Ashford and St. Peter's Hospitals NHS
NHS Foundation Trust

COMPLAINTS PROCEDURE

Amendments			
Date	Page(s)	Comments	Approved by
June 2009		General review and update to incorporate new complaints legislation 1st April 2009	Chief Nurse
	Para 4.4	Added	
	Para 5	Amended	
	Para 8.2	Amended	
	Para 8.3.1	Added	
	Para 10	Added	
	Para 18	Amended	
	Para 26	Added	
Nov 2010	All	General update to reflect new structure	Trust Executive Committee
	Para 9.5	Update to reflect new complaints handling process	
	Para 9.6		
	Para 9.7		
	Para 9.9		
	Para 9.18	Added	
	Para 13.2	Amended	

Ratified by:	Trust Board
Date:	July 1999
Reviewed by:	S.Maughan, Complaints Manager/J Down, Head of Customer Affairs
Date:	November 2010
Next review date:	November 2012
Target Audience:	All staff
Impact Assessment Carried out by:	Sal Maughan, Complaints Manager
Comments on this Document to:	Sal Maughan, Complaints Manager

ASHFORD & ST. PETER'S HOSPITAL NHS FOUNDATION TRUST

COMPLAINTS PROCEDURE

See also: Ashford & St Peter's Hospitals NHS Trust, Patient Information Leaflets:

- What if I want to complain?
- A Guide to our Complaints Service
- Policy for Handling of Clinical Negligence Claims
- Patient Advice and Liaison Service Operational Policy
- The Reporting and Management of Incidents
- Guidelines for Using the Interpreting Service
- Being Open Policy
- Policy for Handling Habitual complainants
- Policy for the Management of Complaints Files
- Management and Reduction of Stress Policy
- Safeguarding Adults in the Trust: Guidelines for Staff
- Assessing a Patient's Mental Capacity to make Decisions: Guidance for Staff
- Surrey Joint Working Protocol
- Learning Education and Development Policy
- Template PICC Report

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1. INTRODUCTION

The Local Authority Social Services and National Health Service Complaints Regulations (England) Regulations: Statutory Instrument No 309 came into force on 1st April 2009. The Trust's Complaints Procedure and approach to managing patient's complaints and concerns reflects the requirements of this current legislation.

2. DEFINITION

A complaint is defined as an expression of dissatisfaction requiring a response.

3. AIMS

3.1 The procedure is designed to meet a number of guiding principles, which constitute Trust policy in relation to complaints.

i. The timely investigation of, and response to, a complaint is accorded highest priority by all concerned.

ii. There are adequate communication processes in place to ensure complainants can easily access the complaints process

iii. Complaints are fully investigated.

iv. Complainants are given the opportunity to agree how their concerns will be handled and will receive an individualised, full and honest response which provides an explanation of what happened, why it happened, and, if appropriate, any action(s) taken to avoid recurrence.

v. Any errors or shortcomings are openly acknowledged, and an apology or expression of regret provided. (This will not constitute an admission of liability).

vi. Lessons are learned, and action taken to effect changes or improvements in procedure or practice.

vii. Staff are treated fairly, are given feedback, and are offered any necessary support.

3.2 The procedure is not intended to be cumbersome or bureaucratic nor intended to discourage staff from responding directly to complainants in certain circumstances.

4. WHO MIGHT COMPLAIN

4.1 Complainants may be existing or former patients using the Trust's services and facilities, as well as visitors. Members of hospital staff and other health professionals including the General Practitioner

may also complain about aspects of patients care. If the person complaining is not a patient, but is complaining on behalf of a patient, it is important to check that the patient knows about the complaint. The Complainant must be told that, in order not to be in breach of patient confidentiality, any matters relating to the patient's care and treatment can only be answered with the patient's consent. (This does not mean that the matters raised cannot be investigated, but means that the reply to the complainant may not be in detail).

4.2 Relatives, carers or others complaining on behalf of patients will be sent a Form of Authority (Appendix 1) and asked to return it to the Complaints Manager. The patient will sign to confirm their agreement to a reply being sent to the person who made the complaint. If the patient is unable to act for him or herself, the Trust will take reasonable steps to ensure that the Complainant is an appropriate person to receive information. In any event, if there is no signed consent from the patient as to what personal information can be passed on, there is a greater limitation on the content of the Trust's response.

4.3 Where a complaint is made on behalf of a patient who has died, it is important to check that the person making the complaint is the deceased patient's next of kin. Where this is not the case, the consent of the next of kin will be sought in writing and they will be asked to complete a Form of Authority. In doing so the Trust will offer the next of kin the opportunity to review the complaint that has been made. (Appendix 2)

4.4 <u>Children aged 18 and Over</u>

Once a person reaches their 18th birthday they are deemed to be a competent adult capable of consenting or refusing treatment unless, following assessment, they are deemed unable to make informed decisions for themselves.

<u>Children aged 16 and 17</u>

A person who is the age of 16 is assumed to have the same capacity as an adult to consent to treatment in accordance with the Mental Capacity Act 2005. As such, they do not need parental consent for medical treatment or interventions unless, following assessment, they are deemed to lack capacity. Medical staff also have a duty of confidentiality to such patients and should not disclose information to parents without the person's consent.

If a complaint is made on behalf of a 16 or 17 year old, unless there is clear medical evidence that they lack capacity, then their express authority should be obtained before responding to the complaint as it will involve disclosing confidential patient information.

<u>Children under the age of 16</u>

Children under 16 can consent to medical treatment if they fully understand what is being proposed. It is up to the treating clinician to decide, after assessment, whether the child has the maturity and intelligence to fully understand the nature of the treatment, the options available, any risks involved and any potential benefits. A child who has such understanding is considered 'Gillick competent' (a standard which is based upon UK case law).

The parents cannot overrule the child's consent when the child is judged to be Gillick competent. Children under16 who are not Gillick competent and very young children cannot either give or withhold consent. Those with parental responsibility need to make the decisions on their behalf.

If a complaint is made on behalf of child who is under the age of 16, unless there is clear medical evidence that they have been assessed and still are Gillick competent, then no authority from the child will be needed to respond to a complaint made by those with parental responsibility. If however there is clear evidence that the child is Gillick competent, then their express authority should be obtained before responding to the complaint as it will involve disclosing confidential patient information.

