

Policy for handling formal complaints (CG009)

Approval and Authorisation

Approval Group	Job Title, Chair of Committee	Date
Policy Approval Group	Chair, Policy Approval Group	October 2021

Change History

Version	Date	Author	Reason
Version 3.0	April 2009	Melanie Rogers, Deputy Chief Nurse	Reviewed and revised
Version 3.1	December 2009	Melanie Rogers, Deputy Chief Nurse	Revised staff job titles; Acknowledgement letter process; Reporting to include new Patient Experience Committee and Patient Safety Council
Version 3.2	March 2010	Melanie Rogers, Deputy Chief Nurse	Minor update for clarification and monitoring table.
Version 3.3	April 2012	Kirsty Ward, Group Director of Nursing	Updated to reflect new structure
Version 4.0	July 2014	Kim Dellman, Patient Relations Manager	Reviewed and revised
Version 4.1	July 2016	Sam Faulknall, Patient Relations Manager	Reviewed and revised.
Version 4.2	July 2019	Helene Glover, Patient Relations Manager	Reviewed and revised
Version 4.3	October 2021	Helene Glover and Sam Faulknall-Mills, Complaints Managers	Reviewed and revised

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Job Title:	Pals and Complaints Managers	Review Date:	October 2023
Policy Lead:	Chief Nursing Officer	Version:	Version 4.3
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Information relating to this policy can be made available in other languages and alternative formats such as Braille, audio tape or larger print upon request.

Other relevant corporate or procedural documents:

- Pals Policy CG076
- Being Open Policy CG031

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1.0 Introduction

1.1 Purpose

The purpose of the complaints policy is to explain how the Royal Berkshire NHS Foundation Trust acknowledges and implements the National Health Service Complaints Regulations (2009) and takes into consideration the recommendations from the review of NHS hospital complaints system, which was commissioned by the Department of Health, following the Francis Inquiry. The review, published on 28 October 2013, was co-chaired by the Rt Hon Ann Clwyd MP and Professor Tricia Hart. Reference has also been made to the Parliamentary and Health Service Ombudsman's NHS Complaint Standards Pilot in Spring 2021, which is expected to be reviewed and introduced across the NHS in 2022.

The policy is intended to standardise the handling of complaints Trust-wide.

The principles that underpin this purpose are:

- To increase people's confidence that their complaints will be taken seriously and that services will improve as a result of their experiences
- To have a flexible approach to resolving people's complaints, which includes effective support
- To provide a seamless approach to complaints investigations
- To ensure organisational openness and fairness when dealing with complaints
- To ensure an approach which is fair to people using and delivering services
- To place the emphasis on early and effective resolution of complaints
- To provide excellent local leadership and accountability that supports the resolution of complaints
 - To ensure complaint data is handled in line with national data protection legislation, and General Data Protection Regulations 2018 (GDPR)

1.2 Scope

The policy will outline in a clear and concise manner for patients, relatives, carers and staff the process of handling complaints regarding Trust services.

1.3 Aims

This policy will be used to support the delivery of the Trust values below:

At the Royal Berkshire NHS Foundation Trust we have four core values which support us in making decisions and interacting with patients and partners. Our values are:

Compassionate: All our relationships are based on empathy, respect, integrity and dignity. In every interaction and communication, we treat colleagues, patients and their families with care and understanding.

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Aspirational: We strive to continuously improve, to be the very best that we can be – as individuals and as an organisation.

Resourceful: We live within our means. We respond to the challenges of today and tomorrow in effective, efficient, innovative and optimistic ways.

Excellent: We commit to excellence in everything that we do – placing patient safety and quality at our heart. We learn from mistakes, we do what we say we are going to do and hold ourselves and colleagues to the highest standards.

The following aims are based on the recommendations following the Francis Inquiry (February 2013) and the review of NHS hospital complaints system, commissioned by the Department of Health (Clywd & Hart) and published on 28 October 2013. These aims also take account of the Parliamentary and Health Service Ombudsman's NHS Complaint Standards Pilot in Spring 2021.

1. The Complaints Procedure will be easy to understand and simple to use
2. The procedure will be accessible to everyone
3. Investigations will be thorough, fair, responsive, open and honest
4. The Trust will listen to the complainant to understand the concerns and work with the patient to rectify the problem
5. The Trust will learn from complaints and use them to improve the services for patients
6. The Trust will answer complaints in a timely manner and in a timescale agreed at the outset of the investigation
7. The Trust will respect an individual's rights to confidentiality
8. Staff will respond positively to complaints and endeavour to resolve issues quickly
9. The Trust aims to satisfy the complainant by conducting a thorough investigation and providing a full explanation
10. The Trust will ensure that patients, relatives and their carers are not treated differently as a result of making a complaint. In instances where it is thought that a patient may have been treated differently as a result of a complaint being made this will be reported as an adverse event and managed in line with the Adverse Event and Investigation Policy.
11. The procedure will be in line with all national data protection legislation (GDPR and DPA) and Trust policies and procedures

1.4 Definition of a formal complaint

A letter/email of concern addressed as a formal complaint will be treated as a formal complaint, unless the PALS (Patient Advice and Liaison Service) and Complaints Team are able to resolve the concern to the complainant's satisfaction or feel that the nature of the concerns necessitates a formal investigation.

