complaint.

In accordance with the Records Management Code of Practice for Health and Social Care 2016 complaint files will be kept for 10 years from the date of closure of the case.

Complaint files about babies and children where there is the possibility of future legal proceedings are kept until their 25th birthday. If the baby or child has died, the complaint file is kept for eight years.

3.4.1 Lost Property

It is the responsibility of the ward to look for any lost property associated with a complaint and any reimbursements or ex gratia payments will be at the discretion of the Head of Service (HOS).

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3.4.2 Receiving complaints

PALS will read or listen to the complainant. They will also try to understand what the complainant would like to happen as a result of their complaint and the resolution they are hoping for. PALS may need to telephone and speak to the complainant to ascertain this information.

PALS will try to manage expectations at this stage and will advise complainants if WHC cannot give the desired outcome – for example, financial compensation cannot be given as a result of a complaint investigation.

In all complaints literature, patients will be advised of independent advocacy services which can help them raise concerns.

3.4.3 Complaints

As well as including concerns unresolved after 24 hours, complaints will need formal investigation.

The PALS is the central team responsible for complaints. 'Complaints' are likely to be in writing, but not exclusively, and are subject to the same triage process set out above.

Where a complainant wishes to make a complaint and receive a response electronically, patient confidentiality is a guiding principle. Where any patient's personal information is to be disclosed electronically, the patient's consent must be received in writing.

When letters of complaint are received by the Managing Director, they will be date stamped and passed to the PALS, who will deal with them on behalf of the Managing Director.

All complaints will be logged onto the complaint management system and will be acknowledged by the PALS by the next working day.

The acknowledgement will include information about the right to ask for an independent review if the complainant is not fully satisfied with WHC's response.

An employee's first responsibility on receipt of a complaint is to ensure the patient's immediate health care needs are being met. This may require urgent action being taken before any matters relating to the complaint are dealt with.

The complaint will be sent by the PALS (via e-mail) to the appropriate complaints lead(s) to start the investigation. Some complaints may involve more than one service; in this case the PALS will allocate a lead investigator who will be responsible for ensuring the complaint is fully investigated.

3.4.4 Complaints and Incidents

When complaints come into the PALS, a discussion may take place between the PALS Officer(s) complaint leads about whether an Incident Form needs to be completed. This is documented on the complaints management system.

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The Quality team discuss complaints regularly and if a serious incident has been identified, the case will be taken forward under the Incident Management process. The complainant will be kept informed of the status of the investigation and will be offered a meeting to discuss the outcome of the investigation.

3.4.5 Complaints Lead

The allocated complaints lead/Investigation Manager will assess the complaint and either investigate themselves or allocate an appropriate senior member of their team to undertake the investigation. The Investigating Manager will make contact with the complainant within 48 working hours and if necessary clarify any issues raised in the complaint and provide a point of contact should the complainant wish to raise any questions during the investigation. The complaint lead should inform the PALS, via email, once they had the initial discussion with the complainant.

3.4.6 Record Keeping and Responding

Full records of the investigation should be kept by the Investigating Manager and sent to the PALS for filing, once the investigation is complete. These notes should include a record of discussions with employees and the support offered.

A quality complaint response should ensure that it:

- Communicates to the recipient compassion and understanding
- Addresses all the issues raised
- Is accurate
- Gives a full and honest explanation
- Provides an apology (or apologies) if appropriate
- Explains the actions that have been/will be taken to improve the situation (action plans can be included where appropriate)
- Explains the monitoring arrangements to ensure actions will be implemented

A complete documentary record of the handling and consideration of each complaint is kept on the complaints management system and is kept separate from health records.

The PALS will ensure that all information relevant to the investigation of the complaint is recorded on the complaints management system and is available without unnecessary delay to the Parliamentary Health Service Ombudsman (PHSO) if requested.

3.4.7 Extending the Investigation Period

Although the investigation and draft response should be completed within 20 working days, WHC acknowledges that some complaints may require longer to thoroughly conclude the investigation and provide a full response.

If a longer response time is required due to the complexity of the complaint or if a meeting with complainant within the this timescale cannot be achieved, the division can ask the PALS to negotiate of up to 20 working days (giving a maximum of 40 working days).