5. TIME LIMIT ON INITIATING COMPLAINTS

Normally, a complaint should be made within 12 months from the incident, which caused the problem, or within 12 months of the date of discovering the problem. There is, however, discretion to extend this time limit where it would be unreasonable for the complaint to have been made earlier, and where it is still possible to investigate the facts of the case.

6. CONFIDENTIALITY

6.1 All patients are entitled to absolute confidentiality and all complaints will be treated as confidential. Care must be taken at all levels to ensure that any information disclosed about a patient during a complaint investigation is relevant to that investigation and only disclosed to those people who have a legitimate need to know it for the purpose of investigating the complaint. It will be explained to the patient in writing, that information from their health records may need to be disclosed in order that their complaint can be investigated.

6.2 All correspondence with Complainants will be marked "Private and Confidential" or "Personal" except on the occasions when a complaint is made by a member of Parliament (MP) on behalf of a constituent (see section 9.2) All correspondence will be sent by First Class post.

6.3 Where complaints are identified through the press, the Trust will maintain confidentiality of information about staff and patients in accordance with Trust policy.

7. RECORDS

Complaint correspondence will be kept separate from health records, subject to the need to record any information, which is strictly relevant to their clinical management in the patient's health record. No complaint correspondence is to be filed in the patient's health record. This instruction covers the initial letter of complaint and the final letter of reply, as well as internal correspondence. The master files of all statements and correspondence are held by the Complaints Department. Please also see the Policy for Management of Complaint Files.

8. PROCESS

8.1 Local Resolution

Emphasis is laid on resolving complaints as quickly as possible and this is achieved in three ways. The first is through an immediate informal response by front-line members of staff. The second is by referral to the Trust's Patient Advice and Liaison Service (PALS). The third way is as a result of subsequent investigation or conciliation through staff who are empowered to deal with complaints as they arise, in an open and non-defensive way. This is known as Local Resolution. The intention of Local Resolution is that it should be open, fair, flexible and conciliatory. Many complaints should be capable of being resolved verbally.

8.2 Verbal Concerns (See Appendix 4, Procedure Flowchart)

It may be appropriate for the entire process of Local Resolution to be conducted verbally, without any written communication, leaving the Complainant completely satisfied with the outcome. Most verbal concerns will be dealt with on the spot or within 1 working day.

8.2.1 Front-line staff need to be aware of who to call if they are unable, for any reason, to deal personally with a verbal concern. Each department or unit, must have clear arrangements for someone senior to be designated. In addition, concerns which require a more immediate resolution and can be assisted by an "independent" staff advisor should be referred to PALS.

8.2.3 The hospital switchboard should establish who any telephone caller needs to speak to and direct calls to the appropriate Matron or service manager wherever possible. The Patient Advice and Liaison – PALS Manager may be asked to assist if other relevant person(s) are not available. If a complaint is made out of normal working hours the Clinical Nurse Site Practitioners may be contacted to assist.

8.2.4 Concerns are most likely to be initiated with front-line staff on the wards, in clinics, at reception desks or with departmental managers. Any member of staff receiving a verbal concern should therefore try to establish the nature of the problem and resolve the matter as

quickly as possible by listening carefully and sensitively to concerns, by being helpful and understanding and by taking appropriate action.

8.2.5 If the member of staff is not able to resolve the concerns on the spot or feels unable to give the reassurances that the Complainant is clearly looking for, they should refer the matter to their Ward Sister, Matron or Divisional General Manager. They should record the details of the concern on the Verbal Concerns Form (Appendix 5) which is designed to record verbal concerns, the action taken to resolve them and the methods used. This form should be signed by the Complainant (where possible) and the staff member completing the form. At any point during this procedure, the concern may be referred to PALS for resolution.

8.2.6 A completed verbal concerns form should be forwarded to the Complaints Manager and should be copied to relevant Divisional General Manager who will monitor the number and type of verbal concerns received and dealt with. The form may also be used as an official document in any further, formal investigation.

8.2.7 If staff are unable to resolve a verbal concern within 1 working day or if the Complainant is dissatisfied with the response to a verbal concern and wishes to pursue the matter further, the completed verbal concerns form should be referred to the Complaints Manager for formal action. Complainants should also be made aware of the role of the Independent Complaints Advocacy Service (ICAS) to assist them in pursuing complaints and how they can be contacted. (See Section 27).

8.3 Formal Complaints (See Appendix 6)

Formal complaints may be made orally or in writing and it is the responsibility of the Chief Executive to respond in writing to all formal complaints. Letters of complaint addressed personally to clinicians and other hospital staff should also be forwarded immediately to the Chief Executive for acknowledgement and investigation.

8.3.1 Email Complaints

All complaints received by email will be treated as formal complaints and dealt with as such. However, for issues of security, complainants will be asked for a postal correspondence address in the first instance. Where complainants decline to offer a postal address or express explicitly that they wish to receive an electronic response rather than a written response, they will be asked to complete an electronic consent form which allows the Trust to share personal details in an electronic format. (Appendix 7)

8.3.2 All complaints will be acknowledged either orally or in writing within three working days. At the time of acknowledgement, the

Complainant will be offered the opportunity to discuss with the Complaints Manager or designated Complaints Officer how their complaint will be handled. The timescale for response to each complaint will be agreed with the complainant as part of this discussion. Where a complainant declines the offer to discuss their complaint, the Complaints Manager will write to them to explain the manner and timescale in which their complaint will be handled. Where it is not possible to meet the agreed timescale the complainant will be kept fully informed of the reasons for the delay and an amendment to the initial timescale agreed.

8.3.3 If during an investigation a complaint becomes "serious", there should be an immediate referral to the Chief Nurse and Divisional General Manager who will decide how the case should proceed.

8.4 "Serious" Complaints

If a complaint indicates any of the following, it will be the responsibility of the Divisional General Manager and Chief Nurse to make a decision on the appropriate action to initiate:

- An investigation under the disciplinary procedure
- The need for referral to one of the professional regulatory bodies
- The need for referral for investigation under Safeguarding Vulnerable Adults procedure
- An investigation into a Serious Untoward Incident
- Referral to the police for the investigation of a criminal offence
- The potential for significant adverse publicity

8.4.1 Where a complaint is being investigated in parallel with a Serious Untoward Incident, the Complaints Manager will liaise with the Chief Nurse and Head of Customer Affairs and seek agreement to use the findings of any Serious Untoward Incident investigation as part of the response to the Complainant.