2.0 Roles and responsibilities

- The Chief Executive: so far as in their control to do so, is accountable for ensuring effective management of complaints across the Trust and all formal

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- responses will be signed by the Chief Executive or by his/her designated director.
- The Responsible Officer: will be informed of any complaint regarding the conduct or delivery of clinical care of doctors.
 - The Chief Nursing Officer: so far as in their control to do so, has delegated responsibility for ensuring effective management of complaint handling across the Trust.
 - The Associate Chief Nurse, Patient Experience, Workforce and Education Responsible for managing the Trust Complaints Team and ensuring the effective management of complaint handling and learning cycle.
 - Group Directors: will have an overview of the complaints process and their Clinical Directors are accountable for the thorough investigation of complaints within the Group. They are responsible for ensuring the investigation is carried out in line with this policy and where action is identified this is implemented.
 - The Care Group Management Team: should as a minimum, discuss complaints/responses each month. They should discuss themes across Directorates and look for evidence of learning from complaints.
 - Clinical Directors with their Matron and Directorate Manager: should ensure that anonymised complaints and the quarterly and annual complaints reports are discussed at the departmental and/or Clinical Governance Meetings (whichever they feel is most appropriate) to ensure remedial actions are taken to address recurring themes.
 - The Complaints Team: is responsible for administering the complaints process, ensuring that thorough replies are provided to the complainant. Through their Assistant Chief Nurse for Patient Experience, Workforce and Education, they will provide monthly reports to the Care Group Board. Through the responsible Chief Nursing Officer, they will also provide regular reports to keep the Trust Board informed of complaint themes and trends, the actions which have been taken to rectify problems, and improvements in the quality of the services provided by the Trust.
 - Data Protection Officer (DPO) - The DPO, so far as in their control to do so, assists the Trust to monitor internal compliance, inform and advise on data protection obligations, provide advice regarding Data Protection Impact Assessments (DPIAs) and act as a contact point for data subjects and the Information Commissioner's Office (ICO).
 - Caldicott Guardian -The Caldicott Guardian, so far as in their control to do so, is a senior person within a health or social care organisation who makes sure that the personal information about those who use its services is used legally, ethically and appropriately, and that confidentiality is maintained.
 - Senior Information Responsible Officer (SIRO) - A senior member of the Executive Team. Owner of the organisation's Information Risk Policy, and acts as an advocate for information risk.

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If discrepancies arise during the investigation, then advice should be sought from the Care Group Director of Nursing or Director of Midwifery and if still necessary, then from the Chief Nursing Officer or Chief Medical Officer.

Any member of staff who is investigating or dealing with complaints should possess the necessary skills to undertake this role.

3.0 Policy content

3.1 NHS Complaint Procedure

There are two stages for dealing with complaints (NHS Complaints Procedure, 2009):

Stage 1:	Local Resolution
Stage 2:	Health Service Commissioner (Parliamentary and Health Service Ombudsman)

Complaints may be made about any matter reasonably connected with the exercise of the functions of the Trust, including any matter reasonably connected with its provision of health care or any other services.

Matters excluded from consideration under the arrangements are:

- A complaint made by an NHS body, which relates to the exercise of its functions by the Trust.
- A complaint made by a primary care provider which relates either to the exercise of its functions by the Trust or to the contract or arrangements under which it provides primary care services.
- A complaint made by an employee of the Trust about any matter relating to his contract of employment.
- A complaint which is being or has been investigated by the Parliamentary and Health Service Ombudsman.
- A complaint arising out of the Trust's alleged failure to comply with a data subject request (SAR), individual rights request (such as a request for rectification and erasure) under DPA, GDPR or a request for information under the Freedom of Information Act 2000 (FOI).

3.2 Who may complain?

Complaints may be made by a patient, their nominated representative or any persons who are affected by or likely to be affected by the action, omission or decision of the Trust.

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

- Has died.
- Is a child.
- Is unable by reason of physical or mental incapacity to make the complaint himself/herself.
- Who has requested the representative to act on his/her behalf and given consent for this.

A representative may be a friend or relative of the patient, a Member of Parliament acting on behalf of their constituent or Healthwatch/SEAP.

Such a representative will be asked to confirm their identity and relationship to the patient, in the form of photo ID (passport/driving license) and legal documentation such as birth certificate, power of attorney for healthcare needs, or executor of their estate. All work will continue and not hold up the process. Until this information is received, the response will not be sent out.

The patient, unless deceased or incapable, will be asked for their consent for their data to be discussed and shared with the representative. Where patients are incapable of providing consent, those that have been given power of attorney for their healthcare needs, will be asked to consent.

Where a patient or person affected has died or is incapable, the representative must be a relative or other person who, in the opinion of the Pals and Complaints Manager, had or has a sufficient interest in the patient/affected person's welfare and is a suitable person to act as a representative. If there is a concern about whether the complainant has a 'sufficient interest' in the deceased or incapable person's welfare to be suitable to act as a representative, the Pals and Complaints Manager will seek the opinion of the Head of Legal Services. The need to respect the confidentiality of the patient is a guiding principle.

If in any case the Pals and Complaints Manager/Head of Legal Services are of the opinion that a representative does not or did not have a sufficient interest in the person's welfare or is unsuitable to act as a representative, that person is notified of this in writing and given reasons for the decision.

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

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3.3 Confidentiality and consent

The information about complaints and all the people involved is strictly confidential and is only disclosed to those with a demonstrable need to know and /or a legal right to access those records under the DPA and GDPR.