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If this is required PALS will contact the complainant to discuss, unless it would be more appropriate for the Investigating Manager to do so.

3.4.8 Learning from complaints

As a learning organisation, WHC is committed to learning from complaints and taking action where an investigation has identified a need to alter practice.

The HOS for each department is responsible for ensuring any action plans resulting from the complaint investigation are implemented within the agreed timescale. Any evidence relating to the learning from complaints should be forwarded to the PALS for filing.

Progress on action plans will be evidenced and stored by the PALS. Where agreed with the complainant, they should be kept informed on the progress of the actions by the Investigation Manager.

3.4.9 Investigation Review

There will be occasions when it will not be possible to resolve a complaint during the initial investigation.

In these cases, the reasons for on-going complaints should be discussed with the PALS. If particular questions haven't been fully answered the complaint could be sent back to the complaint lead, or if a review is needed then the PALS will acknowledge the review request and will arrange for the complaint file to be sent to an appropriate senior, and preferable executive level employee.

The review will consider if the appropriate process was followed and if the outcome of the complaint was right. The review officer will have 20 working days to consider the review and draw up a formal response which will then be sent to the Chief Operating Officer (COO), or Managing Director (MD).

If the complainant remains dissatisfied with the response, they may request a review by the PHSO.

3.4.10 Parliamentary and Health Service Ombudsman

The PALS will be the single point of contact for the PHSO. The PALS will manage all requests and will ensure deadlines are met. The team will arrange any conciliatory/ex-gratia, (in partnership with the Director of Governance and Company Secretary), payments recommended by the PHSO and agreed by WHC. Any such payments would be at a cost to the relevant service area.

Any action plans requested by the PHSO are the responsibility of the Director of Quality, Professions and Workforce who will be held accountable for their creation and quality. HOS will be responsible for developing the action plans. In most cases, the PHSO give three months for an action plan to be created and sent back to them, Monitor, the Care Quality Commission (CQC), NHS England and the relevant Clinical Commissioning Group (CCG).

Action plans should be drawn up and signed off by the appropriate service within two months. This then gives a further month for consideration by the Director of Quality, Professions and Workforce who will provide 'sign off' on behalf of WHC. The process of signing off and sending will be facilitated by the PALS, who will also advise if these timescales alter.

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3.4.11 Legal Implications

If the complainant has instigated formal legal action the complaints procedure should continue as long as it does not compromise or prejudice a concurrent legal investigation. This is at the discretion of PALS and the Director of Governance and Company Secretary, with the complainant and person identified in the complaint being advised appropriately in writing.

3.4.12 Support for Employees Involved in a Complaint

All well as supporting complainants, WHC will ensure that it supports employees involved in a complaint investigation.

Immediate and on-going sources of support: internal

Employees who are named in a complaint are to be supported by their line manager and/or the HOS. If line managers are concerned that the employee is not coping well with the complaints process, he or she will discuss this with the employee and refer them to Occupational Health if appropriate.

Immediate and on-going source of support: external

Employees will also be notified of the support offered by Occupational Health in respect of access to external counselling services, should that be appropriate.

3.4.13 Serious Allegations and Disciplinary Investigations

The complaints procedure is not intended to be used for the investigating of employee disciplinary issues. The purpose of the complaints procedure is to thoroughly investigate complaints with the aim of satisfying complainants, whilst being fair to employees.

However, complainants may identify information about serious matters and WHC may feel it appropriate to consider disciplinary investigation at any point during the complaints procedure. Consideration as to whether or not disciplinary action is warranted is a separate matter for WHC.

The information gathered during a complaint investigation may be made available for a disciplinary investigation, although the consideration of disciplinary action is separate from the complaints procedure. WHC has a duty to maintain employee confidentiality and must not share information regarding action against employees with the complainant other than that Human Resources Policies have been followed.

Where a complaint indicates the need for a referral to the disciplinary procedure, one of the professional regulatory bodies or agency such as the Police, the investigation under the complaints procedure will only take place if it does not compromise or prejudice the concurrent investigation. Where necessary other WHC policies and procedures may need to be applied and could preclude compliance with this policy.