8.4.2 If a decision is made to embark on a disciplinary investigation, it may not be possible to conclude the complaints procedure until the disciplinary proceedings are completed. The Complainant should be informed in general terms of any disciplinary sanction imposed on any staff member.

8.4.3 Where it is not possible to carry out an immediate formal investigations because of referrals to one of the above, the Complaints Manager will inform the complainant of this and will liaise with the Divisional General Manager, Chief Nurse and/or the external agency to ensure the complainant is fully updated as to when they can expect an investigation to commence and be completed.

8.4.4 The Complaints Manager, in consultation with the Chief Executive and/or Chief Nurse, will inform the Communications Manager of any complaint with the potential for significant adverse publicity.

8.5 Multi-Agency Complaints

The Chief Executive, through the Complaints Manager, will be responsible for ensuring that Complainants are informed of which aspects of their complaint are not within the Trust's jurisdiction. Where a complaint involves more than one NHS or non-NHS body, the Trust will forward the complaint to the other agencies concerned, with the Complainant's permission. The Trust will follow the Surrey Joint Working Protocol for handling inter-agency complaints. Where a complaint involves an agency outside Surrey similar cooperation will be sought and there be an agreement as to which organisation will lead upon and provide a response to the complainant. Either way, there should be full co-operation in seeking to resolve the complaint through each agency's complaints procedure and wherever possible a coordinated response should be provided.

9. PROCEDURAL DUTIES & RESPONSIBILITIES

9.1 The Chief Executive is the designated responsible person whose duty it is to ensure overall compliance with the Statutory Instrument. The Trust will have a designated Complaints Manager to whom the Chief Executive will delegate the day to day management of the process and whose role is to oversee the complaints procedure.

9.2 The Complaints Manager will send an individualised letter of acknowledgement to all complainants on behalf of the Chief Executive, with the exception of:

a) Those received by Members of Parliament (MP's) which the Chief Executive will acknowledge personally, within three working days. To comply with MP's disclosure procedures, letters to MP's will not be marked private and confidential.
b) Complaints of a "serious" nature, those graded at level 4 (see section 9.3) or any other complaint deemed to require a more personal intervention will be acknowledged by the Chief Executive within 3 working days. This acknowledgement will be drafted on behalf of the Chief Executive by the Complaints Manager.

9.2.1 A copy of the Trust's leaflet, which explains how the complaint will be handled will also be enclosed. In the absence of the Chief Executive, all complaints responses will be signed by the Chief Nurse.

As a signatory is deemed responsible for their correspondence, wherever possible, letters should be signed only by the named individual noted on this correspondence, once they are satisfied with its content.

9.3 Grading of Complaints

All complaints will be graded in relation to their seriousness. These gradings will be in line with grading for incidents, numbered from 1-4, 4 being the most serious.

1 Minor failing or failure, no tangible effect on a patient

2 Moderate failing or failure resulting in minor or moderate effect on a patient

3 Intermediate failing or failure resulting in moderate to serious effect on a patient

4 Major failing or failure, very serious or severe effect on a patient

9.4 Complaints falling into category 1 will generally be issues related to catering, cleanliness and administration.

An individualised acknowledgement and response from the Chief Executive will be sent to the complainant within 3 working days. This letter will thank the complainant for bringing their concerns to the attention of the Trust. The letter will address the issues raised, apologise for any failings on our part and will inform the complainant that their concerns have been reviewed by the appropriate manager for any relevant action.

Copies of these complaints will be retained by the Complaints Department and forwarded to the relevant managers only.

9.5 Complaints falling into category 2 will relate to failings or failures which have had a minor or moderate effect, but warrant investigation and individualised response from the relevant staff. These will be passed to the relevant Divisional General Manager and a copy should be provided to the Head of Customer Affairs and Chief Nurse. An individualised letter of acknowledgement will be sent to the complainant within 3 working days from the Complaints Manager, with a full response to follow within the agreed timescale for response. The Trust should aim to complete its investigation and response within 25 working days.

9.6 Complaints falling into category 3 will warrant a full investigation with statements from the staff involved. The complaints will be passed to the relevant Divisional General Manager for investigation and response. The complaint should be copied to the Head of Customer Affairs, Divisional Head of Nursing, Clinical Governance lead, Chief Nurse and Divisional Director. Where the complaint concerns a matter of clinical care, the Medical Director should also receive a copy. A letter of acknowledgement will be sent to the complainant within 3 working days, from the Complaints Manager. A full response will follow within the agreed timescale. The Trust should aim to complete its investigation and response within 25 working days except in complex cases where the standard timescale will be set at 30 working days.

9.7 Complaints falling into category 4 will also warrant a full

investigation as stated in 9.6. Complaints in this category will be very serious (see 8.4.). The complaints will be passed to the relevant Divisional General Manager for investigation and response. The complaint should be copied to the Head of Customer Affairs, Divisional Head of Nursing, Clinical Governance lead, Chief Nurse and Divisional Director. Where the complaint concerns a matter of clinical care, the Medical Director should also receive a copy. The Chief Nurse will take a personal interest in all grade 4 complaints. Other relevant staff will be made aware if appropriate, e.g. Communications Manager.

9.8 The Complaints Manager will be responsible for grading complaints. As the investigation proceeds, or where circumstances change, the Complaints Manager may change the grading of a complaint, e.g. following investigation it becomes clear that the complaint has been graded inappropriately

9.9 For all complaints, the Divisional General Manager (or nominated deputy) will be responsible for gathering responses from staff and drafting a final response on behalf of the Chief Executive. This will then be forwarded to the Complaints Officer/Manager for feedback. The Complaints Officer will support the Divisional General Manager in their investigation liaising with other specialties or external agencies when necessary.

9.10 For complaints with three or more respondents or complaints that are graded as category 4 the Complaints Officer will obtain the patient's health records and retain them during the investigation of a complaint. These records can then be inspected by staff investigating the complaint. The Complaints Officer can supply copies of relevant sections of the records in order to facilitate early responses to complaints.