Complaint records are kept separate from clinical records, subject to the need to record information which is strictly relevant to their health in the patient's clinical records.

Correspondence about complaints is not included in the patient's clinical records. Informal discussions about concerns can be documented in the clinical records.

If the complainant indicates that further relevant information regarding their complaint will be forthcoming, they will be informed that the complaints process will not be commenced until that information has been received by the Complaints Team. If additional concerns are received after the investigation has begun, the timeframe restarts from the date this information is received and will, therefore, be taken as the new commencement date. If the complainant indicates that they wish to receive copies of their own or their relative's health records (with consent) before they will speak to the investigating officer about their concerns, they will be advised of the Trust's Subject Access Policy and informed that the complaints process will not commence until they indicate that the records have been received and they are willing to discuss the issues that they have raised.

The complainant must be referred to the Access to Health Team (their email address rbb-tr.accesstohealth@nhs.net) if they are requesting their or third parties' medical records. Any requests for emails or telephone records must be referred to the Corporate Governance Team (email address I.G@royalberkshire.nhs.uk).

Where a complaint is made on behalf of an existing or former patient, consent must be obtained from the patient to disclose personal health information and the results of any investigation in order to uphold the duty of confidentiality to the patient. It is good practice to explain that information from health records may need to be disclosed to those involved. The complainant is asked to return a Form of Authority to the Complaints Team.

If the patient is deceased, then the personal representative appointed under the will should give consent for the complainant to receive the personal health information. If there is a concern about any documentation received, the Pals and Complaints Manager will seek advice from the Associate Chief Nurse, Patient Experience, Workforce and Education or the Legal Services Department or Corporate Governance Team.

Where a complaint is made on behalf of an existing or former patient who has not authorised the complainant to act on their behalf, care must be taken not to disclose personal health information without the patient's express consent. Matters of a non-

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personal or non-clinical nature may be investigated and a response provided to the complainant.

Where a complaint is made on behalf of a patient by Healthwatch/The Advocacy People, consent must be obtained prior to the complaints process being commenced if personal information is to be released. Care must be taken not to disclose personal health information without the patient's express consent. Matters of a non-personal or non-clinical nature may be investigated and a response provided to the complainant.

Where a complaint has been made on behalf of a patient by a Member of Parliament (MP) consent will not be assumed as given and be obtained from the patient prior to any release of personal information.

Where it is known that the complaint involves a vulnerable adult or vulnerable child, the Associate Chief Nurse for Safeguarding and the Associate Chief Nurse for Patient Experience, Workforce and Education will be informed.

All letters regarding the complaint will be marked 'confidential'. All internal emails regarding the complaint must not contain patient identifiable information in the email. Any attachments should be password protected. Failure to do such will result in a data breach of personal information under the DPR and GDPR.

By ensuring that all complaints are dealt with in strictest confidence, the risk for patients, relatives or carers being treated differently as a result of the complaint will be minimised.

3.4 Time limits

Normally, a complaint should be made within twelve months of the date on which the matter which is the subject of the complaint occurred, or twelve months of the date on which the matter which is the subject of the complaint came to the notice of the complainant.

Where a complaint is made after these times, the Pals and Complaints Manager, following discussions with the Associate Chief Nurse, Patient Experience, Workforce and Education and the Care Group Director for Nursing or Care Group Director of Midwifery, may investigate it if they are of the opinion that the complainant had good reasons for not making the complaint within that period; and it is still possible to investigate the complaint effectively and efficiently.

Those who wish to complain should be encouraged to do so as soon as possible after an event so that the investigation can be most effective.

In any case, where the Care Group Director of Nursing or Care Group Director of Midwifery decides not to investigate a complaint on the grounds that it was not made

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within the time limit, the complainant is informed in writing with further guidance if necessary. The complainant can appeal in writing to the Executive Chief Nursing Officer or Chief Medical Officer.

In accordance with the 'For the Record' guidance (Department of Health 1999/053), complaint files are kept for 10 years. Complaints files about babies and children where there is the possibility of future legal proceedings are kept until their 25th birthday. If the baby or child has died, the complaint file is kept for 10 years.

3.5 Learning from Complaints

All complaints and concerns offer an opportunity for the Trust to learn and improve. When the investigation of a complaint identifies that local changes in practice are required, the Department Manager will ensure these are considered and implemented as soon as is practically possible.

All trends and themes that result from concerns and complaints are reported through the patient experience reports to Directorate Clinical Governance, Care Group Boards and to the Trust Board. As well as learning from individual complaints, the Trust has a process for aggregating information about complaints, incidents and claims to enable learning.

At no point will the learning from a complaint be identifiable to other Trust staff. All personal data will be anonymised to ensure patient confidentiality.

The Trust is committed to listening to the views of patients and the public about the care we provide and values the experiences of our patients. We welcome all forms of feedback and use this to improve the service we provide. We send out/email satisfaction surveys to all complainants once their complaint is closed to seek feedback on the service we have provided.

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

3.6 Formal complaints

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

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The Complaints Team will be available to provide information to complainants on the options available to them on how to raise their concerns and complaints and advise on the process.

A formal complaint must be made in writing either by letter or email, so that there is no misinterpretation of the issues. Complaints should be addressed to the Chief Executive or the Complaints Team. Where an individual needs advocacy support in making a complaint, they can contact the Complaints Team for assistance who may direct them to Healthwatch or The Advocacy People, who provide a complaints advocacy service to support people who make a complaint about services.

