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<b>AMENDMENT HISTORY</b>				
<b>Version No.</b>	<b>Date of Issue</b>	<b>Page/Selection Changed</b>	<b>Description of Change</b>	<b>Review Date</b>
6.1	13 February 2019	Throughout the document	Duplications of information and a change to process	30/11/2021
6.2	14 May 2019	Page 9	Who can complain to reflect NHS Regulations 2009	30/11/2021

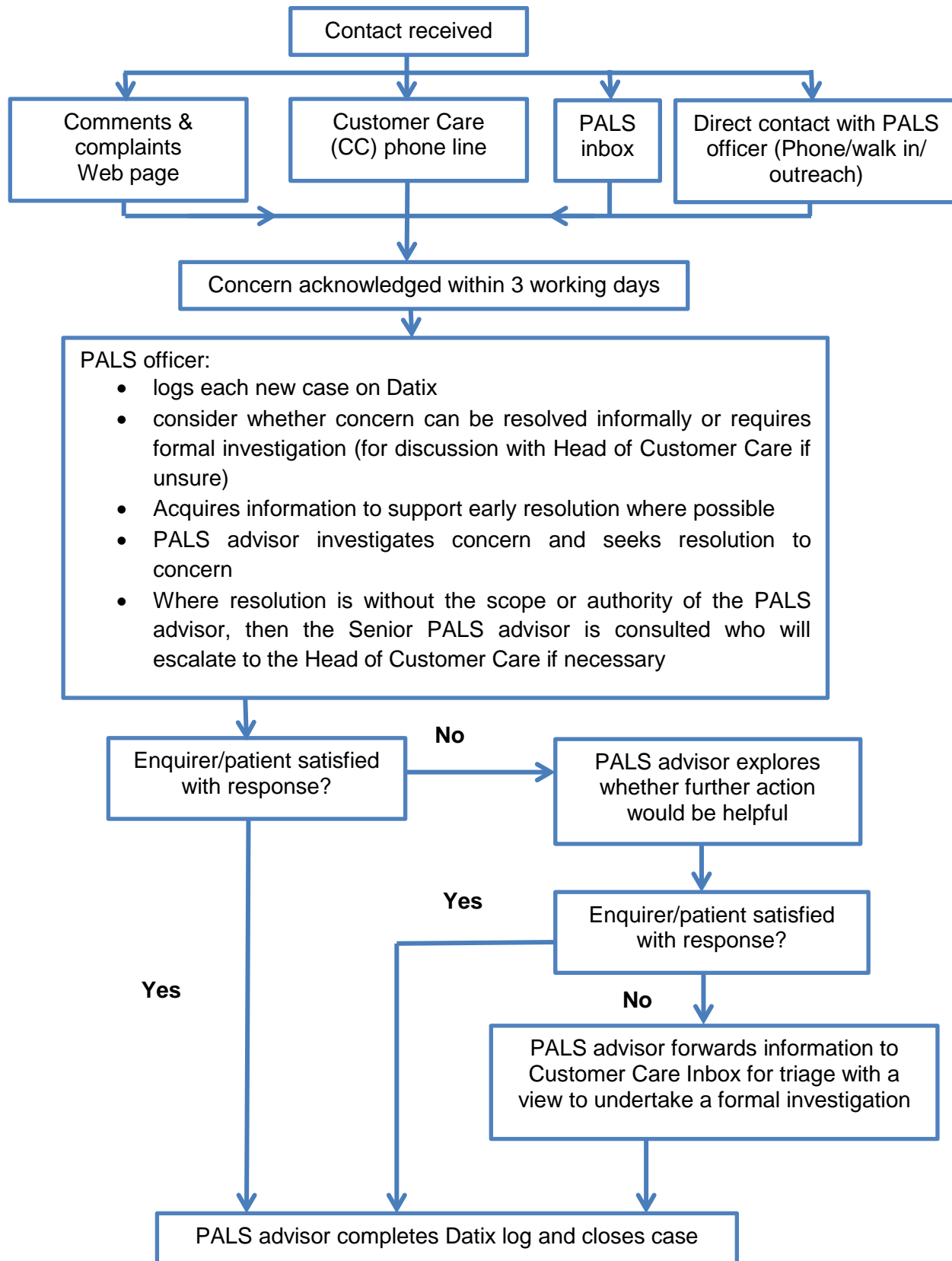
Does this document meet the requirements of the Equality Act 2010 in relation to Race, Religion and Belief, Age, Disability, Gender, Sexual Orientation, Gender Identity, Pregnancy & Maternity, Marriage and Civil Partnership, Carers, Human Rights and Social Economic Deprivation discrimination? Yes
Document for Public Display: Yes
Evidence reviewed by Library Services 29/06/2018

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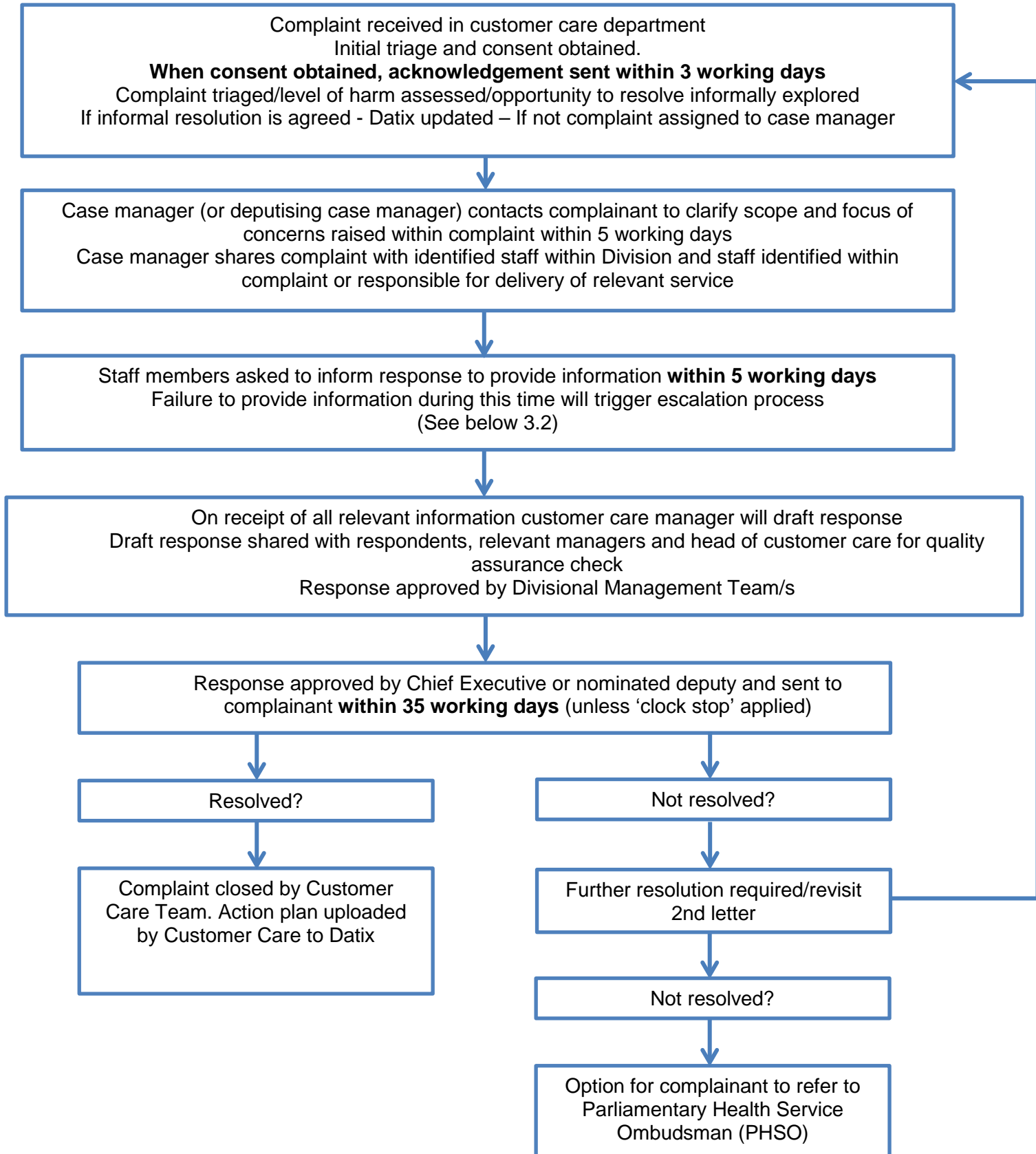
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## Appendix 2: Patient Advice & Liaison Service (PALS) Process Flowchart