9.11 Staff requested to conduct an investigation of a complaint will have the skills, experience and seniority demanded by the particular complaint. They will be given fifteen working days to prepare their report which will form the basis of the reply to the Complainant and should include:

- an explanation or further information related to the patient in question that will clarify any concerns
- an apology where justified and a reassurance that others will be spared a similar experience
- steps taken to prevent a recurrence
- actions or improvements taken as a result of the complaint

The report will be comprehensive in addressing all the points raised and written in simple English, providing explanations of any medical or technical terms. All statements obtained from staff as part of an investigation will be appended to the report to be held on the complaints file. Such reports may be sent under covering letter from the Chief Executive to the Complainant, with the writer's permission, if appropriate.

9.12 If a draft letter of response has not been received within 15 working days the investigation the Complaints Manager will refer to the Divisional General Manager for an explanation for the delay. If the draft reply has not been received within 17 working days the Complaints Manager will formally escalate this to the Chief Operating Officer. If necessary, the Complaints Manager will contact the complainant to advise them of the need to amend the timescale for response and this will be done with agreement of the Complaints Manager/Head of Customer Affairs.

9.13 If the complaint concerns matters of clinical judgement, the clinician should try to resolve the complaint within a few days, preferably by offering to see the Complainant to discuss the matter. The clinician will inform the Divisional General Manager/Complaints Officer of any such meeting and the Complaints officer will be in attendance to take notes. These will be written up and sent to the Complainant.

9.14 Where a final response relates to a matter of clinical judgement, final drafts will be circulated to respondents for their comments and amendments before they are sent to the Chief Executive for approval and signing. In the case of medical care the consultant responsible for the care of the patient may wish to check the final draft. However, draft letters can only be circulated in this way if responses have been received in a reasonable time prior to the deadline date.

The Complaints Manager and/or Head of Customer Affairs will be responsible for quality checking the final response against all statements collected and, where appropriate, the patient's medical records.

Once the draft reply has been agreed it will be forwarded to the Chief Nurse for final approval. Once approved the draft reply will be passed to the Chief Executive who will, within 2 working days, amend or agree the draft before signing the letter of reply and sending it to the Complainant on the date stipulated.

9.15 On occasions, and in particularly complex cases, it will be appropriate to share a draft response with the complainant in order that they may comment upon and agree the final response. In such cases, the response must be agreed by the clinicians and the Chief Executive in the usual way before it is sent in draft format to the complainant.

9.16 In accordance with legislation, all complaints should be brought to resolution within 6 months. Where this is not possible the Trust will write to the complainant to explain the reasons why and to confirm date by which a final response will be provided.

9.17 At this stage of the Local Resolution, the Chief Executive will make clear in the final reply that he/she wants to know if a Complainant is not satisfied with the reply. In this event, further investigation or a

meeting with hospital staff will be offered to clarify any queries or respond to any outstanding concerns.

9.18 In all final response letters, the Complainant will be advised of their right to share their feedback with the Care Quality Commission and will be provided with details of how to do this.

9.19 The Complainant has the right to seek an Independent Review by the Parliamentary and Health Service Ombudsman of the complaint, or any aspect of the response to it, with which the Complainant remains dissatisfied. The Complainant normally has 12 months from the date of the Chief Executive's final reply to make such a request. The Trust will advise complainants of their right to request an independent review in its final response letters.

10 SAFEGUARDING ADULTS

The Trust has in place systems and processes to promote the safeguarding and wellbeing of patients. These are reflective of local and national guidelines. It is important that when a complaint is received, consideration is given as to whether it may meet the Safeguarding Adults threshold and this must be done in a timely manner in line with the Surrey Safeguarding Adults Multi-Agency Procedures.

Before commencing an investigation, each complaint received will be reviewed by the Complaints Manager for potential Safeguarding Adult issues. Where the Complaints Manager identifies potential safeguarding issues, the complaint will be immediately referred to the Trust lead for Safeguarding Vulnerable Adults. They will consider the complaint and confirm to the Complaints Manager whether there are safeguarding issues that require referral to the appropriate social care, learning disability or mental health team. This may mean that the formal complaints investigation has to be delayed although it should be remembered that the two investigations can run in parallel if it is agreed that this would not compromise the Safeguarding investigation.

When it has been decided that the Surrey Safeguarding Adults Multi-Agency Procedures must be invoked, and where it is not possible to immediately carry out a formal complaints investigation the Complaints manager will inform the complainant of this and will liaise with the Trust Safeguarding Vulnerable Adults lead in order to ensure the complainant is fully updated as to when they can expect an investigation to commence and be completed.

11 MEETINGS

As part of the local resolution process and in agreeing with the complainant how they wish their concerns to be handled, consideration will be given to arranging a meeting with hospital staff. However, this will be discussed with the relevant members of staff before it is agreed with the Complainant. Staff should attend a pre-meeting to discuss the case.

11.1 Should the Complainants wish, meetings may be recorded on to Compact Disc (CD). This may be particularly helpful in more serious/ complex complaints. CD recording will not go ahead without consent from staff and the Complainant prior to the start of the meeting. Complainants will be offered a copy of the CD and a typed summary of the meeting. The Trust will retain a copy of all CDs.

11.2 Notes of meetings will be circulated to all staff members involved for checking of clinical content before they are sent to the complainant.

12 INDEPENDENT EXPERT REVIEW

During local resolution, the Trust may consider it appropriate to commission an independent review of a complaint. This will be with the agreement of the Complainant who will be forwarded a full copy of this report. The Trust will also make provision for the complainant to attend a meeting with appropriate personnel in order to discuss the content of the report should they wish to do so.

13 ACTION PLANS

In order that the Complaints Process brings about necessary change, Divisional General Managers are required to produce a quarterly action plan which should include service amendments and/or changes in practice as a result of a complaint.

13.1 For all complaints graded 1 and 2, at the end of each quarter a list of complaints will be sent to each Divisional General Manager. They will be asked to compile a short report outlining actions taken as a result of the main trends illustrated in these complaints. This report will be forwarded to the Complaints Manager for consideration at the Complaints Monitoring Group.

