

## Brighton and Sussex University Hospitals

# Policy and Procedure for the Management of Formal and Informal Complaints from Patients and their Representatives

Version:	6
Category and number:	TW097
Approved by:	Clinical Management Board
Date approved:	August 2018
Name of author:	Head of Patient Experience, PALS and Complaints
Name of responsible committee/individual:	Hospital Management Board
Name of responsible director:	Nicola Ranger Chief Nurse
Date issued:	21 <sup>st</sup> August 2018
Review date:	21 <sup>st</sup> August 2021
Target audience:	All staff
Accessibility	This document is available in electronic format only
Linked documents:	Safeguarding Adults Policy Risk Management Investigation of incidents, Complaints and Claims Using Root Cause Analysis Policy and Guidelines Strategy BSUH Training Needs Analysis

## Contents

Section		Page
1	Introduction	3
2	Purpose	3
3	Definitions	4
4	Responsibilities, Accountabilities and Duties	4
5	How the organisation listens to informal concerns and formal complaints from patients, their relatives and carers	7
6	How the organisation responds to informal concerns and formal complaints from patients, their relatives and carers	8
7	Training Needs	15
8	Monitoring Arrangements	16
9	Equality Impact Assessment Screening	18
10	Links to Trust Policies	18
11	Associated Documentation	18
12	References	19

## Appendices

Appendix 1	Trigger tool identifying themes from complaints	20
Appendix 2	Grading of complaints	22
Appendix 3	Likelihood categorisation table	23
Appendix 4	Local Resolution Meeting Proforma	25
Appendix 5	Guidelines for the investigation of formal complaints	26
Appendix 6	Due Regard Assessment Tool	27
Appendix 7	Communication Support Services available to our patients July 2018	29

## **1. Introduction**

### **1.1 The Patient Advice and Liaison Service (PALS) and Complaint Services**

Department of Health guidance on the interface between the PALS and Complaints states that: 'Clear definitions of the issues of concern to be dealt with by PALS will be developed in each Trust to prevent the service becoming a proxy for complaints. However, it should be the choice of the individual to use either PALS or the NHS Complaints Procedure; there should be no requirement for service users to use the PALS first if they wish to make a formal complaint.'

**1.2** Close collaboration between the PALS and the Trust's Complaints services is essential to ensure a coherent and seamless approach to resolving patients concerns.

**1.3** This policy sets out the processes for dealing with:

- Informal concerns raised via the Patient Advice and Liaison (PALS) team
- The management of formal complaints in accordance with the National Health Service (Complaints) Regulations 2004 (amended 2006) and The National Health Service Reform of health and social care complaints 2009 (NHS Complaints Procedure).

**1.4** Brighton and Sussex University Hospitals NHS Trust cares for many thousands of patients each year. We strive to provide the highest possible standards of patient care. However, we recognise that sometimes things do not happen in the way we would wish and there are occasions where our services either fall short of the required standards or do not meet the expectations of those who use them. When this happens we will apologise, seek to understand why things went wrong and ensure that appropriate action is taken to reduce the risk of them being repeated.

**1.5** The PALS and Complaints services will support all frontline staff in responding to concerns and complaints sensitively, quickly and effectively.

## **2. Purpose**

**2.1** The purpose of this policy is to detail the role of the PALS and Complaints services and to describe how informal concerns and formal complaints raised by patients and/or their relatives will be managed within Brighton and Sussex University Hospitals Trust. Where the complaint includes concerns about social care arrangements we will work collaboratively with our primary and social care colleagues to provide a comprehensive response.

**2.2** The PALS and Complaints teams aim to provide an accessible and flexible service that treats patients, their relatives and carers individually and provides tailored, swift, local resolution wherever possible. Complainants need to feel confident that they will not be discriminated against, nor their care changed or altered in any way, as a result of having made a complaint. It is important that all staff encourage patients, carers and their relatives to speak openly and reassure them that whatever they say will be treated with appropriate confidence and sensitivity.

**2.3** The PALS and Complaints services are committed to providing a user led service that responds to our diverse patient population, regardless of their racial or cultural background, gender or sexual orientation, religion or disability.

**2.4** We believe that informal concerns and formal complaints are a vital branch of patient experience and as an organisation we want to encourage and empower people to come forward. Informal concerns and formal complaints provide a unique and rich source of data about the quality of services - learning from them is one of the key ways to help inform and improve hospital services.

### **3. Definitions**

#### **3.1 Informal PALS concern**

A current issue raised by a patient or their representative requiring attention and action but which appears amenable to quick resolution through liaison, support and advice.

#### **3.2 Formal complaint**

Any issue or concern raised by a patient or their representative in writing regarding BSUH services.

#### **3.3 Early Resolution**

A formal complaint that is resolved to the satisfaction of the complainant without the need for a written response.

#### **3.4 Re-opened complaint**

When a complaint is dissatisfied with the Trust's response to their complaint and requests that further work is undertaken to resolve their concerns.

#### **3.5 Consent**

When a complaint is received from someone that is not the patient, signed or verbal consent (agreement) is needed directly from the patient in order to progress the formal investigation and response.

#### **3.6 Independent Review**

This is the second stage of the complaints procedure and involves independent review of the complaint and its management by the Parliamentary and Health Service Ombudsman (PHSO).

### **4. Responsibilities, Accountabilities and Duties**

#### **4.1 Chief Executive**

The chief executive is ultimately accountable for ensuring that the Trust's Complaints Policy and Procedure meets the statutory requirements set out in the National Health Service and Social Care Complaints Regulations 2009. All written responses to formal complaints must be signed by the Chief Executive or by her nominated deputy (Medical Director, Chief Nurse or Nurse Director).

#### **4.2 Executive Lead**

Involvement in the complaints process at Chief Executive and senior management level is a statutory requirement. Every Trust is required to appoint a member of the Trust Board and Speciality Clinical Governance Groups to take responsibility for ensuring compliance with the Complaints Regulations. Within the Brighton and Sussex University Hospitals Trust the Chief Nurse is Executive Lead for Complaints, who reports to the Trust Board particular issues/areas of concern arising from informal concerns via the PALS service or formal complaints via the Complaints Unit.

#### **4.3 Patient Experience and Engagement Group (PEEG):**

The PEEG receives a monthly aggregated data report, including key themes arising within each Directorate and reports to the Quality Governance Steering Group which, in turn, reports to the Trust Executive Committee.

