

The Robert Jones and Agnes Hunt Orthopaedic Hospital

NHS Foundation Trust

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1. Key Points

- All written complaints are to be sent directly to the Governance Department
- Complaints are to be acknowledged within three working days of receipt in the Governance Department
- All complainants are to be given the opportunity to discuss their complaint with an appropriate member of staff
- The PALS service is available for people who wish to raise a concern without making a formal complaint

2. INTRODUCTION

2.1.1 The NHS Complaints Policy and Procedure is governed by statutory directions and detailed guidance contained within the Local Authority Services and National Health Services Complaints (England) Regulations 2009 which came into force from 01 April 2009 ('the Regulations'). The Regulations are designed to make the complaints procedure clearer and easier to access for those who need it.

2.1.2 Any service user, client or carer who is dissatisfied needs to be given an open opportunity to voice their complaint, and to believe that it will be taken seriously, properly investigated, explained and resolved. Whilst making a complaint, whether made formally or informally, the complainant will not be discriminated against in terms of further services or treatments provided by the organisation being complained about.

2.1.3 The Robert Jones and Agnes Hunt Orthopaedic Hospital NHS Foundation Trust is committed to ensuring that our approach to receiving, investigating and responding to complaints reflects the principles of good complaint handling as identified in Listening, Responding, Improving: A guide to better customer care (Department of Health 2009a, page 4), the findings of the Francis report (2013) and the Parliamentary and Health Service Ombudsman's reports 'Principles of Good Complaints Handling' (2009), 'My Expectations' (2014) and Making Complaints Count: Supporting complaints handling in the NHS' (2020).

2.1.4 As a Trust we will therefore ensure that:

- (a) Complaints are dealt with efficiently
- (b) Complaints are properly investigated
- (c) Complainants are treated with respect and courtesy
- (d) Complainants receive, so far as is reasonably practical:
 - (i) Assistance to enable them to understand the procedure in relation to complaints

OR

- (ii) Advice on where they may obtain such assistance
- (e) Complainants receive a timely and appropriate response
- (f) Complainants are told the outcome of their complaint and
- (g) Action is taken if necessary in light of the outcome of a complaint.

2.2 PURPOSE OF THIS DOCUMENT

This document sets out the process for receiving, investigating, responding to and learning from complaints made by service users and/or their friends, relatives or advocacy service. This document also identifies the framework for providing assurance that the Trust has taken steps to prevent similar occurrences where the investigation has identified service failings.

Within this document there are details concerning the complaints process and procedures.

2.3 DUTIES

2.3.1 Chief Executive

The Chief Executive signs the final written response to the complainant as part of Local Resolution, giving a full and formal explanation of the complaint investigation and conclusion. The option for the complainant to contact the Trust again if they are not satisfied with the response is included in the

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reply. This is so that further options may be discussed which could include further internal review or referral to the Ombudsman if necessary.

2.3.2 Chief Nurse

The Chief Nurse has executive responsibility for all aspects of governance and is accountable for ensuring the implementation of the complaints policy and procedures, linking them with clinical incidents and audit, providing advice and ensuring training programmes are implemented.

The Chief Nurse is the designated 'Complaints Manager' for the Trust who will oversee all stages of the complaints procedure within the Trust.

2.3.3 Director of Governance/Trust Secretary

The Director of Governance/Trust Secretary will review all complaint responses prior to them being reviewed by the Chief Executive.

2.3.4 Head of Governance

The Head of Governance and Quality will review all complaint responses prior to them being reviewed by the Director of Governance.

The Head of Governance and Quality will meet with complainants who do not wish to raise their concerns with the Ward Manager or the Matron, or if they are dissatisfied with the response they may already have received from the Ward Manager or the Matron.

2.3.5 Chief Medical Officer

The Chief Medical Officer will review all complaints and responses relating to the provision of medical care by a doctor or consultant.

2.3.6 Governance Leads and Governance Assistants

The Governance Lead carries out the day-to-day management of the complaints procedure alongside their Governance Assistant, ensuring investigation of complaints in their Unit. This also includes responsibility for collecting and disseminating complaints reports within their Unit. The Governance Leads report to the Head of Governance and Quality and the Director of Governance on all matters relating to complaints.

2.3.7 Clinical Director/Clinical Lead/Assistant Chief Nurse and Assistant Chief of Professions

The Clinical Directors/Clinical Leads/Assistant Chief Nurses and Assistant Chief of Professions are informed of all complaints relating to their Unit. If the concerns raised are of a particularly sensitive or difficult nature then the Clinical Director/Clinical Lead can discuss this with staff members involved with appropriate referrals to the NMC or GMC (or other regulatory body) as required.

2.3.9 Operational Managers

Operational Managers will assist in the thorough investigation of complaints as necessary and ensure that accurate and timely responses are provided to the Governance Department. They will review complaints through their Unit meetings. They will ensure that any changes in practice, procedures and action plans as a result of a complaint are implemented within their Unit. Where a complaint does not fall under a single Unit, the Governance Department will identify and nominate an appropriate manager to lead on any improvements and the appropriate Committee for monitoring.

2.3.10 Matrons

The Matrons will assist in resolving complaints as necessary and are responsible for ensuring that staff within their areas are aware of and comply with the complaints policy and procedures. They will ensure changes in practice are made where appropriate. They meet with complainants upon request. They report to the Associate Chief Nurses.

2.3.11 Patient Advice & Liaison Service (PALS)

The Governance Leads hold day-to-day responsibility for resolving informal concerns quickly, and provide a 'signposting service' to service users and advice on the complaints procedure. Concerns can also be dealt with as a PALS, which deals with complaints where the complainant has expressed a wish not to go through the formal complaints process. The PALS function may assist service users with writing a letter of complaint, or direct them to an appropriate advocacy service.

2.3.12 Governance Admin Assistant

The Governance Admin Assistant deals with telephone enquiries as well as emails and/or letters addressed to the PALS service. The Governance Admin Assistant is also the first point of contact for people wishing to make a complaint, and the Governance Admin Assistant meets complainants and service users on the ward or in the PALS meeting room based in the Governance Department. The Governance Admin Assistant can direct the enquirer to an appropriate advocacy service, and also forwards PALS or complaints enquiries on to the relevant Governance Lead and/or Governance Assistant for the Unit that the complaint relates to. The Governance Admin Assistant reports to the Governance Lead for the Support Services Unit.