13.2 For all grade 3 and 4 complaints, an investigation will be completed and an individualised action plan developed, which may include a root cause analysis in line with the policy for The Reporting and Management of Incidents. It will be the responsibility of the Divisional General Manager to ensure that this report is completed.

These action plans will be anonymised and forwarded to the Complaints Manager for consideration at the Complaints Monitoring Group.

The information contained in the completed action plans will be collated by the Complaints Department for consideration by the Complaints Monitoring Group and will form an evidence resource file in the Complaints Department. (Appendix 8)

14 SUPPORTING STAFF

The Trust acknowledges that staff may find the process of investigating a complaint stressful and recognises it is therefore important that staff are

appropriately supported. Trust Managers and Senior Clinical Staff will have a responsibility for ensuring that their staff are appropriately supported and, where necessary, should seek guidance from the Human Resources Department. See also the Management and Reduction of Stress Policy.

15. HABITUAL COMPLAINTS

The Trust has formal guidance which supports staff in making an informed decision on whether a complainant may be considered habitual based on the application of certain criteria. Please see the Procedure for Handling Habitual Complainants.

A complainant may be considered habitual where they remain dissatisfied with the response to their complaint despite lengthy correspondence and contact with Trust staff and their complaint having been thoroughly investigated.

The policy for dealing with habitual complainants clearly details the criteria and process which should be applied in consideration of each individual case. The decision as to whether a complainant is deemed habitual will be made by the Chief Executive (or in their absence the Chief Nurse) who will also decide on the appropriate action.

16. CONCILIATION

The Trust may refer cases amenable to conciliation to an Independent Conciliator. The Independent Conciliator will usually seek to bring both parties together in discussion. Conciliation is voluntary and, whether it is taken up or not, does not disqualify the complainant from seeking Independent Review by the Parliamentary and Health Service Ombudsman. The conciliators providing this service are not employed by the NHS. They are neutral and do not take sides.

17. LEGAL PROCEEDINGS

If the Complainant explicitly indicates they are to take legal action in respect of the complaint, the complaints procedure should be brought to an end, with the Complainant and the complained against being advised in writing. However, there should still be a full and thorough investigation of the events and a report prepared for retention by the Head of Customer Affairs.

18. HEALTH SERVICE COMMISSIONER (OMBUDSMAN)

18.1 The Ombudsman investigates complaints about the National Health Service and is completely independent of the NHS and the government. The Ombudsman will consider cases where the complainant is not satisfied with the trusts efforts to resolve their concerns at a local level. The Complainant has to send their complaint to the Ombudsman no later than a year from the date when they became aware of the events, which are the subject of complaint. The Ombudsman can sometimes extend the time limit,

but only if there are special reasons.

18.2 The Ombudsman can investigate complaints about hospitals or community health services which are about:

- a poor service
- failure to purchase or provide a service a Complainant is entitled to receive
- mal-administration - that is administrative failures such as unavoidable delay, not following proper procedures, rudeness or discourtesy, not explaining decisions or not answering the complaint fully and promptly
- complaints about the care and treatment provided by a doctor, nurse or other health care professional
- other complaints about family doctors (GPs) or about dentists, pharmacists or opticians providing a NHS service locally

18.3 The Ombudsman cannot look into:

- complaints which one could take to court or an independent tribunal - unless the Ombudsman does not think it reasonable for the Complainant to do so
- personnel issues such as appointments of staff, pay or discipline
- commercial or contractual matters, unless they relate to services for patients provided under a NHS contract
- properly made decisions an NHS authority or other body or individual providing NHS services has a right to make, even if the Complainant does not agree with the decision
- services in a non-NHS hospital or nursing home, unless they are paid for by the NHS
- complaints about government departments, such as the Department of Health
- complaints about local authority departments, such as social services

18.4 The Ombudsman will decide whether or not an investigation will be carried out. If the Ombudsman cannot look into a complaint or decides not to, the complainant will be told why. If the Ombudsman decides to investigate, the Complainant and the Trust will be sent a statement of complaint, which sets out what matters the Ombudsman, will look into. The Complainant and relevant hospital staff may be interviewed by the Ombudsman's investigator. At the end of the investigation, a report will be sent to the Complainant and the Trust. If the complaint is found to be justified, the Ombudsman will seek for the Complainant an apology or other remedy. Sometimes that may include getting a decision changed, or a repayment of unnecessary costs to patients or their families. The Ombudsman does not recommend damages. The Ombudsman may also call for changes to be made so that what has gone wrong does not happen again. Where the Trust tells the Ombudsman that it will make such changes, the Ombudsman checks that it has done so.

18.5 Following receipt of the Ombudsman's draft report, this will be

circulated to the relevant staff involved in the case for their comments. The Trust must confirm to the Ombudsman that the content is accurate and state whether it accepts the Ombudsman's decision.

Further to receipt of the final report, if recommendations are made the Trust must convene a meeting of the relevant senior staff to review the recommendations and carry out the necessary actions. Clear action planning must be carried out. It is likely that the Ombudsman will wish to review actions taken as a result of their recommendations 3 months later. The Complaints Manager will oversee this process.

A summary of the Ombudsman's report will be compiled by the Complaints Manager for consideration at the Complaints Monitoring Group.

A complaint to the Ombudsman represents the final stage in the procedure for pursuing a complaint. The Ombudsman's decision on a complaint is final.

19. PRIVATE PATIENTS

This procedure covers any complaint made about staff or facilities relating to private health care on Trust premises but does not cover the private medical care provided by a consultant outside his NHS contract.

20. PATIENT CHOICE

A patient may have been receiving treatment for a particular condition at Ashford & St Peter's Hospitals NHS Trust and is subsequently referred to another hospital, be it NHS or private, under the Patient Choice scheme for further treatment for that condition.

If a complainant makes a complaint which involves their treatment at both hospitals Ashford & St Peter's Trust will co-ordinate the response, requesting comments from the clinicians at the second hospital in line with the Trust's complaints procedure.

If the complaint relates to the second hospital alone, the complainant will be advised to contact the relevant hospital direct

Where a patient is referred to an alternative hospital under the Patient Choice scheme directly by their GP before they have commenced treatment at this Trust, the receiving Trust will be responsible for handling any complaints that may arise

21. MONITORING

21.1 The Complaints Manager will be responsible for the monitoring of individual complaints against agreed timescales on a weekly basis, in liaison with the Divisional General Managers. This will include

multi-agency complaints.