Where any patient's personal information is to be disclosed electronically, the response will be attached in a word document that must be password protected. Should this not be done, it will result in a data breach in line with the DPA and GDPR.

When formal letters/emails of complaint are received by the Chief Executive's Office or Complaints Team, an acknowledgement letter/email will be prepared by the Complaints Team who will then record the complaint, create a file and request that the Care Group Management Team appoints an Investigating Officer. The Complaints Team will prepare an acknowledgement letter/email indicating how the complaint will be processed.

The complexity and seriousness of the complaint will initially be assessed by the Pals and Complaints Manager before a copy is sent by the Complaints Team directly (via e-mail) to the Associate Chief Nurse, Patient Experience, Workforce and Education. The Care Group Management Team will assess the complaint and either personally investigate or allocate an appropriate senior member of their team to undertake the investigation. This person will be known as the Investigating Officer and will be supported by the Directorate Team.

Where the investigating officer determines there has been a data breach of patient data, they will raise a Datix about the incident and then notify the Trust's Corporate Governance Department to ask for them to investigate the matter further.

We will seek to resolve all complaints within 25 working days from the date that the complaint has been received. However, it is recognised that there is variation in the level and complexity of complaints and that some may require longer to conduct a thorough investigation and to provide a full response. In these situations, a change to the 25 day timescale can be agreed between the Investigating Officer and the complainant at the outset and the response monitored against the agreed timescale. Before this is agreed, the Investigating Officer must inform the Pals and Complaints Manager of any proposed timescale beyond 25 days, which has to have authorisation from the Care Group Director of Nursing or Director of Midwifery.

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Investigating Officers may also telephone the complainant to introduce themselves. During this conversation the Investigating Officer may wish to clarify any issues in the complaint. He or she can provide a point of contact should the complainant wish to raise any questions during the investigation. The investigation will commence in line with the principles of the Trust's Adverse Incident Reporting and Investigation Policy and Being Open Policy. Some complaints may involve more than one department. In this case, the allocated Investigating Manager will be responsible for ensuring the complaint is fully investigated for all issues inside and outside of their Directorate.

Where the complaint has arisen from a serious incident or in the view of the Complaints Team is sufficiently serious, it will not be allocated to an Investigating Manager to investigate, but will be discussed with the Associate Chief Nurse for Patient Experience, Workforce and Education and the Care Group Management Team. An Investigation Team will be established as per the Protocol for the Investigation and Analysis of Serious Incidents.

All formal complainants will be sent an acknowledgement within 72 hours of the receipt of the complaint, with an offer of a meeting (either face to face or virtually), to either resolve or further explore the complaint. This acknowledgement will also provide the option of having the written response either by post or via email.

Although the Care Group Management Team may delegate aspects of the investigation as appropriate, they remain wholly responsible for the investigation and the response.

Where staff are directly involved in the complaint, statements will be taken at the time of the investigation as an accurate account of events. These statements will be submitted with the draft response by the Investigating Officer to the Complaints Team. Staff directly involved in the complaint should not investigate the complaint.

The Investigating Officer is responsible for producing a draft response in the form of a letter from the Chief Executive in conjunction with the appropriate staff involved and must ensure that appropriate clinical input has been provided, where necessary. The response must ensure:

- That all the issues raised have been addressed.
- That information is accurate.
- That a full and honest explanation is given.
- Apology (apologies) are given as appropriate.
- The actions that have/will be taken to improve the situation (action plans can be included where appropriate) are explained.
- There is an explanation of the monitoring arrangements to ensure actions will be implemented.

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The Investigating Officer is responsible for ensuring that the draft response, together with all supporting evidence and the completed Investigating Officer Guide, are returned to the Complaints Team within the agreed timescale.

The Investigating Officer, supported by the Directorate Team must also determine whether or not a complaint is well founded, partially founded or unfounded and report this back to the Complaints Team. To find a complaint well founded, partially founded or unfounded, the Investigating Officer needs to consider and decide if the complaint was made on reasonable grounds and information. Should the Investigating Officer and Directorate Team not be able to come to a decision on whether a complaint is well founded, partially founded or unfounded, it should be escalated to the Care Group Director.

The Complaints Team will then review the complaint and the investigation to ensure that it has been thorough and addresses all the issues raised by the complainant. This process will act as a quality check for the complaint investigation.

A complete documentary record of the handling and consideration of each complaint is kept by the Complaints Team. Complaint records are kept separate from health records, subject to the need to record information which is strictly relevant to their health in the patient's health records. All records, including supporting evidence from the Investigating Officer, should be sent to the Pals and Complaints Manager with the draft response and included in the main complaints file for their records.

The Complaints Team ensures that all information relevant to the investigation of the complaint is recorded and kept in the case files and is available without unnecessary delay to the Parliamentary and Health Service Ombudsman if requested.

All final responses will inform the complainant that, if they have any outstanding or further concerns or feel that the complaint has not been satisfactorily resolved, they may contact the Complaints Team. If the complainant still feels that the complaint has not been dealt with in full, it will be reviewed by the relevant Care Group Director of Nursing or Director of Midwifery.

The Care Group Management Team are responsible for ensuring that all complaints are shared through Clinical Governance and that action plans are implemented within the agreed timescale.

Appendix I is a flowchart of the process.