2.3.13 Ward/Department Managers

Ward/Department Managers are responsible for ensuring that staff within their areas are aware of and comply with the complaints policy. They are responsible for ensuring complaints are thoroughly investigated, statements and notes are taken, and they must provide accurate and timely responses for complaints to the Governance Department. They will ensure any actions agreed with the complainant (as part of an action plan) are implemented and monitored.

2.3.14 Departmental Staff/Ward Staff

Staff will be asked (via their line manager or via their Operational Manager) to provide comments on any complaints that they are named in or are involved in. Staff will be offered appropriate guidance by their line manager/Ward Manager to ensure that they are supported through the complaints process and to ensure that the staff member is kept up to date with the progress (and outcome) of the complaint.

2.3.15 All staff

All staff members are responsible for treating patients, service users, carers, visitors and colleagues with empathy, dignity and respect. All staff must familiarise themselves with the complaints policy and ensure that complainants are given the correct advice on how and to whom to complain. Many complaints can be resolved on the spot, especially where an immediate apology can be made. If the complaint cannot be dealt with by the member of staff to whom it is made, it should be referred immediately to their line manager or Matron (where applicable). All verbal complaints must be recorded on the Trust's Local Early Resolution Record for Verbal Complaints (Appendix 3) which is available on the Intranet.

3. Quality and Safety Meeting

This meeting reviews the contents of the Patient Experience Report, which is produced three times per year. These meetings also decide whether further actions or assurances are required around the handling of complaints and concerns and any service improvements.

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4. Trust Board

The Trust Board receives information on formal complaints and PALS contacts as part of the monthly Unit performance report.

5. DEFINITIONS

A complaint can be defined as expression of dissatisfaction, however made, about the standard of service, action or lack of action by the service or its staff affecting an individual customer or group of customers. The Trust has three systems for dealing with anyone who wishes to complain.

5.1 Complaints

If someone wishes to raise an issue formally, this is handled as a complaint by the Governance Department following the national NHS complaints procedure.

5.2 Concerns

If the service user wishes to raise the issue informally (i.e. does not intend it to be lodged as a complaint), this will be handled as a "concern" through the Patient Advice and Liaison Service (PALS).

5.3 Local Early Resolutions

Verbal complaints or matters which can be resolved to the complainant's satisfaction immediately (or by the next working day) are handled as a Local Early Resolution. Details are recorded on Datix for the purpose of monitoring and analysis.

6. GUIDANCE ON MANAGING COMPLAINTS

6.1 Who may complain?

6.1.1 Complaints can be made by anyone who has used NHS services or facilities. The NHS Complaints Procedure is designed to address service users and relatives' complaints, not staff complaints about services related to their employment within the NHS.

6.1.2 Someone acting on behalf of an NHS service or facility user (an advocate or a representative), providing they can demonstrate that they have obtained that person's consent. If consent has not been obtained, it is appropriate for the Trust to request confirmation of the service user's authorisation that the complainant may act on their behalf, especially where the Trust's response may confirm or contain details of clinical treatment which would otherwise be protected information.

6.1.3 The Trust has a standard form which can be sent to the complainant on which to document the service user's consent.

6.1.4 In respect of a service user who has died or who is otherwise incapable of giving consent, the representative must be a person whom the Trust is satisfied is a suitable person to act as a representative. Proof of the person's entitlement to act as a representative may be required, such as a signed and registered Power of Attorney document. If the deceased person did not have a Power of Attorney document then a copy of the deceased's person's Will which confirms the Executors and/or beneficiaries of the Estate may be requested.

6.1.5 The Trust will not require consent from a patient who is deemed to be incapable under the Mental Capacity Act 2005 of giving consent in respect of the complaint. Appropriate advice will be sought in relation to mental capacity when necessary from the Safeguarding Team.

7. Consent from persons under the age of eighteen

7.1 Consent will be sought from a child between 12 and 16 years of age unless the appropriate healthcare professional advises that the child is not Gillick competent.

7.2 Consent will not be sought when the patient is less than 12 years of age unless the appropriate healthcare professional deems the child to be Gillick competent.

8. Allegations against staff

Staff will be informed either directly or via their line manager if a complaint made against them is received by the Trust. Individual members of staff should also see copies of any complaints (including those sent via email) in which they are mentioned. All staff named in a complaint must be updated during the process and informed of the outcome of the complaint. Staff members may need assistance in preparing reports or evidence required during the complaints process and should be advised that they may want to contact their professional organisation or trade union. Staff will be supported throughout this process by their line manager and the Governance Department.

Please refer to the Managing Allegation Policy if appropriate.

8.1 Complaints and the Disciplinary Procedures

8.1.1 The Trust Complaints and Disciplinary procedures have different purposes. The Complaints procedure carries no authority to identify or take remedial action in respect of individual staff.

8.1.2 The complaints procedure is concerned only with resolving complaints and not with investigating disciplinary matters. The purpose of the complaints procedure is not to apportion blame amongst staff but to investigate complaints with the aim of satisfying complainants whilst being fair to staff. It also offers an opportunity to improve service delivery.

8.1.3 The complaints procedure and disciplinary processes may run concurrently.

9. The Care Quality Commission (CQC)

9.1 Any patient may raise a complaint directly with the CQC. The Trust may be notified of this either directly from the complainant or by the CQC themselves. The CQC may request a copy of any letters sent to the complainant. If the CQC has concerns about the number of complaints in or relating to a specific area of the Trust, then this may be taken into account when the CQC makes planned or unplanned visits to the Trust and impacts on the information requested by the CQC during these visits.

10. Liaison with Third Parties

10.1 Advocacy and support groups

Independent advocacy provides support to people with particular needs and client groups. In Wales the Community Health Councils (CHCs) provide free advocacy assistance to residents of that CHC area. In England there are different advocacy providers which operate in different counties. The advocacy service provided is based on where the patient lives, but the current advocacy provider for Shropshire, Healthwatch, will provide advocacy assistance to complainants residing outside of the Shropshire area upon request. They do not however provide a national service. Further details of the advocacy service in place for residents of a particular county can be provided on request by the Governance team.

The use of advocacy services can play a pivotal role in helping complaints focus their complaint, support the complainant through the stages of the NHS Complaints Procedure and understand any

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response made by the Trust. The advocacy service can also provide patients with support at meetings. The English NHS advocacy services are funded via local authority funding, and the Welsh advocacy services are funded by the Welsh Health Board responsible for that geographical area.