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### Appendix 3 - Complaints Process



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### Appendix 3.1 – Key Actions for Customer Care Team

<b>Stage</b>	<b>Action/consideration</b>
<b>Receipt and acknowledgement</b>	<p>Consider whether complaint falls within policy and whether there is opportunity for rapid/informal resolution</p> <p>Record/log complaint and create complaint file</p> <p>Acknowledge the complaint - verbally or in writing</p> <p>Obtain consent if appropriate</p> <p>Agree process with complainant – investigation and timeframe for response/mode and frequency of contact during investigation</p> <p>Advise of the availability of the advocacy services</p> <p>Consider offering meeting</p>
<b>Assessment</b>	<p>Triage complaint, assessing level of harm as described within the complaint</p> <p>Contact complainant to establish exact issues to be investigated.</p> <p>Identify which staff should be asked to respond.</p>
<b>Investigation</b>	<p>Offer complainant a meeting to discuss issues raised if a complex case.</p> <p>Obtain any relevant information from involved staff and other sources.</p> <p>Collate, analyse and evaluate quality and scope of information provided</p>
<b>Response</b>	<p>Draft response</p> <p>Request action plan where appropriate</p> <p>Advise of the right to refer to the PHSO but invite to contact Trust again, in first instance</p>
<b>Resolution</b>	<p>Consider further resolution if dissatisfied</p> <p>Offer meeting</p> <p>Advise of the right to refer to the PHSO</p> <p>Confirm follow up action</p>

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## Appendix 3.2 - Escalation Process

Where there is a delay in progressing investigation and response to meet prescribed timescales, the following escalation processes will be applied:

### **Information Request**

Where information is requested the standard for response is **5 working days**.

If no response received:

- Reminder contact is made by email on **day 5**
- Further 'overdue' reminder sent on **day 7** (attempted contact by phone/email/physical contact), shared with governance team, Clinical Director and Matron/Head of Department
- On **day 8** – escalated to Head of Customer Care and to the Divisional Management Team for urgent intervention
- On **day 10** – escalated by the Head of Customer Care to the Associate Director of Governance
- On **day 15** – escalated by the Director of Governance

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## 1. SUMMARY

Complaints are a means of identifying service user feedback and perceptions of the service and care that the Trust can provide. They allow the organisation to assess and identify trends within the service and provide a supportive framework to make improvements based on feedback.

An important element of effective complaint handling is to detect, analyse and learn from patients' experiences, including adverse events and system failures, and by listening to our users and receiving feedback from complaints; this allows the Trust to learn valuable lessons from patient experiences and improve the quality of the services offered.

Effective complaints handling is a key measure to continuous improvement, as identified in the 'Good Practice standards for NHS Complaints Handling (2013)' demonstrating to our service users our commitment to effective service provision, and importantly the safety and quality provision of services for our patients. Uppermost is our commitment to openness and honesty and meets with 'Duty of Candour' for our patients.

As part of this we will aim to ensure that we meet the Principles of Good Complaint Handling (2009)' published by the Parliamentary and Health Service Ombudsman (PHSO) and;

- Get it right
- Be customer focused
- Be open and accountable
- To act fairly and proportionately
- To put things right
- Seek continuous improvement

This document is produced with regard to the legal framework placed upon NHS organisations to have written procedures in place to highlight the arrangements for the handling of complaints, according to 'The Local Authority Social Services and National Health Service Complaints (England) Regulations (2009)'. The document provides details of the legislative and local requirements for the investigation of complaints and PALS concerns at Lancashire Teaching Hospitals NHS Foundation Trust (The Trust).

It describes the procedures for the investigation and response to concerns and complaints, and the recording of positive information received. The policy and procedure will support all appropriate complainants in accessing details of the policy and procedures to enable them to raise concerns and complaints ensuring that they will be treated fairly, sympathetically, and respectfully throughout the process, with any additional needs taken into account.

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## 2. PURPOSE

The purpose of this document is to ensure that staff and service users understand the rationale for recording and acting upon comments, compliments, concerns and complaints relating to care and treatment received within the Trust.

Implementation of the policy and procedure will ensure that:

- Complaints are investigated with regard to statutory regulations
- Consistency and equity for our patients, carers, relatives and service users to realise that all complaints are taken seriously is assured
- A detailed, negotiated response to the complainant in their preferred method of communication is provided within 35 working days
- Lessons learnt are acted upon and impact monitored in order to ensure improvement in the quality of care and the experiences of patients and their families.
- Learning is shared across the organisation to support continuous improvement in all areas

## 3. SCOPE

This policy applies to all staff and volunteers, regardless of their occupation within the Trust and should enable an open and honest approach to service users, their carers and others associated with their care at each point of contact.

## 4. PROCEDURE

### 4.1 Definition

For the purpose of this procedure, a complaint is defined as an expression of dissatisfaction with the services, care or facilities provided by the Trust that require an investigation and response.

Complaints may be made in a variety of ways:

- verbally
- in person or by telephone
- in writing, including electronically by email, and
- languages other than English (where translation services would be required).

A complainant is the person making the complaint, whether that is on behalf of themselves or another person, and may be a patient, carer, relative or friend or any other member of the public.

A **concern** is an issue of concern that is raised verbally, either directly to a member of staff or over the telephone, which can be resolved to the complainant's satisfaction within an agreed timescale (normally no later than the next working day after the day on which the concern was raised), and which does not require a written response.

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## 4.2 Who can complain?

