journey to change

NHS
Tees, Esk and Wear Valleys
NHS Foundation Trust

Public – To be published on the Trust external website

Complaints Policy
CORP-0019-v11

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Contents

1 Introduction

The Trust is committed to providing opportunities for any patient, carer or their families to seek advice or information, raise concerns or make a complaint about the services that the Trust provides. Patients, relatives and carers need to know how to do this and to feel confident that they will be listened to and their issues taken seriously.

The Trust's 'Our Journey to Change' commits to the co-creation of safe and personalised care that improves the lives of people with mental health needs, a learning disability or autism, involving them and their carers' as equal partners. The learning gained from complaints will support the commitments of 'Our Journey to Change' to learn together to improve the experience of users of the services that the Trust delivers.

This document outlines the Trust's commitment to dealing with concerns or complaints and provides information about how we manage, respond and learn from the complaints about our services. In doing so, it meets the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. It conforms to the NHS Constitution and reflects the recommendations from the Francis report (2013), the Clwyd Hart review (2013) and the requirements from the Health and Social Care Act 2008 Regulation 20 Duty of Candour (2014) to act in an open and transparent way with people in relation to care and treatment.

The Trust supports the Care Quality Commission's (CQC) state of health care and adult social care in England 2014/15 document published in 2015 that 'Services should encourage and embrace complaints, as they present a valuable opportunity to improve. Although complaints may signal a problem, this information can save lives and improve the quality of care for other people.'

The spirit of the Complaints Policy is that all staff are empowered to resolve minor comments, issues, concerns and problems immediately. If any member of staff receives a complaint they should inform their Line Manager and also liaise with the Complaints Team.

Although the content of a complaint is always confidential, staff should be mindful that the fact a complaint is made is also confidential.

2 Why we need this policy

2.1 Purpose

The purpose of this policy is to:

- Provide guidance and procedure to staff on how complaints are reported, managed, investigated and responded to by the Trust.

- Provide assurance and information to people wishing to make a complaint about the services provided by the Trust.

2.2 Objectives

The Trust will aim to follow the 'Good Practice Standards for NHS Complaints Handling' (September 2013) outlined by the Patients Association:

- Openness and Transparency – well publicised, accessible information and processes and understood by all those involved in a complaint. Information about complaints can be provided in different languages and formats.
- Evidence based complainant led investigations and responses. This will include providing a consistent approach to the management and investigation of complaints
- Logical and rational in our approach
- Compassionately respond to complaints and concerns in appropriate timeframes
- Provide complainants with support and guidance throughout the complaints process
- Provide a level of detail appropriate to the seriousness of the complaint
- Identify the causes of complaints and to take action to prevent recurrences
- Effective and implemented learning – use 'lessons learnt' as a driver for change and improvement
- Ensure the care of complainants is not adversely affected as a result of making a complaint

The complaints system also incorporates the Parliamentary Health Service Ombudsman Principles of Good Complaints Handling (2009) and the NHS Constitution which includes a number of rights relating to complaints. In summary, these include patients' carers and relative's rights to:

- Have their complaint acknowledged and properly investigated
- Discuss the manner in which the complaint is to be handled and know the period in which the complaint response is likely to be sent
- To be kept informed of the progress and to know the outcome including an explanation of the conclusions and confirmation that any action needed has been taken

'Although complaints may signal a problem, this information can save lives and improve the quality of care for other people' *CQC State of Health and Social Care in England 2014/15'*

3 Scope

3.1 Who this policy applies to

- All users of Trust services, families and carers
- All staff working in Trust services, including bank staff, students and volunteers