3.4.14 Employee complaints regarding their own/a third party's healthcare

Employees can only use the WHC complaints procedure if their complaint relates to their own health care or if they are acting on behalf of a third party. In both situations they are acting as a patient or member of the public and not an employee.

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3.4.15 Complaints Brought by Members of Parliament (MP) on Behalf of Constituents

MPs in receipt of complaints about health services from members within their constituency often address personal letters to the Chairman or Chief Executive. These are acted upon in the same way as any other letter of complaint, recorded centrally and passed to the appropriate Investigation Manager for investigation and responded to formally within the recommended timescales. Letters from MPs on behalf of members of their constituency will automatically assume consent for the release of personal information.

3.4.16 Fraud and Corruption

Any complaint which concerns allegations of possible fraud or corruption is passed immediately to the Director of Finance.

3.4.17 Internal Evaluation of the Complaints Procedure

A section in the monthly Quality Report will be compiled by PALS related to PALS/Patient Experience. This will be sent to the relevant meetings as outlined in the meetings schedule. This will include the numbers of complaints received, themes and trends of complaints and the associated actions.

'10 week' evaluation complainant letters will be sent to complainants who have recently used the complaints process to gather feedback on how their complaint was handled. These letters will be sent by the PALS and feedback will be provided to the relevant services when it is indicated.

3.4.18 External Evaluation of the Complaints Procedure

WHC will produce an annual report on its handling and consideration of complaints. This will be incorporated into the annual quality account and published on the internet.

3.4.19 Complaints about Services Provided by Other Agencies

If WHC receives a complaint that is solely concerned with areas dealt with by another health body or by a body outside the NHS, the PALS will inform the complainant and forward the complaint to the correct body, with the permission of the complainant. If there are any doubts over which body is responsible for handling the complaint, this must be resolved before the complaint is dispatched.

Where WHC receives a complaint which is mainly concerned with services provided by WHC, but includes issues regarding an external agency, the PALS will forward a copy of the complaint as appropriate for investigation and a response. The PALS will incorporate the response from the external agency into the final response. Where a complaint involves more than one NHS provider or one or more other bodies such as a local authority, there will be full cooperation in seeking to resolve the complaint through each body's local complaints procedure. WHC and local authorities will ensure that all matters of concern are addressed.

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3.4.20 Complaints about the Data Protection Act 2018 and the Freedom of Information Act 2000

WHC may consult the Information Commissioner's Office (ICO) about complaints arising out of an alleged failure to comply with a data subject access request under the Data Protection Act 2018 and with requests made under the Freedom of Information Act 2000.

3.4.21 Complaints about Facilities Management (including Closed Circuit Television (CCTV) Access)

Complaints about Facilities Management will be passed to NHS Property Services and a full response will be copied to the WHC Director of Infrastructure.

A written response will be sent to the PALS to review and forward to the patient with a covering letter.

Subject Access Requests for Closed Circuit Television (CCTV) footage will be sent to NHS Property Services for them to action. They are to keep the PALS updated with the progress of these.

3.4.22 Recording Complaint Meetings

Where a complainant wishes to make a recording of a complaint meeting, a formal request must be made in writing to the PALS or the Investigating Manager in advance of the meeting in order that the consent of all parties may be sought. All parties must consent to the recording being made before the request will be agreed.

A copy of the recording will be sent with a covering letter outlining the key responses to the concerns raised. It needs to be made clear to the complainant (and their representatives) that the minutes will not be transcribed.

It is the responsibility of PALS to arrange for any minutes of meetings to be taken and typed up. The complainant (and their representative) need to be informed that a summary of the discussions that took place will be sent, covering the key aspects of the complaint, and not a verbatim transcript.

3.4.23 Media Interest

Employees are to refer any media interest in a complaint to the WHC Communications Lead.

3.5 Procedure for Handling Unreasonably Persistent Complainants

3.5.1 Definition of an Unreasonably Persistent Complainant

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

- a) The complainant persists in pursuing a complaint where the WHC's complaints procedure has been fully and properly implemented and exhausted.