- A complaint may be made by –
  - A person who receives or has received services from a responsible body; or
  - A person who is affected, or likely to be affected, by the action omission or decision of the responsible body which is the subject of a complaint.
  - A person (in the NHS Regulations 2009 referred to as a representative) acting on behalf of a person who has died

4.2.1 The Regulations do not limit who might make a complaint when a person has died. The Trust will satisfy itself through the Head of Customer Care that any complainant is acting in the deceased person's best interests. If there is any doubt that the representative is conducting the complaint in the best interests of the deceased person, the Head of Customer Care will stop the complaint investigation and provide the reason for the decision to do so in writing to the complainant.

4.2.2 Where the complainant is not the next of kin, the Head of Customer Care will ensure that each case is treated individually and be mindful that it is not in line with the Regulations to reject a representative on the basis of kin, but consider that they are acting in the deceased persons best interests. Where appropriate further advice will be sought from the Trusts Legal Team.

## 4.3 Timescales for making a Complaint

A complaint must be made within 12 months of the date on which the matter, which is the subject of the complaint, occurred.

Where a complaint is made after the expiry of the 12 month period, the Head of Customer Care may agree to investigate, if they are of the opinion that the complainant had good reasons for not making the complaint within the time period, and it is still possible to investigate the matter effectively and fairly. Where it is decided not to investigate a complaint which has been made within the time limit, the Head of Customer must write to the complainant, informing them that their concerns cannot be dealt with under the Complaints Procedure. The Trust should however, endeavour to provide as much information as possible, ensuring that the limit of the investigation is made clear to the complainant.

## 4.4 Exclusion Criteria

The *Local Authority Social Services and National Health Service Complaints (England) Regulations (2009)* state that certain complaints are not required to be dealt with. These are stipulated under section 8a-h of the regulations as follows:

- (a) A complaint made by a responsible body ('responsible body' means a local authority, NHS body, primary care provider or independent provider)
- (b) A complaint made by an employee of a local authority or NHS body about any matter relating to that employment

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- (c) A complaint which is made orally and is resolved to the complainant's satisfaction not later than the next working day after the day on which the complaint was made
- (d) A complaint the subject matter of which is the same as that of a complaint that has previously been made and resolved in accordance with sub-paragraph (c)(as above)
- (e) A complaint the subject matter of which has previously been investigated under: these [2009] regulations: the [NHS Complaints] 2004 regulations; the 2006 [NHS Complaints] regulations; or a relevant complaints procedure in relation to a complaint made under such a procedure before 1 April 2009
- (f) A complaint the subject matter of which is being or has been investigated by a local commissioner under the Local Government Action 197(a) or a health service commissioner under the 1993 Act
- (g) A complaint arising out of the alleged failure by a responsible body to comply with a request for information under the Freedom of Information Act 2000
- (h) A complaint which relates to any scheme established under section 10 (superannuation of persons engaged in health services etc.) or section 24 (compensation for loss of office etc.) of the Superannuation Act 1972, or the administration of those schemes.

Where a complaint is made at the same time as the complainant is pursuing a clinical negligence claim, or when an investigation is ongoing into a criminal offence, the Trust will If written consent is not received within 1 month of the request, the Head of Customer Care will consider withdrawing the complaint and will write to the complainant to confirm the decision with the reasons why.

In relation to complaints made on behalf of a deceased person, or patients who lack capacity (usually the next of kin) *The Local Authority, Social Services and National Health Service Complaints (England) regulations (2009)* allows for these complaints to be made by a person acting on their behalf. In the case of a person who has died or a patient who lacks capacity, the representative must be a relative or other person who, in the opinion of the Trust, has or had sufficient interest in the patient's welfare and is a suitable person to act as a representative. If the Trust is of the opinion that:

- a) A representative does not or did not have sufficient interest in the patient's welfare;
- b) Is unsuitable to act as a representative; or
- c) The patient stated they did not wish this, or any person, to be a representative

The Head of Customer Care must notify the person in writing, stating the reasons for the decision.

When responding to the complaint, the Trust will access the patient's records and only the clinical information that is necessary, proportionate and in the best interest of the patient will be provided to the complainant in the response. Any additional

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clinical records required by the complainant must be requested independently under the *Access to Health Records Act (AHRA) 1990*.

In the case of a minor (a person under the age of full legal responsibility), the representative must be a parent, guardian, or other adult with parental responsibility. Minors who are, in the opinion of the Trust, deemed to be “Fraser competent” may make a complaint, i.e. where a child (16 years or younger) has an understanding of the process and is able to consent to his or her own medical treatment, without the need for parental permission or knowledge (the standard is based on a decision of the House of Lords: see *Gillick v West Norfolk and Wisbech Area Health Authority and Department of Health and Social Security* [1984]).

Where MPs write on behalf of their constituents, consent is presumed to have been given by the constituent approaching their MP. Where third parties are involved, for example, a constituent writes to an MP about their relative (wife, husband, son, daughter etc.) The MP should provide consent from the patient. If the MP states in writing that they have received a patient’s consent for disclosure, this may be accepted without further enquiry. Where consent is not provided, a limited response can be sent directly to the constituent and the MP or the MP will receive a letter confirming the response has been sent to the constituent.

### **Initial response to a complaint**

All complaints are registered onto the Datix system which automatically generates a case number the complaint and acknowledgement letter are scanned and attached to the case within the system. A case file will include the original complaint and acknowledgement letter

All formal complaints must be acknowledged by the Customer Care Department by letter or email (where this is the preferred method of contact or where no postal address is available) and triaged within 3 working days of receipt by the Head of Customer Care and entered onto the Datix system.

All complaints and concerns received into the Customer Care Department are triaged to assess opportunities for local resolution and level of harm (The Datix system is checked to see if any other investigations have taken place). If there is no opportunity for rapid, local resolution then the complaint is forwarded to a customer care officer for investigation and response.

### **Investigation of complaints**

In all cases, the Datix system should be updated in real time with every action taken throughout the complaints process.

The standard for response is 35 working days. In exceptional circumstances requests it may be appropriate to ‘Stop the Clock’ prior to the response. However this must be agreed with the Head of Customer Care and a record of the reason entered into the Datix system. The reasons for ‘Stop the Clock’ may be applied in the following circumstances:

- A meeting date has been offered/arranged with the complainant.

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- A response is required from an external organisation to the Trust and agreed with the complainant
- Where a more detailed investigation is required and agreed with the complainant such as a level 3 investigation
- The Customer Care Team are unable to contact the complainant.

Formal complaints are dealt with by the Customer Care Team and copied to the Governance Teams within the Division/Divisions involved, At this point the Case Manager will establish contact with the complainant, forward the complaint to the Divisional Governance Team and liaise with them to confirm within one working day who, within the division will need to provide a response to the issues raised by the complainant. At this point the Divisional Governance Team will also review the harm score and consider whether there is any need for further investigation outside of the complaints process e.g. level 3 investigation.

If the complaint is across services or organisations, the Case Manager requests authorisation from the complainant prior to forwarding the complaint to those services and organisations in order for them to investigate the concerns.