All staff should be aware that they can offer complainants the opportunity to contact their local advocacy service for assistance in making their complaint.

11. The Parliamentary & Health Service Ombudsman (PHSO)

The Ombudsman will only investigate complaints that have not been resolved locally by the Trust. The Ombudsman will look into complaints raised by Welsh or English resident patients about the Trust.

11.1 Contact information for the PHSO

The Parliamentary & Health Service Ombudsman
City Gate
51 Mosley Street
Manchester
M2 3HQ

Telephone: 0345 015 4033

Website: www.ombudsman.org.uk

12. Complaints involving other agencies

- 12.1** Where a complaint is received that contains material relating to more than one health or social care organisation the Governance Department will contact any other organisations involved and agree who will lead on the investigation and response. A timescale for responding must be agreed between the complainant and any other organisations.
- 12.2** The lead organisation will liaise with all other organisations to agree a final response. This must be checked internally through the normal process for checking the draft response, as set out in Appendix 1. The lead organisation will be responsible for sending the final response to the complainant, once agreed by all organisations. The organisations have a duty to cooperate and must agree a joint response to be sent to the complainant.
- 12.3** Where a complaint is received that does not relate to this Trust, the hospital must ask the complainant within 3 working days of receipt of the complaint whether they wish for their complaint to be sent to the relevant organisation. If the complainant agrees, the hospital will send the complaint to the relevant organisation as soon as reasonably practicable.

13. Involving External Agencies

If at any stage of the complaints investigation there are serious issues which need to be addressed, the Chief Nurse, Director of Governance and/or the Chief Medical Officer will be responsible for determining whether other external agencies should be involved such as the General Medical Council or NHS Protect.

For example where a complaint involves:

- an allegation regarding a doctor's fitness to practice
- an allegation of fraud

If Safeguarding concerns are raised within the complaint please notify the Trust's Safeguarding Leads.

- 13.1** If the decision is made to take this action before a complaint investigation has been completed, consideration will need to be given to how far the investigation under the NHS Complaints Procedure can continue and whether other investigations can run alongside it.
- 13.2** The GMC's powers and sanctions are linked to their responsibilities for the Medical Register. These are mainly limited to taking action on serious concerns which call into question a doctor's fitness to practice and suitability to retain unrestricted registration. Most of the complaints the GMC receive do not fall into that category and most would be best dealt locally under the NHS Complaints Procedure where Trusts are often best placed to look at the patient's experience and identify any systematic problems. The GMC on receipt of such complaints will refer these directly to the NHS Trust to take forward under their own complaints procedures.
- 13.3** The role of the NMC is to determine if a nurse or midwife's fitness to practise is currently impaired. They must also decide if the nurse or midwife poses a risk to service users if allowed to continue practising without any restriction on their registration. In the most serious of cases, the panel may decide to strike the person's name from the register. This means they would no longer be permitted to work as a nurse or a midwife.

14. Multi-Sector Complaints

- 14.1** The Regulations require that NHS Trusts co-operate where a complaint involves another NHS Trust or other bodies such as the Local Authority or a particular Commissioner of a service.
- 14.2** There will be an agreement between the organisations as to who will take the lead in co-ordinating the handling of the complaint and the communication with the complainant. The organisation that will lead will usually be the organisation which has the majority of concerns to be answered in the complaint, but it is open to the complainant to elect to have more than one reply which deals with each organisations response separately should they so wish.

15. Consent and Patient Confidentiality between agencies

In transferring complaints between agencies (including the Ombudsman), it is important to ensure that patient confidentiality is maintained at all times. Every effort must be made to obtain the patient (or their representative) has given their consent before confidential information is shared with another agency. This will be done at the time the complaint is received to ensure that the complaints process is not delayed whilst waiting for consent. Consent should be obtained in writing wherever possible. If this is not possible, verbal consent should be logged in a file note and a letter sent to the complainant confirming that verbal consent has been received and confirming which organisation has received the complaint.

16. Referral to the Coroner

If the complaint concerns a death that has been referred to the Coroner's Office, the Chief Nurse and/or Director of Governance/Trust Secretary will instigate an investigation of the complaint and where necessary extend the scope of these investigations if the Coroner so requests. The Coroner is only looking at the cause of death, whereas the complaint may cover other issues.

17. Independent Review/Independent Assessment

- 17.1** If a complainant is unhappy with the outcome of their complaint (that relates to clinical or medical care) then the Trust can request an independent review from another Trust. The complainant will be advised of the findings of the other Trust in full, and may wish to seek further advice either from the Ombudsman or from a legal representative as to their next steps if they wish.
- 17.2** Upon request, the Trust would look to conduct independent reviews into care provided at other Trusts provided that this Trust has the necessary specialist practitioners who would be able to

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do this. As the Trust is a specialist orthopaedic trust, it may not always be the case that such reviews could be carried out with specialist knowledge of other areas of medicine.

18. Complaints following an adverse incident

- 18.1** The investigation into the incident should continue as normal to ensure that action is taken to reduce the risk of recurrence. For serious adverse incidents, a full investigation should be carried out in line with the *Serious Incident Policy*.
- 18.2** The investigation should continue in conjunction with the handling of the complaint, and the complainant must be kept informed.
- 18.3** The incident report will assist in the response to the complaint.

19. Complaints from Political Representatives

- 19.1** When a local councillor, MP, AM or MEP writes on behalf of a constituent, the issue is often about non-clinical matters (e.g. waiting times) and the Unit to which the concern relates is usually able to respond promptly in general terms and outside of the complaints procedure.
- 19.2** If a patient's personal health details have to be included, the response should go directly to the political representative. Separate written consent is not required as the patient has contacted the representative directly and has therefore given their consent for the representative to contact the Trust. The only exception is where a third party contacts a representative and asks them to act on behalf of someone else (eg a husband asks an MP to act on behalf of his wife). In these circumstances written consent is required from the patient themselves. This is in accordance with the Information Commissioners Office (ICO) regulations which can be found at www.ico.org.uk.