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- b) The complainant continually raises new issues or seeks to prolong contact by continually raising further concerns or questions upon receipt of a response or whilst the complaint is being investigated (care must be taken not to discard new issues which emerge as a result of the investigation of the response. These might need to be addressed as either reviews of previous complaints or separate complaints). Independent advice services could be called upon to assist in such circumstances, ensuring that new and legitimate issues are answered.
- c) Despite the best endeavour of employees to confirm and answer the complainant's concerns and, where appropriate, involving Independent Advice Services, the complainant does not accept the response and/or where the concerns identified are not within the remit of WHC.
- d) In the course of addressing a registered complaint, the complainant has had an excessive number of contacts with WHC, which have placed unreasonable demands on employees. A contact may be in person or by telephone, email, letter or fax. Discretion must be used in determining the precise number of 'excessive contacts' applicable under this section, using judgement based on the specific circumstances of each individual case.
- e) The complainant has harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. Employees must recognise that complainants may sometimes act out of character at times of stress, anxiety, or distress and should make reasonable allowances for this.
- f) The complainant is known to have recorded meetings, face-to-face or telephone conversations without the prior knowledge and consent of other parties involved and used these recordings without prior permission.
- g) The complainant has focussed on a matter to an extent which is out of proportion to its significance and continues to focus on this point. It is recognised that determining what is justified can be subjective and careful judgement must be used in applying this criterion.
- h) The complainant displays unreasonable demands or patient/complainant expectations and fails to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).
- i) The complainant has threatened or used actual physical violence towards staff or their families or associates at any time.
- j) The complainant has sent indecent or offensive items to employees or their families or associates in the post, or has hand-delivered indecent or offensive items to employees or their families or associates at any time.

3.5.2 Options for dealing with Unreasonably Persistent Complaints

Where complainants have been identified as unreasonably persistent in accordance with the above criteria, PALS and the Director of Quality, Professions and Workforce will determine what action to take. The COO (or nominated deputy) will implement such action and will notify complainants in writing of the reasons why they have been classified as unreasonably persistent complainants and the action to be taken. This notification may be copied for the information of others already involved in the complaint, e.g. GPs, Independent Advice Services and Members of Parliament. A record must be kept for future reference, in the complaint file of the reasons why a complainant has been classified as unreasonably persistent. This will not form part of their own or their family's medical notes.

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The Director of Quality, Professions and Workforce may decide to deal with complainants in one or more of the following ways:

- i) Try to resolve matters, before invoking this procedure by drawing up a signed 'agreement' with the complainant (if appropriate, involving the relevant advocate in a two-way agreement) which sets out a code of behaviour for the parties involved in WHC is to continue processing the complaint, reference to the Minimising Violence and Aggression in the Workplace Policy. If these terms are contravened, consideration would then be given to implementing other action as indicated in this section.
- ii) Once it is clear that the complainant meets any **one** of the criteria above, it may be appropriate to inform them in writing that they may be classified as an unreasonably persistent complainant, copy this procedure to them, and advise them to take account of the criteria in any further dealings with WHC. In some cases it may be appropriate, at this point, to suggest that the complainant seeks advice in processing their complaint, e.g. through an Advocacy Service.
- iii) Decline contact with the complainant either in person, by telephone, by email, by letter or any combination of these, provided that one form of contact is maintained or alternatively to restrict contact to liaison through a third party.
- iv) If employees are to withdraw from a telephone conversation with a complainant it may be helpful for them to have an agreed statement available to be used at such times.
- v) Notify the complainant in writing that the COO has responded fully to the points raised and has tried to resolve the complaint, but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should also be notified that the correspondence is at an end, and that further letters received will be acknowledged but not answered. They should be informed of their right to appeal and of their right to go to the Ombudsman.
- vi) Enforce WHC's Minimising Violence and Aggression in the Workplace Policy.