#### **4.4 Divisions:**

Receive a monthly report of all informal concerns and formal complaints received by the Divisional specialties and ensure that they are appropriately responded to within agreed timescales. Action plans are monitored via the Divisional Quality Assurance Groups.

#### **4.5 Directorate Leads:**

Receive a monthly report of all informal concerns and formal complaints received by the Directorate and ensure that they are appropriately responded to within agreed timescales.

#### **4.6 Head of Patient Experience, PALS and Complaints**

The Head of Patient Experience, PALS and Complaints will:

- Lead and promote an accessible, flexible, complainant led PALS and Complaints service
- Ensure that PALS services are well-sign posted, funded and staffed so patients can share concerns with someone else in the hospital if they do not feel confident talking to their nurse or doctor on the ward
- Review the Trust's Complaints Policy and Procedure regularly in accordance with the National Health Service and Social Care Complaints Regulations 2009
- Be responsible for the performance of the PALS and Complaints team in accordance with the Trust's Policy and Procedure
- Ensure that PHSO good practice guidance, the Principles of Remedy, is applied to all complaints, ensuring that suitable and proportionate remedies are provided to those complainants who have suffered injustice or hardship as a maladministration or poor service
- Provide monthly PALS and complaints data to the Trust Board, Divisions and Directorates and provide ad hoc information requests as required
- Act as the Chief Executive's representative when responding to patients and their representatives raising concerns about their care
- Ensure that action plans arising from complaints are reported to the relevant Directorate Leads for ongoing implementation and monitoring
- Act as the Trust's designated senior manager to liaise with the Parliamentary Health Service Commissioner (the Ombudsman) for those complaints that proceed to independent review
- Ensure that decisions by the Parliamentary Health Service Ombudsman are communicated to the appropriate staff and acted upon promptly.
- Ensure that a monthly training programme is in place to equip staff with the appropriate skills to respond to complaints.
- Meet weekly with the Nurse Director, Medical Director, Chief of Safety and Quality and Medico Legal Manager to ensure that all serious complaints are managed appropriately and in accordance with serious clinical incident and safeguarding procedures
- Immediately alert the Chief Executive and Chief Nurse to any complaints received detailing significant patient safety or quality concerns
- Chair the Healthwatch Peer Review Project

#### **4.7 PALS Advisers**

The PALS Advisers will:

- Be available as required to meet with patients or carers
- Signpost patients and their representatives to information and services as required
- Maintain accurate data on issues raised with the PALS
- Assist in the early resolution of informal concerns in liaison with the complaints team, patients, relatives and hospital staff
- Provide advice and support to staff in the quick resolution of concerns raised on the ward or department
- Promote and raise awareness of PALS at new staff induction and staff education days
- Provide an accessible route for patients and their carers to raise informal concerns
- Refer patients and their carers to independent advice and advocacy services as appropriate
- Respond directly to concerns and compliments posted on the NHS Choices website

#### **4.8 Complaint Managers**

The complaints manager will manage complaints in accordance with this policy.

#### **4.9 BSUH Staff**

BSUH staff will:

- Ensure that it is easy for patients and their representatives to speak to staff about any concerns they may have and all wards now have a Staff Board which clearly identifies the clinical and nursing staff in charge of the ward by photograph, name and contact details
- Respond sensitively and promptly to informal concerns and formal complaints, wherever possible resolving issues raised without the need to access the formal complaints procedure
- Make accessible information on the PALS service and how to contact them
- Make accessible information regarding how to raise concerns and/or make a formal complaint
- Provide information as requested by PALS and/or the Complaints team to assist in resolving and responding to concerns
- Attend training on responding to complaints (monthly Handling Complaints Positively Training)
- Ensure that documentation relating to a patient complaint is kept separately from medical records
- Ensure that no complainant experiences discrimination as a result of raising a concern or a complaint

- All BSUH staff have a responsibility to learn from complaints and share this learning within their team

## **5. How the organisation listens to informal concerns and formal complaints from patients, their relatives and carers**

**5.1** Information leaflets, detailing how to raise informal concerns via PALS and the formal complaint process, are available and easily accessible on all wards and patient areas. Patients, carers and relatives who wish to raise an informal concern or make a formal complaint can do so either in person, over the telephone or in writing (including electronically via the BSUH website or email). Outside working hours (Monday – Friday 9 am to 5 pm), a voicemail system operates providing details of when PALS/complaints staff will be available. Patients and their representatives contacting the PALS or complaints services are provided with the option either to leave a message or to contact the switchboard and ask to speak to the Clinical Site Manager on duty

### **5.2 Support for people wanting to raise informal concerns or make a formal complaint**

Any person wanting to raise informal concerns or make a complaint should be advised that they can seek support from the Independent Complaints Advocacy Service (ICAS). ICAS provides free, impartial, confidential and independent support to people who wish to complain about health care services. Information on how to contact ICAS is contained in the Trust's complaints leaflet "*How to make a complaint*" which is available in all wards and departments and via the Trust's website

### **5.3 Communication support services**

#### **- Support for speakers of other languages**

BSUH has a diverse patient base, covering over 50 overseas languages. A number of these patients will require the support of an interpreter when wishing to raise concerns about their care. Please see Appendix 9 for contact details for all communication and Interpreting Services and how to contact them.

- The '*How to make a complaint*' leaflet advises speakers of other languages that translation is available upon request

## **6. How the organisation responds to informal concerns and formal complaints from patients, their relatives and carers**

**6.1** When a concern is raised via PALS the PALS adviser will:

- agree the most appropriate and timely way for the concerns to be addressed, including information regarding the complaints service where appropriate
- agree the action to be taken and the timeframe for this
- keep the individual raising the concern involved in the process and informed of all progress made
- record patient contact and relevant information immediately on the Datix system

**6.2** The formal NHS complaints procedure comprises of two stages:

1 stage: Local resolution

2 stage: Independent Review by the Parliamentary and Health Service Ombudsman

**6.3** People wishing to make a formal complaint can do so by telephone, letter or electronically directly to the Chief Executive. Handling of all formal complaints should be based on a flexible and individual approach which is agreed in discussion

between the complaints team and complainant. Resolution may be achieved through a variety of ways including:

- Early Resolution - Complaints managed in this way will not always require a formal letter of response from the CEO and are recorded as Early Resolution on the Datix system
- Local Resolution Meeting – all complainants are offered a digital CD recording of the meeting rather than notes or transcripts
- Formal letter of response from Chief Executive or his nominated deputy

#### **6.4 Time limit for making a complaint**

The timescale within which a complaint must be made is twelve months from the date on which a matter occurred, or when the matter came to the notice of the complainant. However, there is discretion to investigate outside this of timeframe, particularly if there are good reasons for a complaint not having been received within the twelve months and if it is possible to investigate the case effectively. Where it is decided not to investigate, the complainant will have the opportunity to approach the relevant Ombudsman.