20. Complaints from Solicitors/Intention to Litigate/Financial Redress

- 20.1** Complainants have a right to convey their complaint via a solicitor and the complaints process should proceed as normal. If the complainant's consent for the solicitors firm to act on their behalf is not included with the letter of complaint, the Governance Department will request consent, as per the process set out in this policy.
- 20.2** If a complainant implies that they are considering legal action, they can be referred to AvMA for further free impartial legal advice. AvMA's contact details are:

Action against Medical Accidents (AvMA)
Freedman House
Christopher Wren Yard
117 High Street
Croydon
CR0 1QG

Tel: 0845 123 2352
www.avma.org.uk

21. NHS Resolution (NHSR)

- 21.1** If it is identified or a complainant intimates that they are considering legal action when the complaint is received then this will be reported to NHSR as a potential claim.
- 21.2** If there is a possibility of subsequent legal proceedings which becomes apparent during the complaints process then the draft complaint response will be forwarded to NHSR and/or the Trust's solicitors for advice.

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It may not be clear whether the complainant simply wants an explanation and apology or whether they are seeking information with formal litigation in mind. An open and sympathetic approach and response may satisfy the complainant. An apology is not an admission of liability and NHSR recommends that Trusts offer apologies where they are warranted.

21.3 Whilst compensation is outside the formal remit of the complaints procedure, a speedy *ex gratia* payment may be made such as the reimbursement of travel expenses. It must be kept in mind that *ex gratia* payments cannot be considered or included in the evaluation of damages in the event of any future legal claim. The Chief Executive's response will specifically address any request for compensation made in the letter of complaint.

21.4 The complaints process and formal legal proceedings may run concurrently.

22. Habitual complainants and difficult patient relationships

22.1 Some people make complaint after complaint and want to continue when nothing further can reasonably be done to assist them. Provided the complaint has been fully investigated, the Chief Nurse, Director of Governance/Trust secretary and/or the Chief Executive have the authority to stand down the complaints process, and the complainant will be informed accordingly. The complainant can also be referred to the Ombudsman for the Ombudsman to consider any areas that he/she feels warrant further investigation by the Trust.

22.2 All Trust staff need to be courteous at all times, even if service users are rude or aggressive, however no member of staff should be the subject of verbal or physical abuse of any kind. Any incident of this sort should be reported to their manager in line with the *Prevention and Management of Violence and Aggression Policy* and a Datix completed. Conflict Resolution training is available to all staff according to the Trust's Training Needs Analysis (see Learning & Development policy and procedures).

23. Guidance on handling unreasonable behaviour from complainants, relatives, and/or representatives of patients

23.1 On occasion, a person making a complaint (or someone who is acting on behalf of a patient) can become unreasonable and/or aggressive. There are a number of ways to help manage this type of situation.

23.2 Make sure that clear information about the complaints process (and advocacy support) is available.

23.3 Try to manage expectations from the outset, and be clear about what the complaints process can and cannot do.

23.4 Ensure that your line manager is aware of the issues and that they can provide support as can the Governance team.

23.5 If you meet the person face to face try to ensure that you do not meet them alone. Ensure that minutes of any meetings are made and kept.

23.6 Ask that contact with the person is only made in one way, such as by telephone. Restrict the number of calls or meetings during a specific period of time (such as one telephone call per day for no longer than five minutes).

23.7 Provide a single point of contact with one member of staff within the Trust and make it clear to the person that no other staff members will be able to help them. Make sure that other staff who may be contacted are aware that only the specified member of staff is to speak to or liaise with the complainant.

- 23.8** Contact could be made through a third party such as an advocate or other representative.
- 23.9** Make the person aware that multiple complaints about the same issue that have already been responded to (and/or where they have been investigated by the Ombudsman or via legal proceedings) will be logged and acknowledged but no further correspondence will be entered into.
- 23.10** When using any of these approaches explain the reasons why these are being carried out and detailed records of contacts should be kept by or sent to the nominated point of contact for the person within the Trust.

24. Complaints concerning private treatment

- 24.1** Complaints from private service users will be investigated in the same way as complaints from NHS service users, but they will not be registered under the NHS Complaints Procedure unless the complaint is about the Trust's NHS nursing staff or facilities.
- 24.2** Complaints about private treatment fall outside the scope of the Parliamentary and Health Service Ombudsman, so the option to refer to the PHSO should not be included in the Trust's final response.

25. Health Records

- 25.1** When a complaint is made it is necessary to share patient information with those involved in the investigation. It is imperative that confidentiality is maintained throughout the complaints investigation. The Data Protection Act 2018 and the Access to Health Records Act 1990 control the release and sharing of information about individuals during the complaints process.
- 25.2** The type of information that may be shared is:
- Any correspondence which relates directly to the complaint itself
 - In the case of a complaint about clinical care, any relevant extracts from the patient's medical records
 - If the complaint is made by someone other than the patient, consent will need to be obtained from the patient (where possible)
- 25.3** At the Local Resolution stage of the complaint information may be shared with those involved in the investigation. These may include: the individual(s) undertaking the investigation; individuals named in the complaint or who can assist in the investigation; recognised advisers to either the complainant or the person complained about; a conciliator or other independent third party with the complainant's consent.
- 25.4** It is important to note that any emails regarding the complaint must not contain any patient identifiable information. Hospital numbers, patients' initials and complaint reference numbers should be used instead.
- 25.5** Under the Data Protection Act 2018, all service users have a right of access to their clinical records subject to specific exemptions. Refer to the Trust's Subject Access Request Policy for more information.

26. Ongoing clinical treatment of complainants

- 26.1** Complaint records must be kept separately from health records, subject to the need to record information which is strictly relevant to the patient's health. Such records must be treated with the same degree of confidentiality as normal records and they would be open to disclosure in legal proceedings. At all times complaints must be treated in strictest confidence.

- 26.2** Service users must be advised and assured where necessary that they will not be victimised nor their clinical treatment compromised if they make a complaint. When requesting comments from staff in relation to a complaint, staff must be advised that they should not include any communication relevant to the complaint in the patient's health records. Should it become apparent that a patient's care has been or may potentially be compromised as the result of a complaint (e.g. a reference to the complaint in the patient's health records), the person discovering or suspecting this must raise an incident via Datix so that appropriate action can be taken to remedy the situation and offer further assurance to the patient where necessary.
- 26.3** Where it is evident that the relationship between a patient and a healthcare professional has broken down to such an extent that the healthcare professional can no longer provide treatment to the patient, the Trust must look at transferring care of the patient to another healthcare professional internally in the first instance and then externally. This decision must be agreed by the Chief Medical Officer and/or Chief Nurse and, where appropriate, advice should be sought from the Trust's solicitors.