21.2 The Complaints Manager will liaise with the Divisional General Managers to produce a quarterly summarised report of complaints received including qualitative and quantitative analysis of key issues found in complaints. The report will include action taken to improve services as a result of complaints and identify adherence to agreed timescales and where appropriate the reasons for any amendments to this. The analysis of complaints will follow the categories given in the NHS Information Centre central return, KO41(A). The quarterly report will be discussed at the quarterly Complaints Monitoring Group and a summary of the report will be forwarded to the Trust Executive Committee two times per year.

21.3 Divisional General Managers will ensure that the complaints report is discussed at appropriate specialty meetings and that the lessons from complaints are used as learning opportunities with junior staff and action is taken to prevent recurrence. Action taken within specialties will be followed up by the Complaints Manager quarterly and Divisional General Managers will provide evidence of actions taken to ensure that improvements are being maintained.

21.4 The Complaints Manager will provide relevant data to support the aggregated qualitative and quantitative analysis of PALS, Incidents & Complaints (PIC) data. The integrated report will be submitted to the Trust Integrated Governance Assurance Committee on a six monthly basis. The Complaints Manager will also provide data to support the monthly Quality and Safety report to the Trust Board.

21.5 The Trust has a Complaints Monitoring Group, chaired by the Chief Executive which meets quarterly to monitor this policy as a whole. The group will monitor outcomes and consider trends in complaints. The Complaints Monitoring Group will receive a summary of requests for second stage review. The Complaints Monitoring Group will report two times per year to the Trust Executive Committee and will provide an annual report to the Trust Board, its members will include:

Chief Executive (Chair)
Chief Nurse
Head of Customer Affairs
Complaints Manager
Divisional General Managers
Head of Capacity Management
Head of Hotel Services
ICAS representative
Patient Representative
PALS Manager
Clinician

21.6 The conclusions and recommendations outlined in an Ombudsman's final report, together with any action to be taken by the Trust as a result of these investigations, will be included in the Complaints Manager's quarterly complaints report.

21.7 The Trust's Annual Report will include the following information;

- The number of complaints received
- The number of complaints which were well-founded
- The number of referrals to the Ombudsman and the percentage completed within the national performance targets.

The report will also summarise the subject of the complaints, any matters of importance and details of any service improvements and risk reduction measures arising from complaints.

22. COMMENTS AND SUGGESTIONS

The Trust welcomes comments and suggestions whether critical or positive and operates a comments and suggestions scheme which is managed within each local area.

23. TRAINING

All staff should know how to react and what to do if someone makes a complaint. The Trust will provide staff training in all aspects of complaints management, at induction and as part of a continuing programme of mandatory training as identified by the Trust Learning, Education & Development Policy - Training Needs Analysis. Specialist training will also be provided to specific staff groups upon request.

24. PUBLICITY

Posters and leaflets informing patients and visitors of the Trust's Complaints Procedure will be displayed throughout the Trust. The Complaints process will also be publicised on the Trust's website.

25. TRANSLATION & INTERPRETING

The Trust recognises that on occasions complainants may experience difficulties in pursuing their complaint due to language or communication barriers. The Complaints Manager will ensure that appropriate support is made available to complainants in line with the Trust's Guidelines for Using the Interpreting Service.

26 SPECIAL NEEDS

The Complaints Manager will ensure that wherever possible the individual needs of complainants are identified and met. This will include meeting the needs of people with learning disabilities, physical disabilities or communication problems such as hearing or visual impairment. This should involve use of the following:

- Hearing loops for the hearing impaired.
- Any face to face meeting with complainants who are wheelchairs users will be made in a room where there is wheelchair access.
- The right to a chaperone of the patients choice for patients who

may have learning disabilities, or be visually impaired.

27. INDEPENDENT COMPLAINTS ADVOCACY SERVICE (ICAS)

If Complainants are uncertain about the procedures or feel unable to make their comment or complaint direct, they should be advised to contact their area ICAS whose advocates are available to listen to their problem and inform them of their options. ICAS is an independent body set up to represent the patients' interests in the National Health Service. In other words, it acts as their voice in the NHS. ICAS services covering the area are

North West London ICAS: Telephone: 0845 337 3065

South East ICAS: Telephone: 0845 600 8616

28. REFERENCES AND BIBLIOGRAPHY

Statutory Instrument (2009) The Local Authority Social Services and National Health Service Complaints (England) Regulations London HM Statutory Office.

NHS Litigation Authority (2007) Clinical Negligence Scheme for Trusts (CNST): Clinical Risk Management Standards. London: NHS Litigation Authority www.nhsla.com/Riskmanagement/

Listening and Learning: the Ombudsman's review of complaint handling by the NHS in England 2009-10 (2010) Parliamentary and Health Service Ombudsman

Listening, Responding, Improving – A guide to better customer care,(2009) Department of Health

Listening, Responding, Improving - Advice sheets, (2009) Department of Health

Ombudsman's Principles, (2009) Parliamentary and Health Service Ombudsman

NHS Constitution (2008) Department of Health

Surrey Complaints Protocol for NHS Trusts and Social Care Services Departments - available on complaints shared T:drive and in hard copy

Apologies and explanations -NHS Litigation Authority , 2009

WEBSITES

Mental capacity Act 2005 – www.opsi.gov.uk

NHS Litigation Authority – www.nhsla.com

Health Service Ombudsman - www.ombudsman.org.uk

Root Cause Analysis (National Patient Safety Agency – www.npsa.nhs.uk

South of England Advocacy Project/ICAS – www.seap.org.uk

Appendix 1

Ashford and St. Peter's Hospitals NHS
NHS Foundation Trust

FORM OF AUTHORITY

To:

Complaints Department
St Peter's/Ashford Hospital

I, *Name of patient*

Of

Address of patient

I hereby authorise

Name of Complainant

Of:

Address of Complainant

to act on my behalf and to receive any and all information, including personal and confidential information that may be relevant to my complaint.

I give my permission for Ashford & St Peter's Hospitals NHS Trust to investigate the complaint and where necessary, obtain disclosure of relevant personal and confidential information relating to me, including my clinical notes.