3.6.1 Local resolution of concerns

Details of local resolution of concerns can be found in the PALs Policy CG076.

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3.7 Advocacy support

All complainants have access to information about Healthwatch or The Advocacy People, depending on where they reside, who offer independent help, guidance or support when making a complaint. This information is available from the Complaints Team.

3.8 Legal implications

If the complainant informs the Complaints Team that they intend to take formal legal action, they should be advised to ask their legal representative to write to the Head of Legal Services. If the complainant wishes to pursue a claim by themselves, they should contact our Legal Services Department. The complainant is entitled to take legal action whilst the complaints process is on-going.

If a complaint reveals a likelihood of legal action, the Complaints Team should inform the Head of Legal Services.

3.9 Serious allegations and disciplinary investigations

The Complaints Procedure is concerned only with resolving complaints and not with investigating staff regulation of conduct. The purpose of the Complaints Procedure is to thoroughly investigate complaints, with the aim of satisfying complainants, whilst being fair to members of staff.

Where serious allegations regarding staff performance and behaviour arise through the Complaints Procedure, they will be investigated and managed through the appropriate conduct policies including:

1. Regulation of Conduct
2. Regulation of Conduct (Medical)
3. Maintaining Medical Excellence

The Trust has a duty to maintain staff confidentiality and must not share information regarding any action against staff with the complainant.

Investigation under the Complaints Procedure will only take place if it does not compromise or prejudice other ongoing investigations.

3.10 Staff grievances

Staff grievances are handled separately. The Trust has local procedures for handling staff concerns about health care issues and established grievance and openness procedures including:

- a. Individual Grievance Procedure
- b. Collective Dispute
- c. Maintaining Standards at Work (Whistleblowing)

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Staff can only use the NHS Complaints Procedure if their complaint relates to their own health care or if they are acting on behalf of a third party. In both situations they are acting as a patient or member of the public and not as a member of staff.

Where staff make a complaint against their own healthcare, all data will be treated confidentially.

3.11 Fraud and corruption

Any complaint concerning possible allegations of fraud and corruption is passed immediately to the Chief Finance Officer for action.

3.12 Complaints about services provided by other agencies

If the Trust receives a written complaint that is mainly concerned with areas dealt with by another health body or by a body outside the NHS, the complaint is referred to the Complaints Team. With the complainant's agreement, the Complaints Team will then forward the complaint to the correct body. If there are any doubts over which body is responsible for handling the complaint, this is resolved before the complaint is dispatched. This is then recorded in writing.

Where a complaint involves more than one NHS provider or one or more other bodies such as a local authority or a purchaser, there will be full cooperation in seeking to resolve the complaint through each body's local complaints procedure. It will be agreed between them which NHS body is going to take the lead on the final response and co-ordinate responses from the other Trusts. The Trust and local authorities ensure that all matters of concern to the complainant are addressed. Alternatively, the Trust can agree with other Trusts and with the permission of the complainant, that each organisation responds separately.

Where the Trust receives a complaint which is mainly concerned with services provided by the Trust, but includes issues regarding an external agency, the Complaints Team, with the complainant's agreement will forward a copy of the complaint as appropriate for investigation and a response. The Complaints Team will incorporate the response from the external agency into the Trust's final response.

Where the Trust makes arrangements for the provision of services with independent providers, it ensures that the independent providers have arrangements in place for the handling and consideration of complaints about any matter connected with its provision of services as if the NHS (Complaints) Regulations 2009 applied to it.

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3.13 Complaints about the Data Protection Act 2018 and General Data Protection Regulation (GDPR), Subject Access Requests and the Freedom of Information Act 2000

All complaints relating to a breach in data protection will be passed to the Trust's Corporate Governance Department for investigation.

Should the outcome of the investigation not be satisfactory, the complainant is encouraged to contact the Information Commissioners Office (ICO).

The ICO will contact the Trust regarding a complaint arising out of an alleged failure to comply with a data subject request under the DPA and GDPR.

The ICO will contact the Freedom of Information Officer regarding complaints arising out of an alleged failure to comply with a data subject request under the Freedom of Information 2000.

The Trust may consult with the ICO during the investigation about complaints arising out of an alleged failure to comply with a data subject request under the DPA and GDPR and the Freedom of Information 2000.

Further information is available at <http://www.informationcommissioner.gov.uk/>

3.14 Complaints regarding private care

The complaints procedure will cover any complaint made about the Trust's staff or facilities relating to private care. Complaints regarding prices are forwarded to the Director of Finance.

3.15 Media interest

Staff should refer any media interest in a complaint to the Head of Communications.

The Head of Communications is briefed where any complainant expresses their intention to contact the media.

3.16 Procedure for handling unreasonably persistent complainants

3.16.1 Definition of an unreasonably persistent (vexatious) complainant

Complainants (and or anyone acting on their behalf) may be deemed to be unreasonably persistent complainants where previous or current contact with them shows that they meet two or more of the criteria outlined on Appendix II.

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3.16.2 Options for dealing with unreasonably persistent complainants

Where complainants have been identified as unreasonably persistent in accordance with the above criteria, the Chief Executive (or appropriate deputy in his/her absence) will determine what action to take. The Chief Executive (or his/her deputy) will implement such action and will notify complainants in writing of the reasons why they have been classified as unreasonably persistent complainants and the action to be taken. This notification may be copied for the information of others already involved in the complaint, e.g. practitioners, conciliators, Healthwatch/The Advocacy People, MPs. A record must be kept in the complainant's complaint file for future reference of the reasons why a complainant has been classified as unreasonably persistent. This will not form part of their health care record.