The Case Manager will initiate the investigation into the issues raised within the complaint. And will contact the staff identified within the complaint to support the investigation process. Having investigated the complaint, the Case Manager reviews the information received to ensure that it addresses all of the issues raised within the complaint. The Case Manager drafts a response, incorporating the information provided. The Trust will endeavour to provide the appropriate method of communication as identified by the NHS England Accessible Information Standard. This may be written, audio, sign language or interpretation services, as identified as the complainants preferred style of communication.

Following drafting of the response, the response letter will be sent by the Case Manager to the Head of Customer Care and all the staff members involved in the case to agree or amend the content and to the Divisional Management Team (DMT) for final approval before forwarding to the Chief Executive for signature.

On receipt of the returned response form the staff involved, the Case Manager will make any relevant amendments before re-sending the response letter for final approval to the Divisional Nurse Director, the Divisional Medical Director, as well as the Divisional Director (where appropriate) and the staff involved. If the response letter is significantly amended or re-drafted the response letter must be sent back to all parties for approval.

The formal response letter will be signed by the Chief Executive or nominated deputy. The formal response letter is sent to the complainant, scanned and attached to the complaint case on the Datix system. Following final sign off of the complaint the case manager will identify improvement actions and relevant staff to complete any actions identified. An action will be sent through Datix as part of an action plan. The identified staff are responsible for ensuring that those actions are completed,

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relevant evidence is uploaded to Datix and the Customer Care Case Manager updated. The actions and evidence will then be validated.

If a complainant contacts the Customer Care Team requesting further action to a closed case, the complaint is reviewed by the Head of Customer Care to identify whether further investigation and action is required.

### **Lessons learned: complaints as a source of improvement**

Following identification of any actions the Governance Leads will monitor the progress of actions and ensure that the appropriate evidence is uploaded to the Datix system. Once complete they will notify the Case Manager via Datix confirming closure of the action. Validation of the evidence will take place by the Divisions and reported through the Divisional Governance Meetings.

Lessons learned and evidence of improvement may be shared with relevant external bodies.

### **Complaints involving other service providers**

When a complaint involves other service providers, at the point of triage, consent is obtained to enable the involvement of the relevant organisation/s. The complaint letter is then reviewed by the Case Manager to determine how the best method of responding to the complainant is managed. If a joint response is required the complaint letter is forwarded to the other providers involved within 3 working days, and a discussion should take place with them to establish which organisation will take the lead in co-ordinating the complaint response; this will usually be the provider on whom most of the complaint is focused. The lead provider will co-ordinate the handling of the complaint, ensure the complainant is kept informed of the progress of the investigation, and will ensure a comprehensive response is sent.

If a complainant does not wish their original complaint to be shared with other providers involved in the patients care, the Case Manager will write to the complainant advising them of the issues which the Trust can investigate, giving details of how to contact other providers involved directly should the complainant wish to do so.

Every effort will be made to ensure that, where appropriate, joint complaints are responded to as a full letter in order to support the complainant. However where organisations do not provide timely responses in line with the timescales and subsequent discussions with the Case Manager outlined by LTHTR the Head of Customer Care will make an informed decision on how to proceed based on the evidence provided.

### **The Parliamentary and Health Service Ombudsman (PHSO)**

Should an external review be required prior to directing the complainant to refer their concern/issues to the PHSO, the cost of the review would be met by the Division in which the complaint lies. If the complaint spans more than one division, it is the responsibility of those divisions named, between them, to jointly meet the cost as appropriate.

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Any communications from the PHSO should be directed through the Head of Customer Care. The Head of Customer Care will act as the point of contact for the PHSO's Officers.

If a complainant remains dissatisfied after a complaint has been investigated and all reasonable attempts by the Trust for resolution have taken place, they have the right to ask the PHSO to investigate their case. The PHSO is not obliged to investigate every complaint put to them. They will generally not take on a case which has not first been through the NHS Complaints Procedure.

At the end of the PHSO's investigation, the Trust will receive a report detailing the findings and recommendations. In conjunction with Divisional Management Teams, the Head of Customer Care oversees and co-ordinates a response to the complainant and the production of an action plan, where appropriate. All of this information will be recorded on the Datix file.

### **Prevention of Discrimination as a Result of Complaints**

Lancashire Teaching Hospitals NHS Foundation Trusts expects all staff to treat patients, and complainants with respect at all times and will not tolerate discrimination against them as a result of a complaint being made. This is a legal obligation under the Equality Act 2010. During any complaint investigation, if it becomes apparent that patients or complainants are experiencing discrimination, the Head of Customer Care will take appropriate action to ensure that the discrimination is addressed and appropriate action taken in relation to the staff members involved.

Documentation relating to complaints is not filed within patients' case notes. All information relating to complaints is held within the Datix module in the Customer Care section.

### **Independent Complaint Advisory Service**

Where a patient or service user wishes to seek independent advice when making a complaint, there are a number of independent bodies who can be contacted to provide support and advocacy services to patients going through the NHS complaints process.

### **Duty of Candour**

Lancashire Teaching Hospitals NHS Foundation Trust recognises the importance of openness and transparency and is committed to providing full explanation, apology and appropriate remedy to people who have suffered harm through the provision of healthcare services.

Within the complaints procedure, where harm is identified that is consistent with the nature of the complaint made then candour will be exercised within the response to the complainant. However, if in the course of the investigation additional harm is identified then consideration will be given to the initiation of an additional investigation of the incident, which will in turn inform the final response to the complaint. If significant harm is confirmed then duty of candour will be applied as for all serious incidents.

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## **Regular, unreasonable and persistent complaints or insistent complainants**

In a small number of cases, complainants may become unreasonably persistent, despite reasonable attempts having been made to resolve their concerns. This can lead to a disproportionate amount of time and resources being spent on them and may also cause unacceptable strain on the staff dealing with them. See appendix 6

## **Standards/Key Performance Indicators (KPIs)**

The standards that will be audited as part of the monitoring of compliance with this procedure include:

- Compliance with acknowledging complaints within 3 working days
- Compliance with the 35 working day response target
- Completion of identified improvement actions taken
- Number of revisited complaints (2<sup>nd</sup> letters)

## **Analysis and reporting of complaints**

The Head of Customer Care is responsible for the provision of regular reports or performance updates, which will detail complaints performance and will include the percentage of actions completed within timescales, to:

- Divisional Governance Leads (monthly performance update)
- Divisional Management Teams (monthly performance updates)
- Clinical Governance Committee (quarterly)
- Patient Experience Improvement Group (quarterly)
- Trust Board (monthly performance update)

Adherence to this procedure will be reported to the Clinical Governance Committee (CGC).