I understand that Ashford & St Peter's Hospitals NHS Trust will use any information gathered to assist in the investigation of this complaint.

Signature of patient:

.....

Date:

.....

Ashford and St. Peter's Hospitals NHS
NHS Foundation Trust

FORM OF AUTHORITY *(where patient has died)*

To: Complaints Department, St Peter's/Ashford Hospital

Patient Name ……

Patient's Address ……

……

Date of Birth ……

Date of Death ……

I, *Name of next of kin*

Of *Address of next of kin*

Relationship to patient ……..

confirm the above information set out above is true and accurate and hereby authorise:

Name of Complainant

Of:

Address of Complainant

to act on my behalf and to receive any and all information, including personal and confidential information that may be relevant to this complaint.

I give my permission for Ashford & St Peter's Hospitals NHS Trust to investigate this complaint and where necessary, obtain disclosure of relevant personal and confidential information relating to <***name of patient***>, including any clinical notes.

I understand that Ashford & St Peter's Hospitals NHS Trust will use any information gathered to assist in the investigation of this complaint.

Signature of next of kin: .....

Date: .....

Appendix 3

Ashford and St. Peter's Hospitals NHS
NHS Foundation Trust

FORM OF AUTHORITY (where patient is a child)

To:

Complaints Department
St Peter's/Ashford Hospital

I, *Name of patient*

Of

Address of patient

I hereby authorise

Name of Complainant

Of:

Address of Complainant

to act on my behalf and to receive any and all information, including personal and confidential information that may be relevant to my complaint.

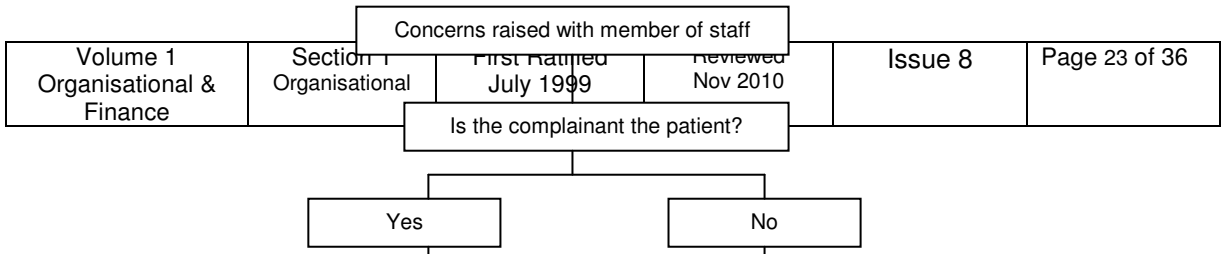
I also authorise Ashford & St Peter's Hospitals NHS Trust to liaise direct with [insert name] in respect of the complaint.

Signature ……

Date: ……

VERBAL CONCERNS PROCEDURE FLOWCHART

Appendix 4



ASHFORD & ST PETER'S HOSPITALS NHS FOUNDATION TRUST

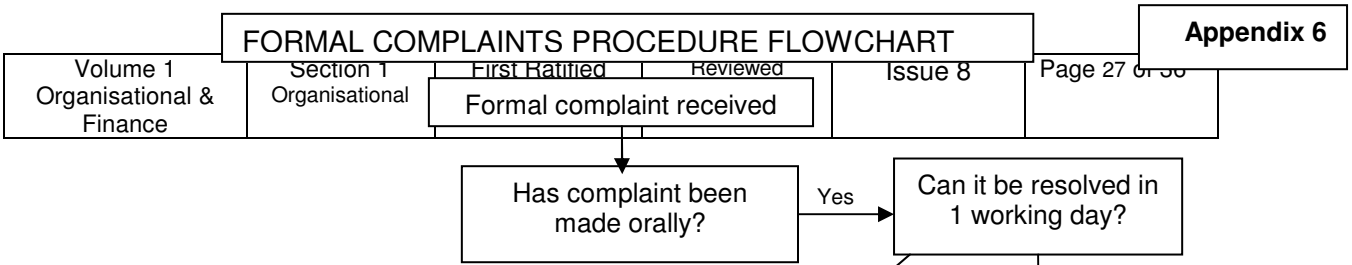
VERBAL CONCERNS FORM

Date:	Time:	Taken by:
Method of reporting eg telephone call, in clinic:		
Name of Complainant:		
Address:		
Telephone Number:		
Name of Patient:		
	Age:	Hospital Number
Relationship to Complainant:		
Does Patient know of complaint?	Yes / No	If no, explain confidentiality
DETAILS OF CONCERNS: Describe what happened; include the names of others involved. Give dates and times that events happened (ie not just "next day")		
Read details of concerns back to Complainant to verify accuracy of information		
Signature of Complainant (if present)		

FOR STAFF USE Describe the action taken:	
Is any further action needed? If Yes, describe	Yes / No
Are concerns resolved?	Yes / No
Signature of staff:	Date:
Pass this form to your Divisional General Manager	
	Date form received:
Describe any further action needed/taken (delete as appropriate)	
Is complaint resolved?	Yes / No
Date resolved:	
Is the complaint to be logged formally?	Yes/No
Pass this form to the Complaints Manager, with a copy to your Divisional General Manager a copy for your files	
COMPLAINTS OFFICE	
Date form received:	Date complaint logged:

Appendix 6

FORMAL COMPLAINTS PROCEDURE FLOWCHART



Appendix 7

Complaint response by email Consent Form

Name of complainant:	**REF**
Address:	
Email Address:	

Please tick here if you agree to an unlimited period of use for this consent form; ☐

or, specify the date at which you wish to terminate the use of this consent form _____/_____/_____

The purpose of this form is to inform you of the risks when requesting your personal information to be sent to you electronically. Also, find a list of our intentions to keep your information secure to the best of our ability using this method of transferring your information. **This form is to be completed and returned to the Complaints Manager either by return email or by post.**

Risks:

- Any information transferred outside the Trust's network is **NOT SECURE**.
- Your personal information will be vulnerable to physical access by hackers or other cyber products that have the ability to intercept emails without authority.
- Your personal information could be intercepted by other family members or friends who have access to your email account.
- The Trust dealing with your care cannot be held responsible for the security of any personal information transferred by e-mail.
- There is no guarantee that the information sent has not been changed before receipt.
- Any email could be forwarded to other members of the Public.
- Your personal information will not be encrypted or sent in a locked file format due to software issues and cost implications.
- You will not be informed of the exact date the information is sent. It is your responsibility to retrieve the information.