3.5.3 Withdrawing 'Unreasonably Persistent' Status

Once complainants have been determined 'unreasonably persistent' there needs to be a mechanism for withdrawing this status. For example:

- i) The complainant subsequently demonstrates a more reasonable approach
- ii) If the complainant submits a further complaint for which the normal complaints procedures would appear appropriate

Employees should previously have used discretion in recommending unreasonably persistent status at the outset and discretion should similarly be used in recommending that this status be withdrawn when appropriate. Discussion will be held with the Director of Quality, Professions and Workforce and, subject to their approval, normal contact with the complainant and application of the WHC's Complaints Procedure will then be resumed.

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4. Protected Characteristics Provisions

This policy does not discriminate against any of the protected characteristics. Where any gaps have been identified in the past they have been mitigated against as per the below:

4.1 Environment

The PALS can accommodate for people with differing access needs, (including hearing and vision), across its sites or, if preferable, to the patient within their home.

4.2 Communication

PALS can organise and plan for interpretation or translation services for any complainant that requires the contents of this document explained as part of a complaint if it has been identified that this would be a barrier to a complainant understanding their rights within this document.

PALS have a patient leaflet available in easy read, and large print to accompany this policy.

5. Duties and Responsibilities of Individuals and Groups

5.1 Managing Director

The Managing Director is ultimately responsible for the implementation of this document.

5.2 Director of Quality, Professions and Workforce

The Director of Quality, Professions and Workforce is accountable for ensuring effective management of complaints across WHC and is the responsible signatory for complaints.

5.3 Risk and Complaints Manager

The Risk and Complaints Manager has the delegated responsibility for ensuring the efficient and effective implementation of the Complaints Policy and for the PALS. Complex cases will be discussed with the Director of Quality, Professions and Workforce.

5.4 The Chairman and Non-Executive Directors

The Chairman and Non-Executive Directors will receive a patient experience report, including complaints and will monitor the effectiveness of the Complaints process.

5.5 Heads of Service and Team Leaders

The Heads of Service and Team Leaders are accountable for the thorough investigation of complaints within their service area. They are responsible for ensuring the investigation is carried out in line with this policy and where an action is identified it is implemented. Heads of Service should, as a minimum, discuss complaints/responses each month.

5.6 PALS

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The PALS are responsible for administering and facilitating the complaints process, ensuring thorough replies are provided to the complainant within the required timescales. They will provide regular reports for relevant meetings.

5.7 All Employees

All employees have a duty to listen to concerns and complaints raised by WHC's patients and their carers and to try to resolve these locally.

5.8 Ward Managers, Managers for Non Clinical Services

All Ward Managers, Managers, and Heads of Service for Non Clinical Services must ensure that employees within their area are aware of this document; able to implement the document and that any superseded documents are destroyed.

5.9 Document Author and Document Implementation Lead

The Document Author and the Document Implementation Lead are responsible for identifying the need for a change in this document as a result of becoming aware of changes in practice, changes to statutory requirements, revised professional or clinical standards and local/national directives, and resubmitting the document for approval and republication if changes are required.

5.10 Target Audience – As indicated on the Cover Page of this Document

The target audience has the responsibility to ensure their compliance with this document by:

- Ensuring any training required is attended and kept up to date
- Ensuring any competencies required are maintained.
- Co-operating with the development and implementation of policies as part of their normal duties and responsibilities.

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6. Monitoring Compliance and Effectiveness of Implementation

The arrangements for monitoring compliance are outlined in the table below:-

Measurable policy objectives	Monitoring / audit method	Monitoring responsibility (individual/group /committee)	Frequency of monitoring	Reporting arrangements (committee / group to which monitoring results are presented)	What action will be taken if gaps are identified?
The process for listening and responding to patients, their relatives and carers	Formal complaints database	PALS	Monthly	Incorporated into Patient Quality Dashboard forming part of Patient Experience Report	
	Patient Experience Report	PALS	Quarterly	Executive Committee/ WHC Board/ Commissioners	Executive Committee will agree corrective action as necessary and will escalate risks to the Board
	Exceptions Report	Quality Team	Monthly	Patient Quality Dashboard	Quality Assurance Committee will agree corrective action as necessary and will escalate risks to the Board
	External Report	PALS	Quarterly	Copied to Commissioners Performance and Planning and Quality Assurance Committee	
The process by which the	Complaint response	PALS	Ad hoc basis	PALS training file	As above