As a minimum, the quarterly clinical governance committee report will include:

- The total number of complaints received
- Details of complaints by division
- Details of complaints by speciality
- Details of complaints by category
- Themes and trends at Trust and Divisional level
- Details of any action to improve the service
- Percentage of responses within 35 working days/agreed timescale
- A summary of PALS activity

An annual report will presented that will include:

- The number of complaints received
- Analysis by division
- Any significant trends arising

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- Actions taken to improve services
- Number of complaints referred to the PHSO
- Adherence to the process milestones identified in this policy
- An evaluation of the effectiveness of the current process
- Activity data from the previous and for the current year
- A summary of PALS activity

The Head of Customer Care will inform the Trust Legal Services of any complaints where it is believed likely a clinical negligence will ensue.

### Complaints training

Complaints training is delivered in line with the Trust's Training Needs Analysis (TNA). The Customer Care Team work with individual divisions, providing tailored workshops to ensure appropriate training provision is provided to support staff involved in complaints handling.

Corporate Induction of new staff and local induction will include information local resolution of concerns and on complaints handling.

### Document control

This policy and all subsequent amendments/reviews will be managed in accordance with Trust policy. All complaint files will be retained for a minimum of 10 years in accordance with the retention schedule and Trust policy.

## 5. AUDIT AND MONITORING

Aspect of compliance or effectiveness being monitored	Monitoring method	Individual responsible for the monitoring	Frequency of the monitoring activity	Group / committee which will receive the findings / monitoring report and act on findings.	Group / committee / individual responsible for ensuring that the actions are completed
% compliance with agreed 35 day response date	Safety and Quality Dashboard Report	Head of Customer Care	Monthly	Case Review Group	Safety and Quality
Number of complaints referred to the Ombudsman	National PHSO report	Head of Customer Care	Annual	Case Review Group	Safety and Quality Committee
Customer Satisfaction measure of complaints process	Questionnaire	Head of Customer Care	Every 6 months	Case Review Group	Safety and Quality Committee
% of complaint	Audit of	Divisional	Monthly	Case	Safety and

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response templates received where 'lessons learned/action taken' has been completed	investigation templates via Datix system	Governance Teams		Review Group	Quality Committee
% compliance with 3 day acknowledgment response	Safety and Quality Dashboard Report	Head of Customer Care	Monthly	Case Review Group	Trust Board
Number of revisited complaints as a proportion of total	Safety and Quality Dashboard Report	Head of Customer Care	Monthly	Case Review Group	Safety and Quality Committee

## 6. TRAINING

<b>TRAINING</b>		
Is training required to be given due to the introduction of this policy? Yes		
<b>Action by</b>	<b>Action required</b>	<b>Implementation Date</b>
Head of Customer Care	Support implementation of the new Policy and Procedure for the Governance Teams and Customer Care Team	December 2018
Head of Customer Care/Head of Mandatory Training	Guidance to be included in Trust Induction and Mandatory Training	February 2019

## 7. DOCUMENT INFORMATION

<b>ATTACHMENTS</b>	
Appendix Number	Title
Appendix 1	Roles and Responsibilities of Individuals and Staff Groups
Appendix 2	Patient Advice & Liaison Service (PALS) Process Flowchart
Appendix 3	Complaints Process Flowchart
Appendix 4	Assessment and Risk Rating
Appendix 5	Advice on Handling Unreasonable, Regular or Persistent Complainants
Appendix 6	Equality, Diversity & Inclusion Impact Assessment Form

<b>OTHER RELEVANT / ASSOCIATED DOCUMENTS</b>		
Unique	Title and web links from the document library	
Lancashire Teaching Hospitals NHS Foundation Trust	ID No. TP-24	
Version No: 6.2	Next Review Date: 30/11/2021	Title: Customer Care and PALS Policy and Procedure
<a href="#">Do you have the up to date version? See the intranet for the latest version</a>		

Identifier	
TP-149	Duty Of Candour, Being Open Policy
	Patient Experience and Involvement Strategy 2018-2021 <a href="https://intranet.lthtr.nhs.uk/download.cfm?doc=docm93jjm4n8505.pdf&amp;ver=13914">https://intranet.lthtr.nhs.uk/download.cfm?doc=docm93jjm4n8505.pdf&amp;ver=13914</a>
N/a	'How Are We Doing' Posters
HRP-02	Whistleblowing Policy
TP-141	Management Of External Visits And Accreditations
	Datix Customer Care Standard Operating Procedures

## SUPPORTING REFERENCES / EVIDENCE BASED DOCUMENTS

### References in full

Number	References
1	NHS (2009) The Local Authority, Social Services and National Health Services complaints (England) regulations 2009 (309). [Online] Available at: <a href="http://www.legislation.gov.uk/uksi/2009/309/contents/made">http://www.legislation.gov.uk/uksi/2009/309/contents/made</a> (accessed 10.06.18)
2	Patients Association (2013), Good practice standards for NHS complaints handling. [Online] Available at: <a href="http://www.patients-association.org.uk/wp-content/uploads/2014/06/Good-Practice-standards-for-NHS-Complaints-HandlingSept-2013.pdf">http://www.patients-association.org.uk/wp-content/uploads/2014/06/Good-Practice-standards-for-NHS-Complaints-HandlingSept-2013.pdf</a> (accessed 10.06.18)
3	Parliamentary and Health Service Ombudsman (PHSO) (2009), Principles of good complaints handling. [Online] Available at: <a href="http://www.ombudsman.org.uk/_data/assets/pdf_file/0005/1040/0188-Principles-of-Good-Complaint-Handling-bookletweb.pdf">http://www.ombudsman.org.uk/_data/assets/pdf_file/0005/1040/0188-Principles-of-Good-Complaint-Handling-bookletweb.pdf</a> (accessed 10.06.18)
4	Great Britain (2000) Freedom of Information Act 2000 (c. 36) [Online] Available at: <a href="http://www.legislation.gov.uk/ukpga/2000/36/contents">http://www.legislation.gov.uk/ukpga/2000/36/contents</a> (accessed 10.06.18)
5	Great Britain (1972) Superannuation Act 1972 [Online] Available at: <a href="http://www.legislation.gov.uk/ukpga/1972/11/contents">http://www.legislation.gov.uk/ukpga/1972/11/contents</a> (accessed 10.06.18)
6	Great Britain (1998) Data Protection Act 1998 [Online] Available at: <a href="http://www.legislation.gov.uk/ukpga/1998/29/contents">http://www.legislation.gov.uk/ukpga/1998/29/contents</a> (accessed 10.06.18)
7	Great Britain (1990) Access to Health Records Act 1990. [Online] Available at: <a href="http://www.legislation.gov.uk/ukpga/1990/23">http://www.legislation.gov.uk/ukpga/1990/23</a> (accessed 10.06.18)
8	Gillick v West Norfolk and Wisbech Area Health Authority and Department of Health and Social Security [1984]. Available at <a href="http://www.hrcr.org/safrica/childrens_rights/Gillick_WestNorfolk.htm">http://www.hrcr.org/safrica/childrens_rights/Gillick_WestNorfolk.htm</a> (accessed 10.06.18)
9	NHS England, Accessible Information Standard 1996 [Online] Available at <a href="https://www.england.nhs.uk/ourwork/accessibleinfo">https://www.england.nhs.uk/ourwork/accessibleinfo</a> (accessed 10.06.18)
10	Legislation.gov.uk. (2010). <i>Equality Act 2010</i> . [online] Available at: <a href="http://www.legislation.gov.uk/ukpga/2010/15">http://www.legislation.gov.uk/ukpga/2010/15</a> (accessed 10.06.18)