#### **6.5 Who may make a complaint?**

A complaint may be made by a patient or a person acting on behalf of a patient who has received treatment at the Trust. Where the complainant is acting on behalf of the patient, verbal or written consent must be obtained from the patient before investigations are undertaken and a response made. The complaints team will contact the complainant with the relevant consent documentation. Where the patient is a child (under the age of 16), a complaint may be made by the parent or legal guardian. Where the patient has died, the complaint may be made by any person demonstrating that they are acting on behalf of the deceased.

#### **6.7 When a complaint is received – see appendix 6.**

##### **6.7.1 The complaints unit will:**

Acknowledge all formal complaints and apologise for poor experience by letter within three working days of receipt. The BSUH *'How to make a complaint'* leaflet detailing available support in making a complaint will be included with this letter. Complainants will be advised that initial enquiries will be made and they will be contacted by telephone within the next two weeks to share information obtained so far and agree further action to be taken if the concerns are unable to be resolved at this point. If telephone contact is not possible a letter will be sent informing the complainant of how the Complaints team intends to manage the complaint.

##### **6.7.2 Each complaint will be assigned all appropriate triggers, according to the issues raised in the complaint, in order that themes and trends can be easily reported (see Appendix 1 – Trigger Tool).**

- Grade the complaint 1-5 in accordance with the Complaints Toolkit Guidance, Healthcare Commission, 2008 (see Appendix 2)
- Be responsible for the coordination of complaints responses within the agreed timescales
- Be responsible for updating complainants regarding the progress of the investigation and advising of any delays to a response in a timely way
- Undertake an investigation, utilising root cause analysis techniques (see Appendix 4)
- Consider holding an After Action Review (debrief)
- Routinely offer all complainants a local resolution meeting

- Facilitate local resolution meetings with complainants and relevant members of BSUH staff and complete a local resolution meeting proforma (see Appendix 5)
- Escalate complaints requiring Patient Safety, Safeguarding, Human Resources and/or Medico Legal input and liaise with colleagues in these teams as appropriate
- Provide full information and draft written responses for consideration by the Chief Executive.
- Record accurate data regarding the complaint on the Trust's central database (Datix)
- Facilitate Trust induction and away-days to support staff in responding to complaints effectively.
- Where appropriate, ensure draft response letters are sent to the appropriate clinical staff for approval of the clinical content before being sent to the complainant.
- Ensure copies of the response to the complaint are sent to the relevant staff
- Be responsible for maintaining secure and accurate records of each complaint
- Include within the response details of action taken as a result of learning from the complaint and ensure any action plans arising from complaints are included in the Datix record (Appendix 3).
- Any complaint regarding a specific member of staff is a reporting trigger and should be recorded in the employee section of Datix.

## **6.8 Grading of Complaints**

All complaints received by the Trust are graded according to the Healthcare Commission Complaints Toolkit Risk assessment Tool. Risk assessing a complaint ensures that the subsequent management process and any associated investigated are proportionate to the severity of the complaint and the related risks (Appendix 2).

## **6.9 How the organisation makes improvements as a result of informal concerns and formal complaints**

Actions arising as a result of learning from complaints and informal concerns are monitored at the Divisional Quality Assurance Group .

Relevant examples of actions taken following a complaint will be shared with special interest groups (such as the disability group, privacy and dignity panel and patient experience panel).

## **6.10 How Joint Complaints are handled between organisations**

In cases where concerns regarding BSUH services include other organisations we will undertake joint investigations with those service providers to ensure a single co-ordinated response. Agreement will be reached between the organisations involved on co-ordination of the joint response and the complainant will be advised accordingly. Joint complaints are assigned a specific trigger to denote whether a single or joint response has been sent to facilitate monitoring of such complaints. Joint complaints are monitored via the Directorate and specialty complaint monthly reports.

## **6.11 Complaints about members of staff**

If, upon receipt of a complaint or following Root Cause Analysis investigation, it is identified that further professional, disciplinary or criminal investigation is warranted this will be immediately escalated to the appropriate Directorate Lead for the required action. When a complaint is received regarding a member of staff the name of the staff member concerned is recorded on the Datix system.

## **6.12 Written complaints received by departments**

Some complainants may prefer to address their concerns directly to the relevant consultant, director, ward or department manager. The complaints department should be advised of the nature of the concern expressed and provided with a copy of the response which has been sent to the complainant. Appropriate support and advice will be offered by the complaints department to Directorate/directorate staff in providing written responses. The complaints department will ensure that details of the concern are logged onto the Trust's database and where appropriate will deal with the complaint.

## **6.13 Complaints received via the media**

The Trust will not enter into correspondence with complainants via the media. People who get in touch with the local or national press to complain about the care they or their relatives have received should be advised to contact the complaints department if they wish to pursue a formal complaint against the Trust. If a complainant has contacted the media because they are dissatisfied with the way in which their complaint has been dealt with by the Trust, they should be reminded of their right to proceed to the second stage of the NHS Complaints Procedure by contacting the Parliamentary and Health Service Ombudsman.

The Complaints Manager will work with the communications department to prepare statements on specific issues where this is considered to be appropriate.

## **6.14 Complaints involving requests for financial compensation**

Complaints requesting financial compensation should be managed in accordance with the NHS Complaints procedure and with reference to the Parliamentary and Health Service Ombudsman and NHS Finance Manual (chapter 5 – Losses and Special Payments). Decisions regarding compensation should be made in accordance with the principles laid out in these documents and the final decision and rationale for this clearly documented in the response to the complainant.