Trust assurance:

- A review of the information requested will be carried out and the Trust reserves the right not to email the information if deemed inappropriate or sensitive.
- A copy of the information sent will be retained on your complaints file and the origin of the information will be verifiable.
- The Subject of the email will be marked with your name and 'Private & Confidential'.
- The information will only be sent from an NHS network email.

I have requested that Ashford & St Peter's Hospitals NHS Trust send my confidential complaint response to me via email. I have read and understood the risks associated with this, as detailed above.
I understand that it is my responsibility, as the patient, to inform the Trust regarding any change of email address or other details.

By completing and returning this form you are giving consent for the Trust to correspond with you fully by email

Signature/Electronic Signature:	**Date:**

Complaints Manager's Signature:	Date:

Appendix 8

MEMORANDUM

To: Divisional General Manager

From: Complaints Manager

Date:

Re: **Complaints Monitoring Group – Divisional General Managers' Action plans**

Dear Colleagues

I enclose a breakdown of the complaints received within your area over the last quarter and would be grateful if you would provide the following for consideration at the forthcoming Complaints Monitoring Group meeting on ***date***

1. A generalised review of Grade 1 & 2 complaints identifying common trends.
2. Three clearly identified actions taken as a result of the trends highlighted from Grade 1 & 2 complaints. These actions should be supported with evidence of any changes in practice.
3. Individualised action plans for all Grade 3 & 4 complaints.

I would be grateful if all action plans could be returned to the Complaints Department by ***date*** in order that they may be distributed with the meeting papers.

Should you have any queries please do not hesitate to contact me on Ext 2859.

Kind regards

Complaints Manager

Ashford and St. Peter's Hospitals NHS
NHS Foundation Trust

Action plan

Division	**Quarter**
Author	**Date**

No. of Complaints received	**Grade 1**	**Grade 2**	**Grade 3**	**Grade 4**
Current qtr				
Previous qtr				
Year to date				

Introduction (to include complaints measured against activity):

Common trends - Grade 1 & 2 Complaints

eg. Communication	- Patients relatives not told patient was dying/staff recognition of dying patient
eg. Documentation and record keeping	- Correct next of kin details - Incomplete fluid balance charts

Three specific actions already taken to address common trends

1.
2.
3.

Please note:

Actions must be specific and wherever possible evidence should be provided in support of the action taken to address a common theme identified in complaints.

Grade 3 & 4 Complaints Action Plan

Ref	Issues	Actions	Lead	Timescale
Ref 10/xxx				

Training Needs identified:

Positive Feedback:

Equality Impact Assessment Summary

Name of Author: Sal Maughan

Policy/Service: Complaints Procedure

Background

- Description of the aims of the policy
- Context in which the policy operates
- Who was involved in the Equality Impact Assessment

The Trust's Complaints Procedure reflects the Local Authority Social Services and National Health Service Complaints Regulations (England) Regulations: Statutory Instrument No 309 which came into force on 1st April 2009.

The policy is primarily aimed at those staff directly involved in investigating and responding to formal complaints. However it is intended to be fully utilized as a reference for all Trust staff and also acts as a reference point for patients/complainants and will be available on the Trust's website.

The policy sets out the process for handling formal complaints, the standards of investigation and response required and clearly defines how action and learning from patient feedback must be captured and monitored.

The Complaints Manager, Head of Customer Affairs, PALS Manager, Patient Representative, Complaints Monitoring Group Members, ICAS (Independent Complaints Advocacy Service) Representative were involved in the Equality Impact Assessment.

Methodology

- A brief account of how the likely effects of the policy was assessed (to include race and ethnic origin, disability, gender, culture, religion or belief, sexual orientation, age)
- The data sources and any other information used
- The consultation that was carried out (who, why and how?)

In reviewing the policy full attention has been paid to the need to ensure the process fully supports all potential users of the complaints process and wherever possible seeks to address all potential adverse impacts for equality groups.

In particular, language, communication and special needs are specifically addressed ensuring ease of access to the process for all potential users.

The consultation has involved circulation of the document for comment to internal staff as well as patient representatives, Social Services and involvement of the

Independent Complaints Advocacy Service team.
Key Findings • Describe the results of the assessment • Identify if there is adverse or a potentially adverse impacts for any equalities groups
There are potentially adverse impacts for those groups based on ethnic origin and social class – in terms of ease of use/accessibility. In response to this, the policy seeks to set out clear and robust guidance upon how to mitigate this risk in order to ensure the process is open to and accessible to all potential users.
Conclusion • Provide a summary of the overall conclusions
Potentially adverse impacts on equalities groups are addressed as far as possible by the current updated policy.
Recommendations • State recommended changes to the proposed policy as a result of the impact assessment • Where it has not been possible to amend the policy, provide the detail of any actions that have been identified • Describe the plans for reviewing the assessment
Currently, the ethnicity, gender and age of users of the complaints process is monitored. This has informed the current impact assessment. It is recommended that this monitoring continues in order to inform future impact assessments and policy revisions, and that going forward disability also forms part of this monitoring.

Guidance on Equalities Groups

Race and Ethnic origin (includes gypsies and travellers) (consider communication, access to information on services and employment, and ease of access to services and employment)	**Religion or belief** (include dress, individual care needs, family relationships, dietary requirements and spiritual needs for consideration)
Disability (consider communication issues, access to employment and services, whether individual care needs are being met and whether the policy promotes the involvement of disabled people)	**Sexual orientation including lesbian, gay and bisexual people** (consider whether the policy/service promotes a culture of openness and takes account of individual needs

Gender (consider care needs and employment issues, identify and remove or justify terms which are gender specific)	**Age** (consider any barriers to accessing services or employment, identify and remove or justify terms which could be ageist, for example, using titles of senior or junior)
Culture (consider dietary requirements, family relationships and individual care needs)	**Social class** (consider ability to access services and information, for example, is information provided in plain English?)