### Bibliography

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## DEFINITIONS / GLOSSARY OF TERMS

Abbreviation or Term	Definition
THE TRUST	Lancashire Teaching Hospitals NHS Foundation Trust
PHSO	Parliamentary Health Service Ombudsman
PALS	Patient Advice Liaison Service
PPI	Patient and Public Involvement
MP	Member of Parliament
QA	Quality Assurance
CEO	Chief Executive Officer
KPI	Key Performance Indicator
CRG	Case Review Group
NHS	National Health Service
TNA	Training Needs Analysis
CGC	Clinical Governance Committee

## CONSULTATION WITH STAFF AND PATIENTS

Enter the names and job titles of staff and stakeholders that have contributed to the document

Name	Job Title	Date Consulted
David Pilsbury	Director of Governance	June 2018
Christine Morris	Deputy Director of Governance	June 2018
Heather Moulton	Deputy Customer Care Manager	June 2018
Louise Ward	Deputy Customer Care Manager	June 2018
Cath Eaton	PALS Manager	June 2018
Julie Dickinson	Senior Customer Care Officer	June 2018
Claire Hackett	Senior Customer Care Officer	June 2018
Christine Johnson	Governance Lead Surgery	June 2018
Theresa Greenwood	Governance Lead DCSC	June 2018
Debbie O'Mahoney	Divisional Nurse Director DCSC	June 2018
Catherine Silcock	Divisional Nurse Director Surgery	June 2018
Rachel Sansbury	Divisional Nurse Director Medicine	June 2018
Steve O'Brien	Head of Customer Care	August 2018
Sarah Fawcett	Governance Lead Medicine	November 2018

## DISTRIBUTION PLAN

Dissemination lead:	Head of Customer Care
Previous document already being used?	Yes
If yes, in what format and where?	Complaints Policy and Procedure, Version 5.2 on Heritage
Proposed action to retrieve out-of-date copies of the document:	Version 5.2 of this Policy will be removed from Heritage and this one uploaded once ratified

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<b>To be disseminated to:</b>	Trust Wide
Document Library	
Proposed actions to communicate the document contents to staff:	Include in the TRUST weekly Procedural documents communication– New documents uploaded to the Document Library

## Appendix 1 - Roles and Responsibilities of Individuals and Staff Groups

### All Staff

All staff have a responsibility to deal sensitively and promptly with concerns, even those, which do not apply directly to their area of work. They will make a genuine attempt to resolve the problem wherever possible, only escalating to a complaint, those concerns which are beyond their ability to deal with.

If the patient/carer/relative wishes to make a complaint under the NHS complaint process, it is the individual member of staff's responsibility to provide them with information on how to do so. If the person wishes to make a complaint out of hours and asks for their details to be passed to an appropriate person, it is the staff member's responsibility to take the details and ensure that they are forwarded to the Customer Care Department.

### Trust Board

The Trust Board will ensure that there are clear policies and procedures in place for the handling of concerns and complaints, and that appropriate expertise and resources are available to enable its responsibilities to be effectively discharged. The Trust Board will be responsible for receiving the Annual Complaints Report produced by the Trust.

### Chief Executive

The Chief Executive has overall responsibility for complaints and fulfils the role of 'responsible person' as defined within the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009). The Chief Executive will see all written complaints as they arise and will sign all written responses to complaints.

In the absence of the Chief Executive, the deputising Executive Director will assume the responsibilities of the Chief Executive in relation to managing complaints.

### Nursing, Midwifery and AHP Director

The Nursing, Midwifery and AHP Director has executive responsibility within the Trust for clinical governance activity, including complaints management. Close links will be maintained between the Nursing, Midwifery and AHP Director and Customer

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Care Department to ensure that concerns from complaints and concerns form part of the wider clinical governance agenda.

### **Medical Director**

The Medical Director will, independently review complaints made about Divisional Medical Directors.

### **Associate Director Governance**

The Associate Director Governance will advise the Head of Customer Care where required to ensure that the Trust's management of complaints is in accordance with the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009), to support compliance with the Care Quality Commission (CQC) Outcome 17 of the Essential Standards of Quality and Safety.

The Associate Director Governance will oversee the monitoring of complaints activity and management and will report matters of concern to the Director of Governance as appropriate.

### **Head of Customer Care**

The Head of Customer Care is responsible for managing the procedures for handling and considering complaints in accordance with the arrangements made under the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009), to support compliance with the Care Quality Commission (CQC) Outcome 17 of the Essential Standards of Quality and Safety.

### **Deputy Customer Care Managers**

The Deputy Customer Care Managers will assume the role of case manager for a designated caseload of complaints; the responsibilities of which will include co-ordinating complaint investigations and compiling written responses on behalf of the Chief Executive.

In the absence of the Head of Customer Care, the Deputy Customer Care Managers will, with the support of the Associate Director for Governance, assume the responsibilities of the Head of Customer Care in relation to complaints management.

### **Senior Customer Care Officers**

The Customer Care Officers will assume the role of case manager for a designated caseload of complaints; the responsibilities of which will include co-ordinating complaint investigations and compiling written responses on behalf of the Chief Executive.

The Customer Care Officers will support the complaint management function of the Customer Care Department.

### **Customer Care Officer**

The Customer Care Officer triages all complaints, identifying opportunities for early local resolution or PALS intervention. The officer will register concerns, complaints and compliments received through the department onto Datix

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## The Patient Advice and Liaison Service (PALS)

PALS will provide patients, relatives, carers and friends:

- Help to resolve their concerns quickly, often within a few days
- Support should they require help from other NHS Services
- Support information requests

Signposting to external services such as the provided by voluntary, charitable or private sector accordance with the Complaints Policy, the PALS Advisor will provide information and guidance on making a complaint.

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### **Divisional Directors/ Heads of Department (non-clinical Divisions)**

Divisional Directors/Heads of Department will have overall responsibility for complaints management within the Divisions/departments. They will ensure that adequate resources are allocated to the reporting, management and investigation of complaints within their area of responsibility in order to ensure compliance with this policy.

Divisional Directors/Heads of Department will also ensure that key learning points are shared, that recommendations from complaint investigations are addressed and that adequate improvement strategies are prepared and implemented when trends arising out of complaints are highlighted.

### **Divisional Medical Directors**

Divisional Medical Directors, along with Divisional Nursing Directors and Divisional Directors, will be responsible for the approval of all relevant responses before sign off by the Chief Executive. The Divisional Medical Director will also review complaints made about Clinical Directors.

Divisional Medical Directors will also ensure that key learning points are shared amongst medical colleagues that recommendations from complaint investigations are addressed and that adequate improvement strategies are prepared and implemented when trends arising out of complaints are highlighted.