The PHSO Principles for Remedy state that where maladministration or poor service has led to injustice or hardship, Trusts should try to offer a remedy that returns the complainant to the position they would have been in otherwise. Suggested remedies include financial compensation for direct and indirect financial loss, loss of opportunity, inconvenience and distress. The PHSO advises that Trusts should calculate payments for financial loss by looking at how much the complainant has demonstrably lost or what extra costs they have incurred. They should also apply an appropriate interest rate to payments for financial loss aimed at restoring the complainant to the position they would have been in if the maladministration or poor service had not occurred.

## **6.15 Concerns that cannot be progressed via PALS**

- Issues which relate to a breach of the law or are a result of gross misconduct by a member of staff
- Concerns requiring complex investigations
- Concerns raised without the consent of the patient involved

## **6.16 Complaints that cannot be progressed via the formal route**

- Trust staff cannot use the Complaints arrangements to complain about employment, contractual or pension issues.
- The complaint arises out of the alleged failure to comply with a data subject request

- under the data protection at 1998
- The complaint arises out of an alleged failure by the Trust to comply with a request for information under the Freedom of Information Act 2000.
- Complaints where there is police involvement and the police and/or Crown Prosecution Service have advised that progressing the complaint might prejudice subsequent judicial action

In any of the above circumstances, the complainant will be notified in writing that the complaints procedure has been suspended and that the matter is being dealt with in accordance with medico-legal or human resources policies and procedures. There will be ongoing liaison with the complainant where appropriate.

### **6.17 Informal concerns and formal complaints involving Vulnerable Adults**

Any informal concerns or formal complaints raising concerns for the protection of a vulnerable adult should be discussed with the Chief Nurse and the Vulnerable Adult Lead Practice Development Nurse. The complaint will also be discussed, logged and monitored via the Serious Complaint and Safeguarding monthly meeting.

If a Protection of Vulnerable Adult (POVA) investigation is commenced, this will take precedent over the complaints procedure. Other issues of concern can however be investigated and responded to. The complainant should be made aware of the POVA investigation, the findings of which will be shared with them.

### **6.18 Conciliation/Mediation/Counselling**

Where appropriate, and with the agreement of the complainant, the Head of Complaints may involve an independent conciliator or mediator to try to resolve a complaint. In some cases it may be appropriate to refer complainants to bereavement services and this should be undertaken in consultation with the Head of Patient Experience, PALS and Complaints.

### **6.19 Parliamentary and Health Service Ombudsman**

All complainants must be advised of their right to contact the Parliamentary and Health Service Ombudsman if they are not satisfied with the way that their complaint has been dealt with. Information on how to contact the Parliamentary and Health Service Ombudsman is contained within the BSUH Complaints leaflet '*How to make a complaint*' which is available on all wards and departments

### **6.20 Ensuring that patients, their relatives and carers are not treated differently as a result of raising an informal concern or a formal complaint**

- PALS patient information is stored electronically on the Datix system. PALS and complaint files are stored separately from clinical notes and away from the clinical area. PALS and complaints files are only accessible to clinical staff involved in the complaint by prior arrangement via the PALS and complaints team.
- 
- The offer of face to face meetings provides further opportunity to assure complainants that they will be listened to without prejudice and that future care will not be affected
- The Policy and Procedure for the Management of Formal Complaints states, as a key principle, that care will not be compromised following a complaint being made
- The 'How to make a complaint' leaflet clearly states that that care will not be compromised following a complaint being made
- Staff are made aware of their responsibility to ensure that care is not affected

following a complaint in a variety of training including staff induction and complaints management training programme. In cases of irretrievable relationship break down the Trust may decide to change the clinician in charge of care.

## **6.21 Unreasonably persistent complainants**

6.21.1 All complainants are treated equitably and can expect equal access to the BSUH/NHS complaints procedure regardless of gender, ethnicity, disability or sexual orientation and are fully investigated in line with local and national complaints policy.

There are, however, some occasions where a reasonable and appropriate NHS complaint handling does not satisfy the complainant and they are unreasonable and persistent in their demands with the Trust. Dealing with such complainants can cause stress for staff involved, those who are either named in the complaint, or attempting to investigate or resolve the complaint. This can place a further strain on hospital resources.

### **Considerations**

It is acknowledged that some complaints are difficult to resolve. However, there are a small number of complainants who persistently make complaints to the Trust. An unreasonably persistent complainant is someone who remains dissatisfied, despite their complaints having been thoroughly investigated and fully responded to.

An unreasonably persistent or habitual complainant may meet one or more of the following criteria:

- Is in frequent, lengthy and complicated contact with the complaints department, sometimes making daily contact which is stressful for staff.
- Will contact the department by telephone or in person despite having been given a date for a meeting or advised of the timescale for a written response
- Is adamant the concerns have not been addressed, despite having received detailed responses
- Continues to pursue a complaint where local resolution has been exhausted. Where (on the basis that the NHS complaints procedure has been fully and properly implemented) the Trust feels that all areas of the individual complaint have been investigated and concluded and the Healthcare Commission have declined or not upheld a complaint
- Have threatened or used verbal or physical aggression against staff which should immediately limit the level of involvement Trust staff have with the complainant and issues will only be pursued reasonably in writing. This also includes complaints which unfairly name Trust staff in a vexatious manner
- Excessively detailed or demanding complaints which focus on trivial matters where the complainant may be trying to elicit further cause for complaint through an incomplete response or in attempting to create confusion or disruption
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into e.g. excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses

- Having received a response, contacts the complaints department immediately with a new complaint or new set of questions or presents the original problem in a different way
- Changes the complaint or what they want to achieve part-way through the process
- Dictates who they will speak to and/or meet with  
Seeks an unrealistic outcome and expresses an intention to pursue the complaint until that is achieved
- The complainant persistently approaches the authority through different routes about the same complaint, in the hope that they will secure a different response
- The final decision regarding action to be taken in the management of a persistent complainant will rest with the Chief Executive or her representative.

In all cases where a complainant is classified as being 'unreasonably persistent' a number of options will be considered for example: Requesting that they contact the Trust in a particular form (e.g. by letter only). Requesting that they make contact with one particular named person.