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organisation aims to improve as a result of concerns and complaints being raised	writing training				
Actions for managers or individuals to take if employees involved with a complaint are experiencing difficulties associated with the complaint.	Audit of complaints policy and/or SOP	PALS/External Auditors	Ad hoc	Clinical Managers, Clinical Audit Effectiveness Group	Action plan drawn up

7. Review Date and Consultation Process

7.1 Review Date

This document will be fully reviewed every 3 years in accordance with the Wiltshire Health and Care agreed process for reviewing its documents. Changes in practice, to statutory requirements, revised professional or clinical standards and/or local/national directives are to be made as and when the change is identified.

7.2 Consultation Process

The following is a list of consultees in formulating this document and the date that they approved the document:

Job Title / Department	Date Consultee Agreed Document Contents
Director of Quality, Professions and Workforce	18/12/18
Chief Operating Officer	18/12/18
Clinical Lead, Amesbury Community Team	18/12/18
Head of Podiatry, Diabetes, Dietetics, Speech & Language Therapy	18/12/18
Director of Governance and Company Secretary	18/12/18

Note that there is further advice for the public within our PALS Patient Information Leaflet on our website:

<http://wiltshirehealthandcare.nhs.uk/contact/>

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Appendix A – Equality Impact Assessment

Protected Characteristic	For employees	For patients
Age	<ul style="list-style-type: none"> Any discriminatory employment practices including recruitment, personal development, promotion, entitlements and retention. Will different age groups be affected differently? Is any age group at a disadvantage? 	<ul style="list-style-type: none"> Services should be provided, regardless of age, on the basis of clinical need alone. Will different age groups be affected differently? Is any age group at a disadvantage?
Disability – <i>The term disability applies to a range of people that have a condition (physical or mental) which has a significant and long-term adverse effect on their ability to carry out 'normal' day-to-day activities. This protection also applies to people that have been diagnosed with a progressive illness such as HIV or cancer.</i>	<p>Reasonable steps that can be taken to accommodate the disabled persons requirements, including:</p> <ul style="list-style-type: none"> Physical access Format of information Time of interview or consultation event Personal assistance Interpreter Induction loop system Independent living equipment Content of interview of course etc. 	<p>Reasonable steps that can be taken to accommodate the disabled persons requirements, including:</p> <ul style="list-style-type: none"> Physical access Format of information Time of consultation/event Personal assistance Interpreter Induction loop system
Gender reassignment – <i>The process of transitioning from one gender to another or people who chose to live in the opposite gender to the gender assigned to them at birth by removing the previously legal requirement for them to undergo medical supervision.</i>	<ul style="list-style-type: none"> Equal access to recruitment, personal development, promotion and retention. The maintenance of confidentiality about an individual's sexuality. 	<ul style="list-style-type: none"> Equality of opportunity in relation to health care for individuals irrespective of whether they are male or female. The maintenance of confidentiality about an individual's sexuality.
Marriage and Civil Partnership	<p>Equal access to recruitment, personal development, promotion and retention for individuals, irrespective of whether they are single, divorced, separated, living together or married or in a civil partnership.</p>	<p>Equality of opportunity in relation to health care for individuals irrespective of whether they are single, divorced, separated, living together or married or in a civil partnership.</p>
Pregnancy and Maternity – <i>It is unlawful to discriminate against women breastfeeding in a public place.</i>	<ul style="list-style-type: none"> Equal access to recruitment, personal development, promotion and retention for female employees who are pregnant or on maternity leave. A woman is protected against discrimination on the grounds of pregnancy and maternity. With regard to employment, the woman is protected during the period of her pregnancy and any statutory maternity leave to which she is entitled. 	<ul style="list-style-type: none"> Equality of opportunity in relation to health care for women irrespective of whether they are pregnant or on maternity leave. A woman is protected against discrimination on the grounds of pregnancy and maternity.