27. TRUST ACCOUNTABILITY

- 27.1** The Trust has in place an effective complaints system and processes supported by regular monitoring by maintenance of data on a database (the Datix Risk Management System).
- 27.2** The Trust will ensure the Complaints Procedure is reviewed and updated accordingly and demonstrate overall accountability by sharing complaints statistics in its Annual Report with relevant organisations and hospital departments.
- 27.3** A Patient Experience report is produced three times a year, which contains quantitative and qualitative analysis of all complaints, concerns, local early resolutions and PALS contacts. This is reviewed by the Quality and Safety meeting.
- 27.4** The Trust Board reviews numbers of complaints and patient contacts through the monthly Key Performance Indicator (KPI) reports. The KPI reports are also made available to the individual Units as part of their monthly performance scorecard(s).
- 27.5** Throughout the Trust there will be simple, readily available, written information about the right to complain and the help available to complainants from the Patient Advice & Liaison Service and the free advocacy services. Anyone who asks for information about how to complain about services should be given a copy of the Trust's complaints leaflet and asked if they would like information about the free advocacy services.

28. Time limits for making a complaint

- 28.1** A complaint should be made as soon as possible after the event giving rise to it. The time limit for making a complaint will be twelve months from the date on which the matter which is the subject of the complaint occurred or twelve months from the date which the matter (which is the subject of the complaint) came to the notice of the complainant, whichever is later.
- 28.2** The Trust will endeavour to investigate any complaint received wherever possible, even when this may be outside of the usual twelve month period. The Ombudsman may request that the Trust looks into a complaint made outside of the twelve month period.

29. STANDARD OPERATING PROCEDURES (SOPs)

SOPs will cover all aspects of the procedure for handling complaints, concerns and local early resolutions. They are available in electronic format on the Trust intranet.

30. TRAINING

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To ensure there is equity of access to all aspects of learning and development for all staff employed by the Trust, the Trust has developed a Learning and Development Policy. The training required for this Complaints Policy is planned, delivered and audited in accordance with the Trust Learning and Development policy and delivered in accordance with the Learning and Development procedures document. The policy and procedures documents describe how the training needs analysis is undertaken, training/learning and development activity is advertised and how attendance is monitored and followed up.

31. ROLE OF THE PARLIAMENTARY & HEALTH SERVICE OMBUDSMAN

- 31.1** If dissatisfied with the response to a complaint, a complainant may seek an investigation from the Parliamentary and Health Service Ombudsman (PHSO). The Ombudsman would normally expect a complainant to have exhausted the NHS procedure before intervening. After a decision, the Ombudsman can recommend that the Trust reconsiders the earlier decision and that there be a return to Local Resolution, or the Ombudsman may investigate it him/herself. The Ombudsman is the final tier of the complaints system and they give final decisions on complaints about public services.
- 31.2** The Ombudsman bases their decisions on the Ombudsmans Principles, which incorporate the Principles of Good Administration, Principles of Complaint Handling and Principles for Remedy.

These can be found via the PHSO website at <https://www.ombudsman.org.uk/about-us/our-principles/principles-remedy>

32. MONITORING

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements	Acting on recommendations and Lead(s)	Change in practice and lessons to be shared
Duties	Governance Lead(s)	Checklist and report	Every two months	Quality and Safety meeting	Leads and timescales for specific actions will be identified in the action plan	Actions will be monitored by the Quality and Safety meeting. Lessons will be shared with relevant stakeholders
Process for listening and responding to concerns and complaints of service users, their relatives and carers						
Process for the handling of joint complaints between organisations						
Process for ensuring that service users, their relatives and carers are not treated differently as a result of raising a concern/ complaint						
Process by which the organisation aims to improve as a result of concerns/ complaints being raised						

33. KEY REFERENCES

- *Listening, responding, improving: a guide to better customer care (Department of Health, February 2009)*
- *The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*
- *Principles of Good Complaints Handling, Parliamentary & Health Service Ombudsman (February 2009),*
- *'My Expectations for raising concerns and complaints,' Parliamentary & Health Service Ombudsman (November 2014).*
- *'Making Complaints Count: Supporting complaints handling in the NHS,' Parliamentary & Health Service Ombudsman (July 2020)*
- *Data Protection Act 2018 and GDPR 2018*
- *Department of Health Good Practice Toolkit and Standards for Better Health*

34. OTHER RELEVANT POLICES

Other relevant policies and procedures to be referred to which can be accessed on the Trust's website:

- Serious Incident Policy
- Incident Policy
- Claims Policy
- Confidentiality Code of Practice
- Prevention and Management of Violence and Aggression Policy
- Being Open Policy

35. The complaints process

35.1 Acknowledgement

The acknowledgement standard for this process is **three working days**. This includes acknowledgements sent via email as well as by post. Where a complaint is made verbally, the acknowledgement must be accompanied by a written record with an invitation to the complainant to sign and return it to verify the details of the complaint.

35.2 All letters of complaint however addressed should be passed immediately to the Governance Department so that an acknowledgement can be undertaken. The acknowledgement will include the Trust's Complaint leaflet and details of advocacy services available. All complaints must receive an acknowledgment in writing. If a complainant makes a complaint via email they will receive both an email acknowledgement and a more formal acknowledgement by post. Where the initial acknowledgment within three working days is made verbally (e.g. by telephone) then a written record of the conversation must be kept on the file, with a letter of acknowledgment to follow.

36. Investigation

36.1 The Trust supports and encourages contact with complainants via the telephone or in a face-to-face meeting, as this may help with early resolution of the complaint. This often helps to clarify and prevent misunderstandings which are often at the root of complaints in the first place. When complaints are received, the complainant will be contacted by phone to discuss their complaint and expected outcome and agree an appropriate timescale for investigation. Where a complainant cannot be contacted by phone, the acknowledgement letter will include contact details for the hospital to allow the patient the opportunity to discuss their complaint over the phone or in person.

36.2 All complaints will be logged onto Datix by a Governance Lead and/or a Governance Assistant.

36.3 All investigations will be conducted in a manner which is supportive to all staff involved. The process of investigation is listening, learning and improving. The ward/department manager should ensure that staff who were present at the time, either as a witness or as someone giving direct care, are asked to provide an account of their involvement. This detail should be limited to a factual account.

37. Response

37.1 Following investigation, a response will be drafted by the Governance Lead for the Unit to which the complaint relates. The reply will be prepared with support from appropriate clinical and/or operational leads where appropriate.