- Restricting their telephone calls to specific days and times and/or asking them to enter into an agreement about their future behaviour
- Advising that we have no further information to provide and reminding them of their right to an independent review of their complaint
- Where the complainant fails to comply with the above and continues to behave in a way which is unreasonable, the Trust may decide to terminate further contact with the complainant. The complainant will be advised of this in writing by the Chief Executive
- Further correspondence received from persistent complainants will be assessed by the Head of Patient Experience, PALS and Complaints and managed as considered to be appropriate
- the Trust has a zero tolerance of abusive and threatening behaviour - whether physical, verbal or written
- Any abusive correspondence received, raising concerns about patient care, will be managed in accordance with this policy to make sure that inappropriate behaviour is addressed, whilst ensuring that patient safety concerns are acted upon and investigated appropriately
- Any correspondence or verbal interactions with patients which is believed to be threatening and/or abusive in nature, must be recorded on Datix and discussed with the security team to ensure staff safety

## **6.22 The Parliamentary and Health Service Ombudsman**

Complainants who remain dissatisfied with the way their complaint has been handled have the right to ask the Parliamentary and Health Service Ombudsman (PHSO) to review their complaint. The Ombudsman is authorised to investigate complaints in which a failure in service, or maladministration, has allegedly caused injustice and

hardship. The Ombudsman will not usually investigate a complaint which has not been through the first stage of the NHS Complaints Procedure. Reports and recommendations produced by the Ombudsman will be formally presented to the Directorate Quality and Safety Committee.

### **6.23 What the Ombudsman will do**

On receipt of a complaint, the Ombudsman will check that it is a complaint that s/he has the legal power to consider.

The Ombudsman **can** consider complaints about:

- Unsatisfactory care or treatment
- Failure to provide a service that should have been provided
- Poor administration, errors, attitude, misleading advice
- The Ombudsman **cannot** consider complaints about:
  - Private health care not funded by the NHS
  - Refusal of access to medical records
  - Matters on which legal action has or will be taken
  - Personnel matters relating to recruitment, pay or discipline

### **6.24 What the Ombudsman may decide**

Having completed the investigation, the Ombudsman may decide to uphold the complaint in part or in full, or not at all. S/he will set out her findings and the reasons for those findings in the report. Where the complaint is upheld or partially upheld, s/he may make recommendations for appropriate redress which might include an apology, an explanation, improvements in practices and systems, or, where appropriate, financial redress. S/he also has the power to refer clinicians to regulatory bodies in the interests of patient safety.

The Ombudsman will expect any recommendations to be fully implemented and the Trust is required to demonstrate that this has been done.

Clinical Directorate s and functional directorates will be responsible for the development of an action plan to implement the Ombudsman's recommendations, and for monitoring adherence to them.

### **6.25 Implementation of recommendations made by the Parliamentary Health Service Ombudsman**

Following a Parliamentary Health Service Ombudsman review of a complaint, any action plans to implement its recommendations will be recorded onto the PHSO database and monitored via the Directorate Directorate monthly reports. Action plans arising from PHSO recommendations will be presented to the Directorate Quality and Safety Committees.

Other than in exceptional circumstances, all action plans should be implemented within a maximum of six months.

## **7. Training Needs**

The Trust recognises that it is essential that staff receive appropriate training in order to be able to fulfil the responsibilities outlined in this document. All staff will be offered training on how to respond positively to complaints, and also on the principles and requirements of the Trust's Complaints Policy and Procedure, via a monthly rolling programme of complaints handling training. The organisation's expectations in relation to staff training are identified in BSUH Training Needs Analysis policy'.

## 8. MONITORING COMPLIANCE

8.1 Table 1

Measurable policy objective	Monitoring/ Audit method	Frequency	Responsibility for performing the monitoring	Reporting structure
<p><b>Duties:</b></p> <ul style="list-style-type: none"> <li>- Monthly Trust wide and Directorate report including:</li> <li>- number of informal and formal concerns and plaudits received by Division</li> <li>- Monthly report of complaints closed and outcome</li> <li>- Monthly number of complaints received and reopened</li> <li>- % closed within agreed timescale</li> <li>- % referred to the PHSO</li> <li>- % upheld by the PHSO</li> <li>- % upheld</li> </ul>	<ul style="list-style-type: none"> <li>- Divisional Patient Experience Report</li> <li>- BSUH Divisional Scorecard Data</li> <li>- Directorate Quality Assurance Groups</li> <li>- Patient Experience Panel</li> <li>- CCG Quality and Risk Committee</li> <li>- CQC Monthly Monitoring Report</li> </ul>	<p><b>Monthly</b> (data provided in the first week of each month)</p>	<ul style="list-style-type: none"> <li>- Divisional and Directorate leads</li> <li>- Chief Nurse</li> <li>- Nurse Director</li> </ul>	<ul style="list-style-type: none"> <li>- Divisional Quality Assurance Groups</li> <li>- Patient Experience and Engagement Group</li> <li>- Quality Governance Steering Group</li> <li>- Trust Executive Committee</li> <li>-</li> </ul>

<p>Process for listening to and responding to concerns &amp; complaints of patients, their relatives and carers and ensuring that they are not treated differently as a result of raising their concerns</p>	<ul style="list-style-type: none"> <li>- Divisional Patient Experience Report</li> <li>- Patient Experience Annual Panel report</li> <li>- Patient Experience Panel Report</li> <li>- Healthwatch Peer Review Project</li> </ul>	<p><b>Monthly</b></p> <p><b>Annual / Quarterly</b></p> <p><b>Quarterly</b></p>	<ul style="list-style-type: none"> <li>- Chief Nurse</li> <li>- Nurse Director</li> <li>- Divisional leads</li> </ul>	<ul style="list-style-type: none"> <li>- Patient Experience Panel</li> <li>- Divisional Quality Assurance Groups</li> <li>- Patient Experience and Engagement Group</li> <li>- Quality Governance Steering Group</li> <li>- Trust Executive Committee</li> </ul>
<p>Process for ensuring that Trust aim to reduce complaints about staff attitude is realised</p>	<ul style="list-style-type: none"> <li>- Monthly Trust scorecard</li> <li>- Divisional Patient Experience</li> </ul>	<p><b>Monthly</b></p> <p><b>Monthly</b></p>	<ul style="list-style-type: none"> <li>- Head of Patient Experience, PALS and Complaints</li> <li>- Chief Nurse</li> <li>- Nurse Director</li> <li>- Divisional leads</li> </ul>	<ul style="list-style-type: none"> <li>- Patient Experience Panel</li> <li>- Divisional Quality Assurance Groups</li> <li>- Patient Experience and Engagement Group</li> <li>- Quality Governance Steering Group</li> <li>- Trust Executive Committee</li> </ul>

## **9 Equality Impact Assessment Screening**

- 9.1 As an NHS organisation, BSUH is under a statutory duty to set out arrangements to assess and consult on whether their complaint policy and function impact on equality with regard to race, ethnic origin, nationality, gender, culture, religion or belief, sexual orientation, age, disability.