The Chief Executive (or his/her deputy) may decide to deal with such complaints in one of the following ways as found in Appendix III.

3.16.3 Withdrawing 'unreasonably persistent' status

If a complainant has been determined as 'unreasonably persistent' there is an ongoing approach to constantly review this status. There is discretion for withdrawing this status if, for example, complainants subsequently demonstrate a more reasonable approach or if they submit a further complaint for which the normal complaints procedures would appear appropriate.

Staff should previously have used discretion in recommending unreasonably persistent status at the outset and discretion should similarly be used in recommending that this status be withdrawn when appropriate. Discussion will be held with the Chief Executive (or deputy). Subject to approval, normal contact with the complainants and application of the Trust's Complaint Procedure will then be resumed.

4.0 Consultation undertaken

The policy has been revised with input from the Pals and Complaints Managers, the Equality and Diversity Officer, Associate Chief Nurse, Patient Experience, Workforce and Education, the Corporate Governance Team, the Care Groups and Directorate Teams and a patient representative.

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5.0 Dissemination / Circulation

The policy will be available for download from the Trust central policy intranet page, the Pals and Complaints Team page and from the Trust website, www.royalberkshire.nhs.uk

The Trust Secretary will archive old versions of this document.

6.0 Implementation

Responsibility for implementation of this policy sits with the Complaints Team who are also responsible for monitoring compliance, under the direction of the Associate Director for Patient Experience, Workforce and Education.

7.0 Training

The Care Group Management Team, upon assigning an Investigating Officer, should check that the member of staff has the necessary skills to investigate and deal with complaints. If not, the Complaints Team will provide complaints handling/communication training to an individual Investigating Officer. The team also provides regular complaints handling/communication training for groups of Investigating Officers/potential Investigating Officers throughout the year.

The Complaints Team will monitor the quality of investigations and complaint responses and will highlight additional training needs to the relevant Clinical Director, Matron or Directorate Manager.

8.0 Monitoring of compliance and effectiveness

Compliance to this policy is monitored by the Complaints Team, the Care Group Management Teams and the Associate Chief Nurse, Patient Experience, Workforce and Education. Random quality control checks will be made

A secure electronic database is maintained for all patient feedback.

Records of concerns, complaints and compliments will be maintained for all contacts on the Datix system along with the number and outcomes of Parliamentary and Health Service Ombudsman requests.

A quarterly Pals and Complaints Team report will be compiled. This will be presented to the Patient and Staff Experience Committee and Quality Performance Committee. A monthly report will also be included in the Quality Report and Dashboard. These reports include the numbers of complaints received, response times and details of individual complaints. A summary report is also provided to the Commissioners monthly.

A Complaints Handling Survey is enclosed with the complainant's response in order to gather feedback on the complaints process.

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In addition the policy will also be monitored as set out in the table below.

Monitoring of Compliance

No	PROCESS TO BE DEMONSTRATED	EVIDENCE TO DEMONSTRATE PROCESS	FREQUENCY OF SUBMISSION TO COMPLIANCE SHARED DRIVE CRITERION FOLDER	REFERENCE NUMBER FOR EVIDENCE PLACED IN CRITERION FOLDER
1.	Process for listening and responding to concerns/complaints of patients, their relatives and carers	1. Training records for frontline staff i.e. dates of training given 2. Total number of complaints received 3. Number and outcome of Parliamentary and Health Service Ombudsman requests 4. Number of letters of praise formally received	Monthly Monthly (cumulative) Monthly (cumulative) Monthly (cumulative)	1a 1d 1f 1g
2.	Process by which the organisation aims to improve as a result of concerns/complaints being raised	1. Minutes of Patient Experience Committee 2. Quarterly Patient Experience Report 3. Monthly Patient Experience Board Report which includes: <ul style="list-style-type: none"> - number of complaints per month - number responded to within 25 days or at the timescale agreed at the outset - number of PALS received - number of Local Resolution Meetings held - number of compliments received - number of complaints referred to Ombudsman - number of complaints by ward/department/nursing/medical - number relating to behaviour and attitude - number relating to communication 	Quarterly Quarterly Monthly	2a 2b 2c

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9.0 Supporting documentation and references

Document title	Document Reference/Location
The Francis Inquiry report 2013	http://www.midstaffpublicinquiry.com/report
Review into the care and quality of treatment provided by 14 hospital trusts in England. Bruce Keogh. July 2013	http://www.nhs.uk/NHSEngland/bruce-keogh-review/Documents/outcomes/keogh-review-final-report.pdf
A promise to learn– a commitment to act. Don Berwick. August 2013	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/226703/Berwick_Report.pdf
A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture. Clywd and Hart. October 2013	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255615/NHS_complaints_accessible.pdf
Good practice standards for NHS Complaints Handling. Patients Association. September 2013	http://patients-association.com/Portals/0/Good%20Practice%20Standards%20for%20NHS%20Complaints%20Handling,%20Sept%202013.pdf
Health and Social Care Act 2012	http://www.legislation.gov.uk/ukpga/2012/7/contents/enacted
Parliamentary and Health Service Ombudsman. Listening and Learning.	http://www.ombudsman.org.uk/listening-and-learning-2012
The National Health Service Complaints Regulations 2009	http://www.legislation.gov.uk/uksi/2009/309/contents/made
NHSLA Risk Management Standards, April 2007	NHSLA
Subject Access Request Policy v1.1 CG709	Policy hub on the main intranet page.
Freedom of Information Policy v4.7 CG007 Folder Non Clinical Documents/ - General (Trustwide)	Policy hub on the main intranet page.