37.2 The response will be clear, accurate, balanced, simple, fair and easy to understand. It will avoid technical terms where possible, but where technical terms are required, a clear explanation of that term will be provided. All the points raised in the complaint will be addressed. An outcome or explanation of planned action will be included where the investigation has proven that something could/should have been done differently, or if there is anything to be done as a result of the complaint.

37.3 The draft response will be reviewed and approved at department/ward level and Executive Director level, including the Director of Governance/Trust secretary. This will be recorded on the Complaints Review Summary cover sheet.

37.4 The response will be signed by the Chief Executive of the Trust. If the Chief Executive is not available then the response will wait until either the Chief Executive returns or he/she nominates a specific deputy to sign on his/her behalf.

37.5 The response will be sent to the complainant within the timescale agreed with the complainant. The Trust recommends that all complaints should be closed within five weeks or sooner.

Where there are good reasons why this is not possible, the Trust will keep the complainant informed of progress and if a longer period is necessary, the Trust will agree an extension to the timescale with the complainant. A letter will be sent to the complainant to confirm the new date that they will receive their complaint response. The letter is known as a 'holding letter' and is signed by the Director of Governance or Head of Governance.

- 37.6** The response will be posted unless the complainant has specifically requested a response by email and all communications will be marked 'Private and Confidential'.
- 37.7** Where the complainant is dissatisfied and wants to pursue the matter further, a meeting should be considered and arranged where appropriate in order to explore ways of resolving the issues of concern.
- 37.8** Any letter concluding the local resolution stage will indicate the right of the complainant to seek an independent review of how the complaint was dealt with. This review is conducted by the Ombudsman.
- 37.9** If a complainant has mentioned in their correspondence that they wish to seek redress or compensation, then the letter concluding the local resolution stage will also offer the contact details for AvMA (Association against Medical Accidents). AvMA are a charity who offer free legal advice to members of the public.
- 37.10** AvMA's contact details are:

Action against Medical Accidents
Freedman House
Christopher Wren Yard
117 High Street
Croydon
CR0 1QG

Tel: 0845 123 2352

www.avma.org.uk

38. Learning from complaints

- 38.1** The complaints process can offer opportunities to improve local processes and the services which the Trust provides. As part of the investigation process, staff must consider whether there are any changes in practice that can be made as a result of the complaint.
- 38.2** Where actions have been identified, unless the manager has identified in their initial response to a complaint that an action has already been implemented, an action plan will be requested from the relevant manager. Where there are dates in the future for the actions to be completed by, the Governance staff will ensure that these actions (and the action plans) are reviewed regularly to ensure that the actions are undertaken in a timely manner.
- 38.3** Where appropriate the complainant and those involved in the complaint will be kept informed of progress of any actions that have been taken.
- 38.4** The results of every complaint investigation and details of any actions taken as a result of that complaint are logged on Datix by Governance staff.
- 38.5** Details of complaints and any changes of practice are reported in the Patient Experience Report produced three times per year, which is monitored and reviewed at the Quality and Safety meeting.

39. Complaint Review Summary

Complaint Reference	Date Received	Date final response due

Investigator	Unit	Type of Response
		1 st response <input type="checkbox"/> 2 nd response <input type="checkbox"/> Deadlock letter <input type="checkbox"/> Ref to PHSO <input type="checkbox"/>

Complaint Summary

Investigation Summary

Corrective Action Required? An Action Plan must be attached.	Yes <input type="checkbox"/>
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Comments

Review and Sign-off	Date and initials
Approved by Contributors	
Approved by Associate Director of Governance/ Trust Secretary	
Approved/signed off by Chief Executive	

40. Local Early Resolution (verbal complaint) procedure

- 40.1** The Trust's philosophy is that verbal complaints and concerns should be resolved as quickly as possible through an immediate informal response by a front line member of staff.
- 40.2** The Governance team and ward/department staff and managers can help to deal with service users' concerns on the spot, avoiding the need for a formal complaint. They can also give advice about the complaints procedure. For further information about the PALS procedure, please see section 42 of the Complaints policy.
- 40.3** Outside of core hours, the 'on-call' manager can be contacted in the event that the hospital cover requires support/advice.
- 40.4** Front line staff should use the information they gain from verbal complaints to improve service quality. Each department/ ward will keep a copy of the Local Early Resolution Record for reference. (Appendix 3). A copy is also held by the Governance Department.
- 40.5** If the complaint cannot be resolved immediately, the complainant should be given a copy of the Trust's Complaint Procedure leaflet (known as 'Governance') which is available on wards and departments, and on the intranet.
- 40.6** All Local Early Resolutions received by the Governance Department will be logged on Datix by Governance staff.
- 40.7** A summary of Local Early Resolutions and any changes of practice are reported in the Patient Experience Report produced three times per year, which is monitored and reviewed at the Quality and Safety meetings.

41. LOCAL EARLY RESOLUTION FORM TO RECORD VERBAL COMPLAINTS
 (to be completed when dealing with concerns/complaints on the spot)

Name of Patient	
Address	
Tel No	
Hospital Unit No	
Date of contact	
*Detail	
*Action Taken	
Date	
*Outcome	
Signature	
Ward/Department	
Date	

*** Please continue on another sheet of paper if necessary**

*One copy of this form is to be kept on the ward/department and one copy is to be sent to the
 Governance Department*

42.0 PALS - Patient Advice & Liaison Service

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42.1 All service users, carers, interested third parties and staff are able to access the PALS service. This is an informal method of raising a concern about one or more of the Trust's services or functions, but not relating to the Trust as an employer or issues connected to a staff members employment at the Trust. If a member of staff is a patient and/or wishes to raise a concern about their or someone else's patient care, then they can do so through PALS. The service is provided by the Governance Lead and Governance Assistant for the Unit under which the concern falls.

42.1.1 Where the issue is raised by a third party and it directly relates to the circumstances surrounding an individual, it will be necessary to gain patient authorisation from that individual before any action is taken. All enquiries will be logged onto the Datix database.

42.2 The protocol for responding to PALS concerns is detailed below.

During initial contact, the Governance team will give the enquirer sufficient information about the service and the NHS to make informed choices about how they want their concern to be addressed, either through the PALS service or as a formal complaint.

This information might include:

- What PALS is – part of the Trust, impartial;
- Discussion around enquirer's desired outcome;
- Discussions around consent in relation to individual concern;
- Discussions around confidentiality in relation to individual concern;
- Proposed plan: what PALS will do, what enquirer will do, guided by enquirer's priorities;
- Can use complaints proforma if appropriate;
- Alternatives to PALS – approach staff, complaints, free advocacy services including Welsh CHCs and other advocates;
- Explanation and agreement on how referral to alternative services will take place;
- By whom, when and how follow up contact will be made;
- Written confirmation – including service leaflets if required by enquirer
- How information is recorded.