This policy does not discriminate against any groups on the basis of race, ethnic origin, nationality, gender, culture, religion or belief, sexual orientation, age or disability.

- 9.2 BSUH complaints department aims to provide accessible services for all members of the public. Wheelchair access is available for patients if needed.
- 9.3 BSUH complaints department offers face to face meetings with complainants to facilitate the raising of concerns, for example, for those individuals who may find written communication difficult. The complaints team also provides flexibility regarding location of the meeting and can meet with complaints in their own home if this would be supportive of their needs.
- 9.4 Full details of BSUH communication support services are detailed in Section 5 (5.3)
- 9.5 The Trust has contracts in place to assist patients with all forms of sensory loss and the complaints team will utilise these arrangements as required.
- 9.6 Any person making a complaint is advised that they can seek support from the Independent Complaints Advocacy Service (ICAS). ICAS provides free, impartial, confidential and independent support to people who wish to complain about health care services. Information on how to contact ICAS is contained in the Trust's complaints leaflet "*How to make a complaint*" which is available in all wards and departments.
- 9.6.1 All staff are required to complete mandatory training regarding equality and diversity.
- 9.6.2 All staff use the Hate Incident Reporting process and liaise with the Human Resources when necessary to act on hate crime.

## **10 Links to other Trust policies**

*Safeguarding Adults Policy*

*Risk Management Investigation of incidents,*

*Complaints and Claims Using Root Cause Analysis Policy and Guidelines Strategy*

*BSUH Training Needs Analysis*

## **11 Associated Documentation**

*Listening, Responding, Improving – A guide to Better Customer Care* (February 2009) Department of Health

*High Quality Care For All – Lord Darzi report* (June 2008)

*The Mid Staffordshire NHS Foundation Trust Inquiry – Francis Report* (February 2010)

## 12 References

*Complaints and Raising Concerns* House of Commons Health Committee (13 January 2015)

*Complaints Matter* Care Quality Commission (2014)

*Designing Good Together – transforming hospital complaint handling* Parliamentary and Health Service Ombudsman (2013)

*Making Experiences Count Reform of the Health and Social Care Complaints Arrangements* (April 2009) Department of Health Available at [www.dh.gov.uk/publications](http://www.dh.gov.uk/publications)

*Spotlight on complaints* (April 2008) Healthcare Commission

*Complaints Toolkit* (March 2008) Healthcare Commission

*Ombudsman's Principles* (February 2009) Available at [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

*Gender Recognition Act 2004*. London: Stationery Office. Available at: [www.opsi.gov.uk](http://www.opsi.gov.uk)

*Disability Discrimination Act 2005*. London: Stationery Office. Available at: [www.opsi.gov.uk](http://www.opsi.gov.uk)

*The Sex Discrimination Act 1975 (Amendment) Regulations 2003*. London: Stationery Office. Available at: [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)

*Race Relations (Amendment) Act 2000*. London: Stationery Office. Available at: [www.opsi.gov.uk](http://www.opsi.gov.uk)

## Appendix 1

### Trigger tool for identifying themes from complaints

One or more triggers can be assigned on the Datix system to each complaint

TRIGGER	Description	Additional Actions
ACCESSSURG Access to surgery	Wait for surgery date	<b>Enter procedure name</b>
ACCESSOP Access to OP appt	Wait for OP appointment	
A&ETRIAGE	Any concerns regarding delay to be seen in A&E, delayed medication, observations, referral to specialty	
For staff attitude please use specific triggers	ATTADM ATTAGG ATTAHP ATTARO ATTOC ATTDER ATTDII ATTDIR ATTDIS ATTDOC ATTTHCA ATTTHUB ATTINS ATTMID ATTNOE ATTNUR ATTPAT ATTPES ATTPRE ATTREC ATTREG ATTRUD ATTSEC ATTUNC ATTUNH ATTUNP	Attitude admin staff Attitude aggressive Attitude allied health Attitude arrogant Attitude consultant Attitude derogatory Attitude disinterested Attitude disrespectful Attitude dismissive Attitude doctor Attitude HCA Attitude Hub staff Attitude insensitive Attitude midwife Attitude no empathy Attitude nurse Attitude patronising Attitude porter, estates, security Attitude prejudice Attitude Attitude receptionist Attitude registrar Attitude rude Attitude secretary Attitude uncaring Attitude unhelpful Attitude unprofessional
CABOUT Complained about	Specific staff member cited in complaint	<b>complete employee details on datix</b> Copy in clinical lead/matron/service manager as appropriate
CANCL Cancellation	Any cancellation (surgery, appt, procedures)	<b>Enter procedure name</b>
CLEANH Cleanliness/hygiene	Including infection control	<b>include CDiff/MRSA in description box</b>
CLINIC Clinical treatment and care	Concerns regarding clinical decision making, management plans and medical/surgical treatment	<b>Enter procedure name when appropriate</b> Copy in clinical lead