### **Heads of Nursing/Head of Midwifery**

The Heads of Nursing/Head of Midwifery will be responsible for overseeing complex, serious complaint investigations relating to nursing/midwifery care and will be responsible for ensuring that key learning points are shared, that recommendations from such complaints are addressed and that, where appropriate, improvement measures are introduced.

### **Clinical Directors**

Clinical Directors will be involved in the investigation of complex, serious complaint investigations relating to medical care and treatment and will be responsible for ensuring that key learning Business Managers/Matrons will be responsible for ensuring that responses are provided to complaints about their services. The General Manager/Matron or a suitable delegate will oversee, co-ordinate or directly investigate complaints as appropriate and will formulate responses to the Customer Care Department about the results of their investigations.

In conjunction with the Divisional Director, Divisional Nursing/Midwifery Directors and senior medical staff, the Business Manager/Matron will identify areas for improvement and will ensure that any actions that arise from complaint investigations are addressed/implemented.

### **Consultant Medical Staff**

Consultant medical staff members will be responsible for investigating complaints, or part complaints relating to their practice and that of their junior staff in conjunction with the General Manager.

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### **Ward/Departmental Managers/Specialty Business Managers**

With the support of Matrons and Clinical Business Managers, Ward/departmental managers and Specialty Business Managers will assume responsibility for investigating complaints, or part complaints relating to their staff and or area of responsibility.

### **Divisional Clinical Governance Teams / Clinical Governance Facilitators / Nominated Individuals**

The Divisional Governance Team will actively engaged and aware of all complaints and progress with investigations as communicated with the Case Managers.

The Divisional Clinical Governance Team will be responsible for identifying areas for improvement, and liaising with Divisional, Directorate or departmental teams to ensure that, where appropriate, action plans are produced and completed and can demonstrate positive impact.

### **Claims and Legal Services Manager**

The Claims and Legal Services Manager will provide advice and assistance to the Head of Customer Care in relation to the management of complaints where it is suspected or indicated that a claim may result from the complaint.

### **Safeguarding Adults Practitioner**

The Safeguarding Adults Practitioner will provide advice on the reporting and management of complaints where a potential safeguarding concern relating to a vulnerable adult is identified.

### **Trust Lead Nurse for Safeguarding Children and Young People**

The Trust Lead Nurse for Safeguarding Children and Young People will provide advice on the reporting and management of complaints where a potential safeguarding concern relating to a child or young person is identified.

PALS act as an early warning system for the Trust by providing monthly reports to each speciality and relevant governance groups regarding concerns within their areas.

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## Appendix 4: Complaint Assessment and Risk Rating

### Initial Complaint Assessment

This process will ensure that any subsequent handling and any associated investigation are proportionate to the severity of the complaint and the related risks.

### **Figure 1 Initial Assessment**

Initial assessment of complaint	Type of complaint	Level of investigation and response period
Low level - formal complaint	No/low harm Simple, non-complex complaints	Response may be provided verbally or in writing by the Customer Care Team/PALS/Matron/Departmental Head, with the complainant's agreement. Response period – within 35 working days from receipt of complaint by Customer Care Team, or within timescale agreed with the complainant.
Medium level – formal complaint	Moderate harm Several issues relating to clinical care	More detailed investigation involving clinical matters. Response signed by Chief Executive Response period – within 35 working days from receipt of complaint by Customer Care Team or within timescale agreed with the complainant.
High level – formal complaint	Severe harm/death Complex complaint involving more than one division or more than one organisation. Issues may have been investigated as a serious untoward incident or may have the potential for a legal action.	Investigation by clinicians with option to obtain advice from Associate Medical Director/Lead Clinician. Response signed by Chief Executive Response period negotiated with complainant

### Risk Rating of Complaints

An assessment of the risks attached to a particular complaint or concern will be undertaken using the Trust's Risk Matrix once the investigation is complete and recorded in Datix

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## Appendix 5: Advice on Handling Unreasonable, Regular or Persistent Complainants

### 1. Purpose of Document

Complaints about Trust services are processed in accordance with NHS complaints procedures. During this process Trust staff inevitably has contact with a small number of complainants who absorb a disproportionate amount of NHS resources in dealing with their complaints. The aim of this document is to identify situations where the complaint might be considered to be vexatious or persistent and to suggest ways of responding to these situations.

It is emphasised that this procedure should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the NHS complaints procedures, for example through local resolution, conciliation, or involvement of advocacy services as appropriate.

Judgement and discretion must be used in applying the criteria to identify potential vexatious, unreasonable or persistent complaints and in deciding action to be taken in specific cases. The procedure should only be invoked in exceptional circumstances and implemented following careful consideration by the Head of Customer Care in conjunction with the legal team, the Director of Governance, and with the authorisation of the Chief Executive of the Trust or in his/her absence, a nominated Executive Director.

### 2. Definition Of A Vexatious, Unreasonable Or Persistent Complaint

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

- a) Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted (e.g. where investigation has been denied as ‘out of time’ or where a request for Independent Review has been turned down).
- b) Continually change the substance of a complaint; continually raise new issues; seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. (Care must be taken not to discard new issues, which are significantly different from the original complaint. These might need to be addressed as separate complaints).
- c) Are unwilling to accept documented evidence of treatment given as being factual, e.g. drug records, medical case notes or computer records, nursing records; where they deny receipt of an adequate response in spite of correspondence specifically answering their

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questions; where they do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.

- d) Do not clearly identify the precise issues to be investigated, despite reasonable efforts of Trust staff to help specify their concerns and/or where the concerns identified are not within the remit of the Trust to investigate.
- e) Focus on a relatively insignificant matter to an extent that is out of proportion to its significance and continue to focus on this point. (It is recognised that determining what is a ‘relatively insignificant’ matter can be subjective and careful judgement must be used in applying this criteria).
- f) Have threatened or used actual physical violence towards staff or their families or associates at any time – this will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication. All such incidents should be documented and reported to the Physical Risk Team.
- g) Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety, or distress and should make reasonable allowances for this. They should document all incidents of harassment and report them to the Physical Risk Team).
- h) Have in the course of addressing a registered complaint, had an excessive number of contacts with the Trust placing unreasonable demands on staff. (A contact may be in person or by telephone, letter, e mail 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).
- i) Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
- j) Display unreasonable demands or patient/complainant expectations and fail 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).

### 3. Options For Dealing With Unreasonable Or Persistent Complaints

Where complaints have been identified as unreasonable or persistent in accordance with the above criteria, the Chief Executive (or nominated Executive Director in his

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absence) will determine what action to take. The Chief Executive (or nominated Executive Director) will implement such action and will notify complainants in writing of the reasons why their complaint has been classified as vexatious or persistent and the action to be taken. This notification may be copied for the information of others already involved in the complaint, e.g. practitioners, advocacy services, or Member of Parliament. A record must be kept for further reference of the reasons why a complainant has been classified as vexatious or persistent.