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10.0 Equality Impact Assessment

Stage 1: Screening

Part 1: Initial Scoping

For each of the nine protected groups identified in the table below, respond to the identified questions with a Yes (Y); No (N); or Unclear (U)

	Age	Sex	Disability	Race	Gender Reassignment	Religion or Belief	Sexual Orientation	Marriage and Civil Partnership	Pregnancy and Maternity
Do different groups have different needs, experiences, issues and priorities in relation to the proposed policy/change proposal?	N	N	N	N	N	N	N	N	N
Is there potential for or evidence that the proposed policy/change will not promote equality of opportunity for all and promote good relations between different groups?	N	N	N	N	N	N	N	N	N
Is there potential for or evidence that the proposed policy will affect different population groups differently (including unintended discrimination against certain groups)?	N	N	N	N	N	N	N	N	N
Is there public concern (including media, academic, voluntary or sector specific interest) in potential discrimination against a particular population group or groups?	N	N	N	N	N	N	N	N	N

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Part 2: Evidence and Feedback that has informed your analysis

Please identify below the data, information or feedback that you have drawn on to reach the conclusions above. This will be information that has enabled you to assess the actual or potential impacts in the context of the key needs to **eliminate unlawful discrimination, advance equality of opportunity and foster good relations** with respect to the characteristics protected by equality law. These sources could include:

- Equalities monitoring information of staff/service users affected by the identified provision/policy etc.
- Engagement (internal/external or both) with or feedback from relevant stakeholders e.g. staff; patient groups, commissioners, external agencies.
- Staff Survey Data; Patient Survey Data etc.
- Research or information available relative to the identified protected group.
- Project leads professional knowledge of the issues the policy/change is seeking to enact.

The Complaints Team send Department of Health (DOH) Ethnic Monitoring forms to complainants with the Trust's official acknowledgements. Patients can choose whether to return this identifying their ethnicity or not. This data is recorded on the complaint file.

Complaint handling surveys are enclosed with the complainants' responses which provides the opportunity for them to provide feedback on the complaints process.

Monthly and quarterly complaints reports are reviewed externally by the Commissioners and other organisations.

If the analysis under Part 1 has concluded that there are equality impacts or that the impacts are unclear (i.e. you responded 'Yes' or 'Unclear' in Part 1), **please move on to Part 4 of the assessment**. If no equality impacts are identified, **please move on to Part 3 below** to conclude the assessment

Part 3: Narrative

If you have concluded there are no equality impacts related to the policy/provision, please provide a brief narrative to explain why you have come to this conclusion:

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An Easy Read Leaflet is available to patients, which provides information about the Formal NHS Complaints Process. Where a complainant is unable to write a formal complaint, the Complaints Team sign post them to local advocacy agencies, who can support them with all aspects of the process.

The Complaints Team, where necessary, get forms and response letters professionally translated. Interpreters are also provided in meetings where necessary.

The Complaints Team provide training to Investigating Officers, which highlights the importance of Equality and Diversity considerations.

If no equality impacts have been identified, this concludes the equality impact assessment. Please complete the declaration below:

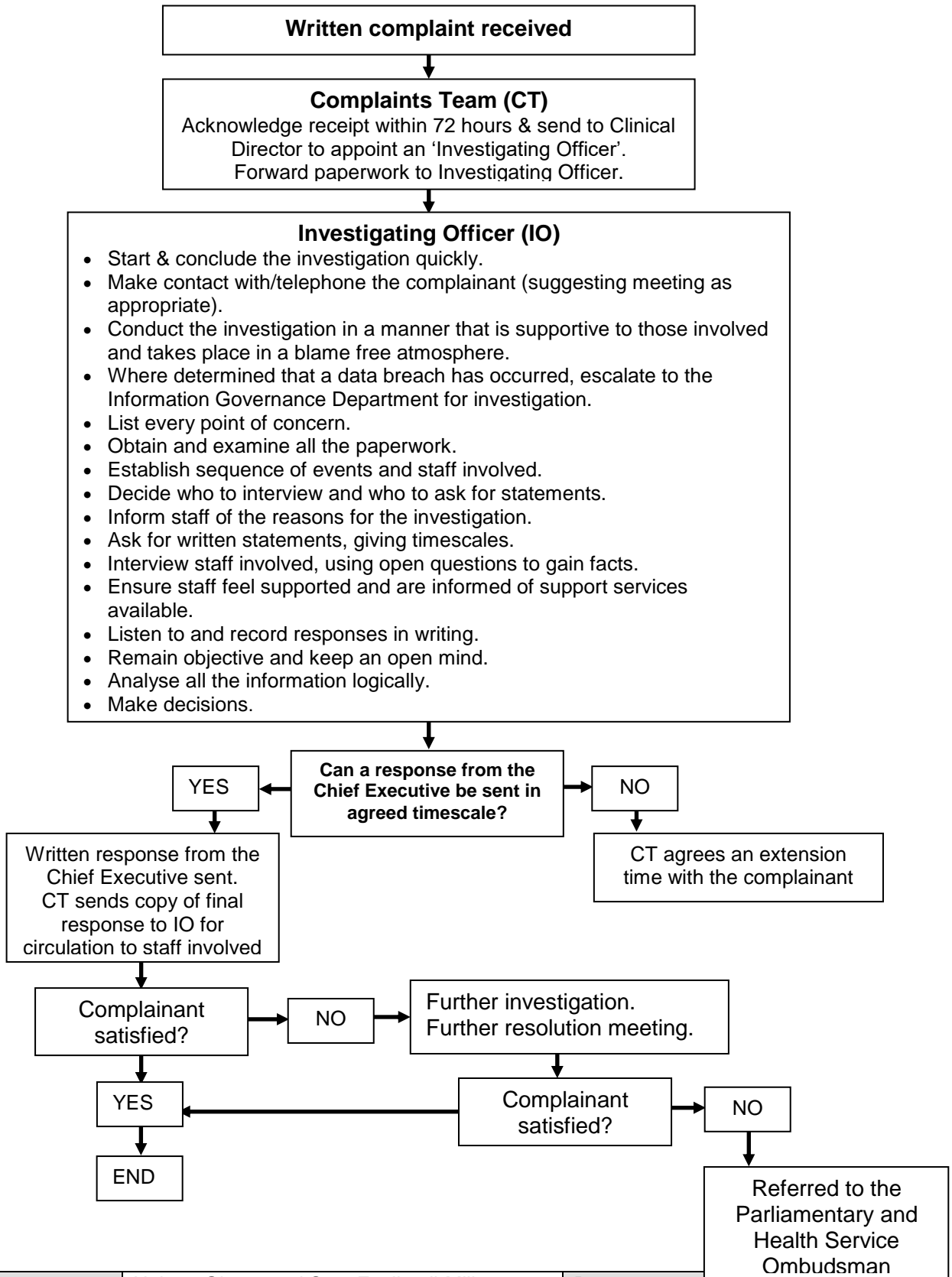
Based on the information set out above I have decided that a full equality impact assessment is (please delete as appropriate):

Not necessary

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Appendix I

Formal Complaint to Chief Executive



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Appendix II

Definition of an unreasonably persistent (vexatious) complainant

- a) Persist in pursuing a complaint where the Trust's complaints procedure has been fully and properly implemented and exhausted.
- b) Continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response or whilst the complaint is being investigated. (Care must be taken not to discard new issues which emerge as a result of the investigation or the response. These might need to be addressed as separate complaints.) Healthwatch/The Advocacy People could be called upon to assist in such circumstances, thus ensuring that new and legitimate issues are answered.
- c) Despite the best endeavour of staff to confirm and answer the complainant's concerns and, where appropriate, involving Healthwatch/The Advocacy People, the complainant will not accept the response and, or where the concerns identified are not within the remit of the Trust.
- d) In the course of addressing a registered complaint, have had an excessive number of contacts with the Trust, which have placed unreasonable demands on staff. (A contact may be in person or by telephone, letter or email. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case.)
- e) 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. Staff must document all incidents of harassment).
- f) Focus on a matter to an extent which is out of proportion to its significance and continuing to focus on this point. (It is recognised that determining what is justified can be subjective and careful judgement must be used in applying this criteria.)
- g) 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).
- h) Complainants (and or anyone acting on their behalf) may be deemed to be unreasonably persistent complainants where they have threatened or used actual physical violence towards staff or their families or associates at any time.
- i) Complainants (and or anyone acting on their behalf) may be deemed to be unreasonably persistent complainants where they have sent indecent or offensive items to staff or their families or associates in the post, or if they hand deliver indecent or offensive items to staff or their families or associates at any time.
- j) All such incidents must be documented on an incident form and will in themselves be grounds to stop personal contact with the complainant and, or their

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representatives and thereafter the complaint may only be pursued through written communications.

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Appendix III

Options for dealing with unreasonably persistent complainants

- (i) Try to resolve matters, before invoking this procedure by drawing up a signed 'agreement' with the complainant (if appropriate, involving the relevant practitioner 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 would then be given to implementing other action as indicated in this section.
- (ii) Once it is clear that complainants meet any **one** of the criteria above, it may be appropriate to inform them in writing that they may be classified as unreasonably persistent complainants, copy this procedure to them, and advise 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 that complainants seek advice in processing their complaint, e.g. through Healthwatch/The Advocacy People.
- (iii) Decline contact with the complainants either in person, by telephone, by email, by letter or any combination of these, provided that one form of contact is maintained or, alternatively, to restrict contact to liaison through a third party.
- (iv) If staff are to withdraw from a telephone conversation with a complainant it may be helpful for them to have an agreed statement available to be used at such times.
- (v) Notify the complainant in writing that the Chief Executive has responded fully to the points raised and has tried to resolve the complaint, but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should also be notified that the correspondence is at an end and that further letters or emails received will be acknowledged but not answered.
- (vi) Inform the complainants that in extreme circumstances the Trust reserves the right to pass unreasonable or unreasonably persistent complaints to the Trust's solicitors.
- (vii) Temporarily suspend all contact with the complainants or investigation of a complaint whilst seeking legal advice or guidance from the Regional Office, National Health Service Executive, or other relevant agencies.
- (viii) Enforce the Royal Berkshire NHS Foundation Trust Prevent Minimise and Manage Violent Aggression and Restraint Policy.

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