COMMUN Communication	Any breakdown in communication between patient and professional and professional to professional	
COMPLI Complications	Following surgery, procedure or treatment	<b>Enter procedure name</b>
CP	Child protection issues	Copy in Dr Trounce & Debi Fillery
DIAGNO diagnosis	Incorrect, missed or delayed diagnosis	<b>Identify type in description box</b>
DISABI Disability	Physical disability	Copy in Barbara Harris
DISABS Disability	Visual/hearing impairment	Copy in Barbara Harris
DISABL Disability	Learning disability	Copy in Barbara Harris
DISCHA discharge	Poorly planned, failed, inappropriate discharge	Copy in Emma Sheriff
DISCRI Discrimination	Any issues of discrimination	<b>detail whether disability/sexual orientation/race etc in description box</b> Copy in Barbara Harris
ELDCA Elderly care	Any complaints about an elderly care patient	
ENDOFL End of life	Any concerns regarding end of life care	Copy in Jane Stokes
ENVIR Environment	Concerns regarding the environment of wards, clinical areas etc	
FALLS	Patient fall cited in complaint	Check to see if Patient Safety datix completed
FINANL Financial	Financial loss incurred as a result of cancelled procedures, appointments etc	
INFECT	Infection control	
INFO Information request	PALS trigger	
JTCOMY Joint complaint yes	A complaint that spans other health care / social care organisations for which a joint response is being produced	<b>Name other organisation in description box</b>
JTCOMN Joint complaint no	A complaint that spans other health care / social care organisations for which a joint response is not being produced	<b>Name other organisation in description box</b>
LOSTP Lost property	Complaints regarding lost property	
MIXSEX Mixed sex	Mixed sex accommodation	
NURS Nursing care	Any aspect of nursing care	
NUTRIT Nutrition	Any complaints regarding nutrition, hospital food, feeding etc	

PARK	Any parking issues	
PRIVAD Privacy and dignity	Any concerns regarding patient privacy, dignity, respect etc	
PROCESS	Patient pathway failures	
TRANS Transport	Specific concerns regarding hospital transport	
TOCOMP	Referral to Complaints by PALS	
TOPALS	Referral to PALS	
VULNER Vulnerable person	Any patients identified as vulnerable at time of event complained about	<b>Consider safeguarding alert</b>

## Appendix 2

Complaints are graded in accordance with the Healthcare Commission Complaints Toolkit Risk Assessment Tool (March 2008).

The Risk Assessment Tool adopts a three-step process which first categorises the consequences of the incident/event giving rise to a complaint, then assesses the likelihood of recurrence of the incidents or events giving rise to the complaint. Finally, a risk level is assigned to the complaint.

### Consequence Categorisation Table

The following table assists in determining how to categorise the consequences of a complaint, or the subject matter of a complaint.

Category	Grade	Description
Serious	5	Issues regarding serious adverse events, long-term damage, grossly substandard care, professional misconduct or death that require investigation. Serious patient safety issues. Probability of litigation high
Major	4	Significant issues of standards, quality of care, or denial of rights. Complaints with clear quality assurance or risk management implications, or issues causing lasting detriment that require investigation. Possibility of litigation
Moderate	3	Potential to impact on service provision/ delivery. Legitimate consumer concern but not causing lasting detriment. Slight potential for litigation
Minor	2	Minimal impact and relative minimal risk to the provision of healthcare or the organisation. No real risk of litigation
Minimum	1	No impact or risk to provision of healthcare

## Appendix 3

### Likelihood Categorisation Table

The following table assists in determining the likelihood of recurrence of the incident or circumstances giving rise to the complaint.

Likelihood	Description
Frequent	Recurring - found or experienced often
Probable	Will probably occur several times a year
Occasional	Happening from time to time - not constant, irregular
Uncommon	Rare - unusual but may have happened before
Remote	Isolated or one-off - slight/vague connection to healthcare service provision

### Risk Assessment Matrix

Having assessed the consequence and likelihood categories using the tables above, the risk assessment matrix below can be used to determine the level of risk that should be assigned to the complaint.

Consequence	Likelihood of recurrence				
	Frequent	Probable	Occasional	Uncommon	Remote
Serious	HIGH (4-5)				
Major					
Moderate			MEDIUM (3)		
Minor					
Minimum					LOW (1-2)

- All complaints will be graded when entered onto the central database
- Clarity should be obtained from the joint head of complaints, or designated other, for those complaints where grading it is not completely clear
- The grading of complaints will be reviewed following the investigation to ensure accuracy.

## Appendix 4

### Local Resolution Meeting Proforma

Datix

Date of Meeting:

Venue:

Attended by:

Issues for discussion	Outcome	Further Actions

## **Appendix 5**

### **Guidelines for the investigation of formal complaints**

The Complaints Department will grade the complaint, identify issues/questions to be addressed and confirm if other personnel are required to assist/advise in the investigation of a complaint, e.g. Clinical Risk team, Medico-Legal Services.

Simple investigations will involve the examination of the health records and collection of statements.

Full investigation, for more serious complaints, should be undertaken by the complaints manager and relevant senior clinical staff.

- Access the patient's notes
- Establish a chronology of events
- Identify key staff involved and who should respond to the complaints issues
- Interview staff and collate written accounts as appropriate
- Establish the root cause(s) of the complaint
- Identify strategies for improvement and any other learning opportunity
- Formulate an action plan identifying a designated lead for each issue for action and a review date
- Feedback to all staff involved in the complaint
- Return all documentation to the Complaints Department

## Appendix 6 Due Regard Assessment Tool

		Yes/No	Comments
1.	<b>Does the document/guidance affect one group less or more favourably than another on the basis of:</b>	No	
	<ul style="list-style-type: none"> <li>Race</li> </ul>	No	Please see 2.3 and 5.3. of policy. BSUH Hate Crime Incident Reporting process also in place. Any complaints reporting discrimination on these grounds are ascribed a trigger and are monitored via the Equality and Diversity Team and Patient Experience Panel.
	<ul style="list-style-type: none"> <li>Ethnic origins (including gypsies and travellers)</li> </ul>	No	Please see 2.3 of policy. Hate Crime incident reporting process in place. Hate crime incident reports are also shared with other city organisations e.g. police council and the community safety team. Any complaints reporting discrimination on these grounds are ascribed a trigger and are monitored via the Equality and Diversity Team and Patient Experience Panel.
	<ul style="list-style-type: none"> <li>Nationality</li> </ul>	No	Please see 2.3 and 5.3 of policy. Hate Crime incident reporting process in place. Hate crime incident reports are shared with other city organisations e.g. police council and the community safety team.
	<ul style="list-style-type: none"> <li>Gender</li> </ul>	No	N/a the policy applies to both male and female and those that may be in transition of a sex change, there is also a system option for anonymity.
	<ul style="list-style-type: none"> <li>Culture</li> </ul>	No	Please see 2.3 of policy. Hate Crime incident reporting process in place. Hate crime incident reports are shared with other city organisations e.g. police council and the community safety team. Any complaints reporting discrimination on these grounds are ascribed a trigger and are monitored via the Equality and Diversity Team