The Chief Executive (or nominated Executive Director) may decide to deal with complaints in one or more of the following ways: -

- Try to resolve matters, before invoking this procedure, by drawing up a signed 'agreement' with the complainant (and if appropriate involving the relevant manager in a two-way agreement) which sets out a code of behaviour for the parties involved if the Trust is to continue processing the complaint. If these terms are contravened, consideration can then be given to implementing other action as indicated in this section.
- Once it is clear that a complainant meets any one of the above criteria, it may be appropriate to inform them in writing that their behaviour contravenes Trust approved policy, explaining why, copying this procedure to them, and advising them to take account of the criteria in any further dealings with the Trust. In some cases it may be appropriate, at this point, to suggest the complainant seeks advice in processing their complaint, e.g. through the relevant Advocacy Service.
- Decline contact with the complainant either in person, by telephone, fax, e mail, 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. (If staff withdraw from a telephone conversation with a complainant it is advised that they first inform the caller that they intend to do so, before curtailing the conversation).
- Notify the complainant in writing that the Chief Executive has responded fully to the points raised and has tried to resolve the complaint but that 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.
- Inform the complainant that in extreme circumstances the Trust reserves the right to notify the Trust's solicitors of unreasonable or vexatious complaints. Temporarily suspend all contact with the complainant or suspend investigation of a complaint whilst seeking legal advice or guidance from NHS England, NHS Executive, or other relevant agencies.

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#### 4. Withdrawing 'Unreasonable Or Persistent' Status

Once a complainant has been designated, as 'unreasonable or persistent' there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach or if they submit a further complaint for which normal complaints procedures would appear appropriate. Staff should previously have used discretion in recommending 'vexatious or persistent' status at the outset and discretion should similarly be used in recommending that this status be withdrawn when appropriate. Where this appears to be the case, discussion will be held with the Chief Executive (or nominated Executive Director). Subject to their approval, normal contact with the complainant and application of NHS complaints procedures will then be resumed.

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## Equality, Diversity & Inclusion Impact Assessment Form

<b>Department/Function</b>	Customer Care Team – Governance			
<b>Lead Assessor</b>	Stephanie Iaconianni, Head of Customer Care			
<b>What is being assessed?</b>	Customer Care and PALS Policy and Procedure			
<b>Date of assessment</b>	June 2018			
<b>What groups have you consulted with? Include details of involvement in the Equality Impact Assessment process.</b>	Equality of Access to Health Group	<input checked="" type="checkbox"/>	Staff Side Colleagues	<input type="checkbox"/>
	Service Users	<input type="checkbox"/>	Staff Inclusion Network/s	<input type="checkbox"/>
	Personal Fair Diverse Champions	<input type="checkbox"/>	Other (Inc. external orgs)	<input checked="" type="checkbox"/>
	Governance Teams and Customer Care Team			

### 1) What is the impact on the following equality groups?

1) What is the impact on the following equality groups?		
<b>Positive:</b>	<b>Negative:</b>	<b>Neutral:</b>
<ul style="list-style-type: none"> <li>➤ Advance Equality of opportunity</li> <li>➤ Foster good relations between different groups</li> <li>➤ Address explicit needs of Equality target groups</li> </ul>	<ul style="list-style-type: none"> <li>➤ Unlawful discrimination, harassment and victimisation</li> <li>➤ Failure to address explicit needs of Equality target groups</li> </ul>	<ul style="list-style-type: none"> <li>➤ It is quite acceptable for the assessment to come out as Neutral Impact.</li> <li>➤ Be sure you can justify this decision with clear reasons and evidence if you are challenged</li> </ul>
<b>Equality Groups</b>	<b>Impact</b> (Positive / Negative / Neutral)	<b>Comments:</b>
<b>Race</b> (All ethnic groups)	Positive	<ul style="list-style-type: none"> <li>➤ Provide brief description of the positive / negative impact identified benefits to the equality group.</li> <li>➤ Is any impact identified intended or legal?</li> </ul>
<b>Disability</b> (Including physical and mental impairments)	Positive	
<b>Sex</b>	Positive	
<b>Gender reassignment</b>	Positive	
<b>Religion or Belief</b> (includes non-belief)	Positive	
<b>Sexual orientation</b>	Positive	
<b>Age</b>	Positive	
<b>Marriage and Civil Partnership</b>	Neutral	

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<b>Pregnancy and maternity</b>	<b>Neutral</b>	
<b>Other</b> (e.g. caring, human rights, social)	<b>Positive</b>	

2) In what ways does any impact identified contribute to or hinder promoting equality and diversity across the organisation?	
--	--

3) If your assessment identifies a negative impact on Equality Groups you must develop an action plan **to avoid discrimination and ensure opportunities for promoting equality diversity and inclusion are maximised.**

- This should include where it has been identified that further work will be undertaken to further explore the impact on equality groups
- This should be reviewed annually.

<b>ACTION PLAN SUMMARY</b>		
<b>Action</b>	<b>Lead</b>	<b>Timescale</b>

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## HOW THE NHS CONSTITUTION APPLIES TO THIS DOCUMENT

<b>WHICH PRINCIPLES OF THE NHS CONSTITUTION APPLY?</b> <a href="#">Click here for guidance on Principles</a>	Tick those which apply	<b>WHICH STAFF PLEDGES OF THE NHS CONSTITUTION APPLY?</b> <a href="#">Click here for guidance on Pledges</a>	Tick those which apply
1. The NHS provides a comprehensive service, available to all. 2. Access to NHS services is based on clinical need, not an individual's ability to pay. 3. The NHS aspires to the highest standards of excellence and professionalism. 4. The patient will be at the heart of everything the NHS does. 5. The NHS works across organisational boundaries. 6. The NHS is committed to providing best value for taxpayers' money. 7. The NHS is accountable to the public, communities and patients that it serves.	✓ <input type="checkbox"/> ✓ ✓ ✓ ✓ ✓	1. Provide a positive working environment for staff and to promote supportive, open cultures that help staff do their job to the best of their ability. 2. Provide all staff with clear roles and responsibilities and rewarding jobs for teams and individuals that make a difference to patients, their families and carers and communities. 3. Provide all staff with personal development, access to appropriate education and training for their jobs, and line management support to enable them to fulfil their potential. 4. Provide support and opportunities for staff to maintain their health, wellbeing and safety. 5. Engage staff in decisions that affect them and the services they provide, individually, through representative organisations and through local partnership working arrangements. All staff will be empowered to put forward ways to deliver better and safer services for patients and their families. 6. To have a process for staff to raise an internal grievance. 7. Encourage and support all staff in raising concerns at the earliest reasonable opportunity about safety, malpractice or wrongdoing at work, responding to and, where necessary, investigating the concerns raised and acting consistently with the Employment Rights Act 1996.	✓ ✓ ✓ <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>WHICH AIMS OF THE TRUST APPLY?</b> <a href="#">Click here for Aims</a>	Tick those which apply ✓ ✓ <input type="checkbox"/>	<b>WHICH AMBITIONS OF THE TRUST APPLY?</b> <a href="#">Click here for Ambitions</a>	Tick those which apply ✓ <input type="checkbox"/> ✓ <input type="checkbox"/>

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