43. Concerns

43.1 The individual raising the concern must be kept informed of all progress made and should be involved in the process. Where possible the member of staff that initially dealt with the patient, service user or carer should remain as the contact point for them, so as to ease communication, facilitate understanding and develop trust. For complex issues that span other NHS services, it may be appropriate to offer for the appropriate Governance Lead or Governance Assistant to be a central point of contact for the individual raising the concern.

43.2 Service users or carers must be made fully aware that they can pursue the formal complaints procedure at any time. It should however be made clear that the PALS function will not be able to assist an individual who is following the formal complaints procedure as this may compromise the investigation.

44.3 When service users raise issues through the formal complaints procedure, the staff member dealing with the complaint may offer PALS as an alternative to making a formal complaint if it has not been offered previously.

45. Consent

45.1 The majority of PALS enquiries will be received by email and/or by phone. In order to facilitate the speedy resolution of enquiries, verbal consent will be gained from enquirers:

- (i) Enquirers will be asked for their consent before their concern is taken beyond an initial discussion;
- (ii) Verbal consent must be gained before action on behalf of an individual can take place,
- (iii) Governance staff should use their judgement when deciding which member of staff to consult about a patient's concerns. Depending on the concern(s) raised it may be appropriate to contact the patient's named nurse, consultant, Matron or other staff.

46. Sharing Information

- 46.1** In the course of responding to individual enquiries it may be necessary for Trust staff to share personal identifiable information with colleagues from other NHS and non NHS organisations. Where this is the case, enquirers and service users should be made aware of this and the appropriate verbal consent gained.
- 46.2** When accepting referrals from other NHS or non-NHS organisations, the Trust's staff should satisfy themselves that the person making the referral has gained consent from the patient for their personal details and/or nature of their enquiry to be shared.

47. Working Relationships (PALS & Complaints)

47.1 The PALS function aims to:

- Provide information, advice and support for service users and their families;
- Help make contact with the NHS as easy as possible;
- Resolve issues before they escalate into serious problems;
- Provide and advise on information about the NHS Complaints Procedure, local independent advocacy services and other local support and special interest groups;
- Improve the quality of the service using information gathered through monitoring.

47.2 The Complaints Procedure aims to:

- Resolve the concerns of the complainant via the NHS Complaints Procedure;
- Respond to requests to pursue the formal NHS Complaints Procedure;
- Improve the quality of services using information gathered through Complaints monitoring;
- Remain fair at all times.

47.3 PALS is not able to investigate complaints but will inform and advise service users, their carers and families on the Trust's Complaints Procedure and how to go about making a formal complaint. Referral to the independent advocacy services will be made where appropriate and where specific consent to do this is obtained. Contact details for the advocacy services are also offered if the person wishes to contact an advocacy provider directly.

47.4 Service users, their carers and families are not required to raise a PALS concern before making a complaint, but they may be directed there in the first instance. The choice of pursuing their matter through PALS or as a complaint in the first instance will be entirely the choice of the individual. The only exception is where a PALS concern cannot be resolved within five days then it will be escalated into a complaint.

47.5 Service users, their carers and families are not able to use PALS to pursue a concern after the formal complaints procedure has been exhausted on the same concern.

47.6 If all stages of the Trust's Complaints Procedure have not been explored and the client wishes to pursue a complaint, they should be referred back to the appropriate Governance Lead and/or Governance Assistant.

47.7 Raising an informal concerns via PALS will not remove the right for someone to subsequently use the NHS Complaints Procedure.

48. PALS will refer to the Complaints Procedure When:

- A person chooses to use the formal Complaints Procedure rather than using PALS or another informal procedure.
- The issue cannot be resolved by an informal process.

- An allegation has been made of a serious nature, for example alleged gross misconduct by a clinician.

49. Choosing between a complaint or PALS:

- 49.1** An informal concern is received which would benefit from the informal processes offered by PALS, or where a concern has been raised in writing but the complainant does not wish to follow the complaints procedure.
- 49.2** The client should be asked whether they wish to deal with the concern informally through PALS or more formally as a complaint. The client's wishes regarding the right to make a formal complaint must be respected at all times.

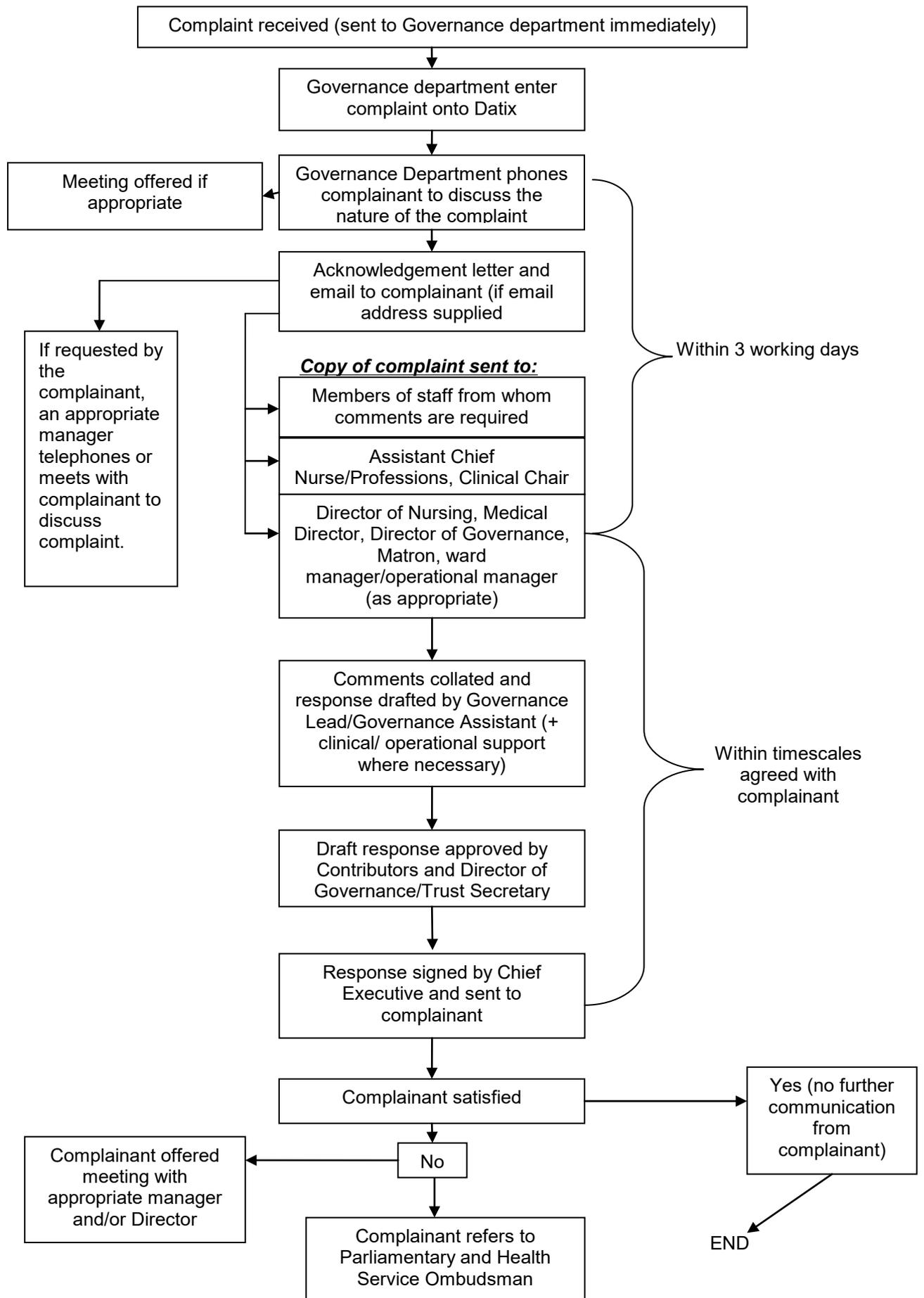
50. PALS issues progressing to a formal complaint:

- 50.1** When a PALS enquiry becomes a formal complaint, following a discussion with the patient, the PALS will then be altered on Datix to be a complaint. The date of this handover will form day one for the purposes of the NHS complaints procedure.
- 50.2** A member of the Governance team will acknowledge the complaint in writing within statutory guidelines, enclose the Trust's complaints leaflet and the advocacy services leaflet appropriate to the complainant's home address.

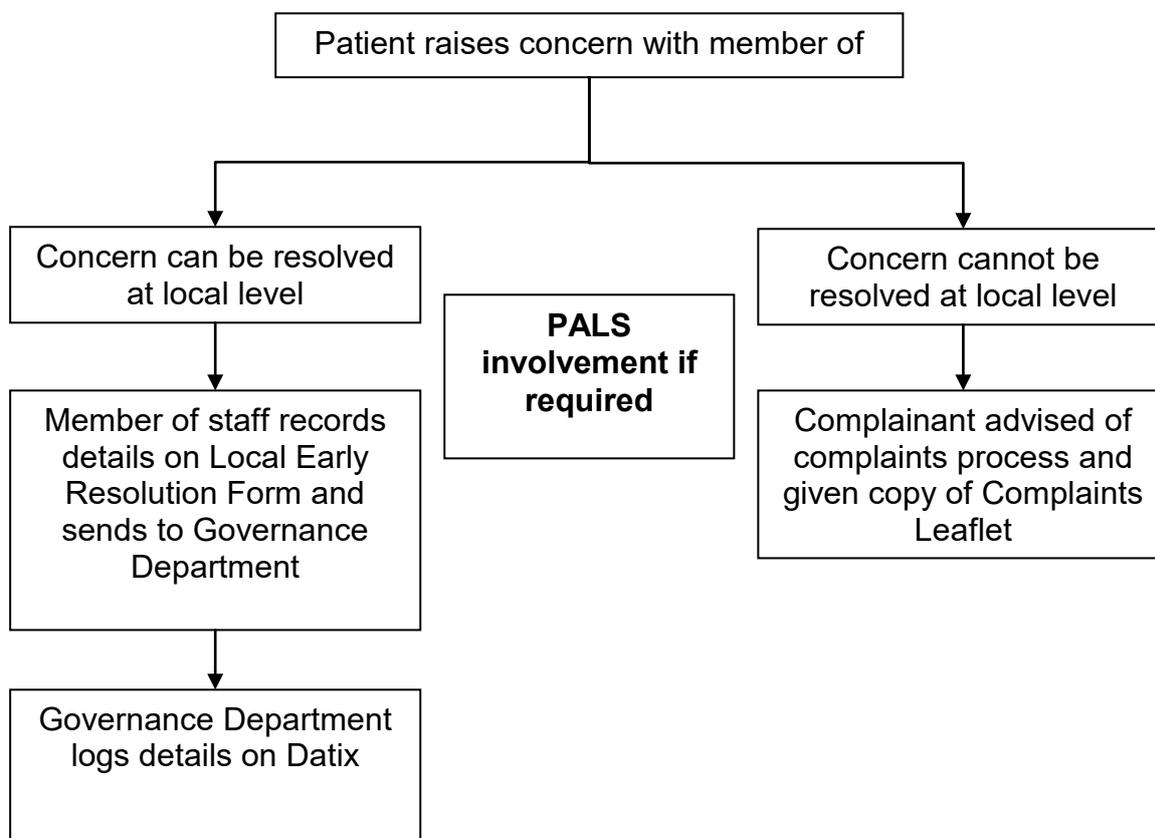
51. Monitoring

- 51.1** PALS and complaints trends will be considered in relation to clinical governance and service development and will be included in the tri-annual Patient Experience Report.
- 51.2** Any changes in practice required that are identified as a result of a PALS contact will be logged and reported through the tri-annual Patient Experience Report.

Governance Department		The Robert Jones and Agnes Hunt  Orthopaedic Hospital NHS Foundation Trust
Complaints Policy		
Created:		SOP1 – Complaints procedure
Created by:		
Review date:		
Authorised by:		



Governance Department		The Robert Jones and Agnes Hunt  Orthopaedic Hospital NHS Foundation Trust
Complaints Policy		
Created:		SOP2 – Local Early Resolutions procedure
Created by:		
Review date:		
Authorised by:		



Governance Department		The Robert Jones and Agnes Hunt  Orthopaedic Hospital NHS Foundation Trust
Complaints Policy		
Created:		SOP3 – Concerns procedure (PALS contacts)
Created by:		
Review date:		
Authorised by:		