			and Patient Experience Panel.
	<ul style="list-style-type: none"> <li>Religion or belief</li> </ul>	No	<p>Please see 2.3 of policy.</p> <p>The Trust also has a multi faith forum with volunteers that work on the wards to ensure that service user's spiritual needs are met whilst staying in hospital. Any complaints reporting discrimination on these grounds are ascribed a trigger and are monitored via the Equality and Diversity Team and Patient Experience Panel.</p>
	<ul style="list-style-type: none"> <li>Sexual orientation including lesbian, gay and bisexual people</li> </ul>	No	<p>Please see 2.3 of policy</p> <p>Trust also has an LGBT Forum that supports its members of staff and patients. Any complaints reporting discrimination on these grounds are ascribed a trigger and are monitored via the BSUH LGBT group.</p>
	<ul style="list-style-type: none"> <li>Age</li> </ul>		<p>All those under the age of 16 are dealt with through the parents/guardian. Patients with diminished mental capacity do not require consent for their next of kin or nominated representative to be the point of contact. All others require written consent.</p> <p>Please see 7.13. of policy</p>
	<ul style="list-style-type: none"> <li>Gender Identity</li> </ul>	No	<p>Please see 2.3 of policy</p> <p>The policy applies to both male and female and those that may be in transition of a sex change, there is also a system option for anonymity.</p> <p>Trust also has an LGBT Forum that supports its members of staff and patients. Any complaints reporting discrimination on these grounds are ascribed a trigger and are monitored via the BSUH LGBT group.</p>
	<ul style="list-style-type: none"> <li>Marriage and Civil Partnership Status</li> </ul>	No	<p>The policy applies to all patients, relatives and carers irrespective of marital or civil partnership status. Where consent is required to progress an informal concern or formal complaint this will be sought from the recorded NoK in the</p>

			medical records and on the Oasis system.
	<ul style="list-style-type: none"> <li>• Pregnancy and Maternity status</li> </ul>	No	
	<ul style="list-style-type: none"> <li>• Disability - learning disabilities, physical disability, sensory impairment and mental health problems</li> </ul>		The Trust employs Disability Liaison nurses. The Trust has contracts to enable access for those with all forms of sensory loss. The Trust will accommodate anyone with wheelchair access needs in interviews or meetings.
2.	<b>Is there any evidence that some groups are affected differently and what is/are the evidence source(s)?</b>	No	
3.	<b>If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?</b>	No	
4.	<b>Is the impact of the document/guidance likely to be negative?</b>	No	
5.	<b>If so, can the impact be avoided?</b>	N/A	
6.	<b>What alternative is there to achieving the document/guidance without the impact?</b>	N/A	
7.	<b>Can we reduce the impact by taking different action and, if not, what, if any, are the reasons why the policy should continue in its current form ?</b>	N/A	

If you have identified a potential discriminatory impact of this policy, please refer it to Jane Carmody, Head of Patient Experience, PALS and Complaints, together with any suggestions as to the action required to avoid/reduce this impact. For advice in respect of answering the above questions, please contact Jane Carmody, Head of Complaints, extension 64678.

## Communication Support Services available to our Patients from July 2018

### Overseas Language Face-to-Face Interpretation Service



#### Sussex Interpreting Services

*First line for: Arabic, Bengali, Cantonese, Farsi, Hungarian, Italian, Lithuanian, Mandarin, Polish, Portuguese, Russian or Spanish*

Non-Emergency: 01273 702005

Emergency: 07811 459315

Online booking form (elective procedures):

<http://www.sussexinterpreting.org.uk>



#### Vandu Language Services

*First line for: For all other overseas languages (not listed above)*

Non-Emergency: 01273 473986

Emergency: 0800 008 7650

Online booking form (elective procedures): <http://www.vlslanguages.com>

- 1) If the patient has an established link with either SIS or Vandu, please treat that service as first line.
- 2) If the service you have contacted is unable to fulfil your request, please contact the other overseas language face-to-face interpretation service.

### Overseas Language Telephone Interpretation Service



#### Language Line (24 hours a day)

Telephone: 0845 310 9900

You will need to provide an access code to use this service. Please see the attached sheet or contact the Equality, Diversity and Inclusion Team if you do not know which code to use.

### Communication Support Services (BSL, Lip Speaking, Dual Sensory Loss)



#### Action Deafness

Non-Emergency: 0844 593 8443

Emergency: 07947 714040

Online booking form (elective procedures):

<http://www.actiondeafness.org.uk/>

#### Translation Requests

For translation requests in any language (e.g. overseas language or Braille) please contact the Equality, Diversity and Inclusion team by emailing [equality@bsuh.nhs.uk](mailto:equality@bsuh.nhs.uk) or by telephone.

### **Patients with Learning Disabilities**

The Learning Disabilities Liaison Team can provide support and advice for both Trust staff and Patients with Learning Disabilities. The team are available Monday to Friday between 08:30-16:30. You can contact the team by:

Telephone: 01273 664975 (RSCH) or 07833 436677 (PRH)

Email: [LDLT@sussexpartnership.nhs.uk](mailto:LDLT@sussexpartnership.nhs.uk)

### **Patients with Speech and Language Impairments**

The SLT can assess, support and provide therapy for patients with an acquired language or communication difficulty, which may have/are: post stroke, a progressive neurological impairment or a head injury or other acquired brain injury. SLT can also perform swallowing assessments and assess mental capacity for such patients.

You can contact the team by:

Telephone: extension 4891 (RSCH) or 8057 (PRH)

If you need more copies of this card or further information, please contact [Equality@bsuh.nhs.uk](mailto:Equality@bsuh.nhs.uk)

### **To contact the Equality, Diversity and Inclusion team:**

#### **Barbara Harris**

Head of EDI

Telephone ext.: 67251

Email:

[Barbara.harris@bsuh.nhs.uk](mailto:Barbara.harris@bsuh.nhs.uk)

#### **Simon Anjoyeb**

Equality Project Manager

Telephone ext.: 64135

Email:

[Simon.anjoyeb@bsuh.nhs.uk](mailto:Simon.anjoyeb@bsuh.nhs.uk)

#### **Olivia King**

Equality and Inclusion

Advisor

Telephone ext.: 64685

Email:

[Olivia.King@bsuh.nhs.uk](mailto:Olivia.King@bsuh.nhs.uk)