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	<ul style="list-style-type: none"> Consider – working arrangements, part time working, caring responsibilities and breast-feeding facilities. 	
Race – including Nationality and Ethnicity	<ul style="list-style-type: none"> The provision of an interpreter for people whose first language is not English. Written communication and the use of language particularly jargon or colloquialisms etc. Respect in terms of religion, belief and culture. 	<ul style="list-style-type: none"> The provision of an interpreter for people whose first language is not English. Written communication and the use of language particularly jargon or colloquialisms etc. Consider other types of communication not just written. Respect in terms of religion, belief and culture.
Religion or Belief	<ul style="list-style-type: none"> Prayer facilities. Dietary requirements. Gender of staff when caring for patients of opposite sex. Respect for requests from staff to have time off for religious festivals and strategies. Respect for dress codes. 	<ul style="list-style-type: none"> Prayer facilities. Dietary requirements. Gender of staff when caring for patients of opposite sex. Respect for religious festivals. Respect for dress codes.
Sex	<ul style="list-style-type: none"> Equal access to recruitment, personal development, promotion and retention. Childcare arrangements that do not exclude a candidate from employment and the need for flexible working. The provision of single sex facilities, toilets. 	<ul style="list-style-type: none"> The provision of single sex facilities, toilets, wards etc.
Sexual orientation	<ul style="list-style-type: none"> Recognition and respect of individual's sexuality. Recognition of same sex relationships in respect to consent. The maintenance of confidentiality about an individual's sexuality. Consider the effect on heterosexual, gay, lesbian and bi-sexual people. 	<ul style="list-style-type: none"> Recognition and respect of individual's sexuality. Recognition of same sex relationships in respect to consent. The maintenance of confidentiality about an individual's sexuality. Consider the effect on heterosexual, gay, lesbian and bi-sexual people.

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Appendix B – Quality Impact Assessment Tool

Purpose		
To assess the impact of individual policies and procedural documents on the quality of care provided to patients by Wiltshire Health and Care.		
Process		
The impact assessment is to be completed by the document author. In the case of clinical policies and documents, this should be in consultation with Clinical Leads and other relevant clinician representatives.		
Risks identified from the quality impact assessment must be specified on this form and the reasons for acceptance of those risks or mitigation measures explained.		
Monitoring the Level of Risk		
The mitigating actions and level of risk should be monitored by the author of the policy or procedural document or such other specified person.		
High Risks must be reported to the relevant Executive Lead.		
Impact Assessment		
Please explain or describe as applicable.		
1.	Consider the impact that your document will have on our ability to deliver high quality care.	Guidance to staff on the management and process of complaints handling. Reference for patients and carers on how to raise a concern and how that will be managed by WHC.
2.	The impact might be positive (an improvement) or negative (a risk to our ability to deliver high quality care).	A clear process for staff to refer to ensures a swift, appropriate investigation and response to the complainant.
3.	Consider the overall service – for example: compromise in one area may be mitigated by higher standard of care overall.	Investment of services to address themes will reduce the number of complaints received and the time spent working on them.
4.	Where you identify a risk, you must include identify the mitigating actions you will put in place. Specify who the lead for this risk is.	Risk of delay in response and increase of secondary concerns resulting in poor patient satisfaction and referral to Parliamentary Health Service Ombudsman and alternative providers.
Impact on Clinical Effectiveness & Patient Safety		
5.	Describe the impact of the document on clinical effectiveness. Consider issues such as our ability to deliver safe care; our ability to deliver effective care; and our ability to prevent avoidable harm.	Creating an open environment where patients and their carers are able to raise concerns at that time will reduce a poor patient experience and increase trust and confidence in the care that is being received.
Impact on Patient & Carer Experience		
6.	Describe the impact of the policy or procedural document on patient / carer experience. Consider issues such as our ability to treat patients with dignity and respect; our ability to deliver an efficient service; our	A clear pathway for staff to follow and documented guidance to assure the patient and manage expectations of

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	ability to deliver personalised care; and our ability to care for patients in an appropriate physical environment.	the complaints process.
Impact on Inequalities, and Parity of Esteem		
7.	Describe the impact of the document on inequalities in our community. Consider whether the document will have a differential impact on certain groups of patients (such as those with a hearing impairment or those where English is not their first language).	The complaints policy and leaflets on how to raise a concern are available in alternative formats.

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