3.2 Roles and responsibilities

Role	Responsibility
Chief Executive	• Has overall accountability for ensuring that the trust Complaints Policy meets the statutory requirements as set out in the Local Authority, Social Services and National Service Complaints (England) Regulations 2009 • Is responsible for approving and signing Complaint Response Letter
Executive Director of Corporate Affairs & Involvement and Managing Director's	• Is responsible for ensuring that the Complaints Policy and Procedures are developed, agreed and implemented throughout the Trust and are monitored as appropriate. • Ensure a robust system of Complaints Management is in place and is underpinned by sound governance arrangements to enable organisational learning
Head of Quality Data and Patient Experience	• Ensure the structure in place for Complaints Management will facilitate effective reporting, investigation and communication of all complaint activity both internal and external to the Trust
PALS/Complaints Team Manager	• Manages the complaints function, manages the central database for complaints, producing statistical data to populate reports and monitoring actions.
General Manager/Service Managers	• Ensuring those raising concerns and complaints are not treated differently or discriminated against as a result of raising the issue. • Ensuring suitable and accessible information is available so that patients, relatives and carers know how to raise concerns and complaints. • Responding to concerns and complaints from patients, relatives and carers within their areas of responsibility as required by operational services and with issues raised through the Patient Advice and Liaison Service (PALS) and Complaints Team. • Liaising and supporting PALS staff and Locality Complaints Managers to ensure a thorough investigation is carried out for all complaints received with a detailed response and where necessary, action taken to improve service quality. • Recognising that being involved in a complaint can be potentially stressful for staff and ensuring that locality members of staff are offered appropriate support. • Ensure actions from complaints are implemented in a timely manner to improve the quality and safety of care.
Complaints Managers	• Managing complaints received either verbally or in writing (letter or email) on 0800 052 0219 (Freephone) or at tewv.complaints@nhs.net. • Ensuring complaints are investigated in line with the complaints policy. • Acknowledging complaints within 3 working day timescale, investigating and responding to complaints within 60 working days

	timescale. • Ensuring those making complaints are not discriminated against or victimised as a result of raising a concern/complaint. • Ensuring there is effective publicity about how to raise a complaint through the provision of leaflets, posters and the Trust website. • Monitoring the overall implementation of this policy ensuring there is open communication between healthcare, organisations, healthcare teams, staff, service users, relatives and carers. • Ensuring accurate and timely recording of data on Datix relating to complaints to enable trend analysis and for reporting requirements. • Ensuring that action plans are generated using the SMART principles and highlight any learning opportunities. This must be agreed by the appropriate Head of Service/Locality Manager.
PALS Team	• Responding to and managing concerns received through the PALS helpline and or by email on tewv.pals@nhs.net providing advice. • Ensure that support and appropriate action is taken to respond to the issues being raised. • Ensuring those raising concerns via the PALS service are not discriminated against or victimised as a result of raising an issue. • Ensuring there is suitable and accessible information about how to access the PALS service, raising awareness of the service to the public where opportunity arises. • Ensuring accurate and timely recording of data on Datix relating to the concerns raised by patients, relatives and families.
All Trust staff	• All staff should respond to concerns raised and where possible resolve issues at a local level, ensuring people raising issues receive prompt and accurate information. This should also be captured via Datix. • For those issues that are not able to be resolved locally, staff should ensure that patients, relatives and families are provided with information describing how to access PALS and to raise a formal complaint. • If a complaint is received in writing staff should ensure it is referred to the Complaints team as quickly as possible after receipt. • Any requests for information for either PALS or Complaints should be responded to in a timely manner.

4 Policy

A complaint or a concern is an expression of dissatisfaction about an act, omission or decision by the Trust, either verbal or written and whether justified or not, which requires a response.

Patients, carers and families are encouraged to express views, concerns, and complaints both positive and negative about the care and treatment; and services they receive, in the knowledge that:

- They will be taken seriously
- They will receive a compassionate response by a member of staff
- Appropriate action will be taken
- Lessons will be learnt and disseminated to staff accordingly
- There will be no adverse effects on their future care or that of their families

A complaint may be made by patients, carers and families (current or former) who is affected by or likely to be affected by the action, omission or decision of the Trust. It may be made by a person acting on behalf of a patient in any case where that person:

- Is a child; (typically up to the age of 16 years old)
- has died;
- has physical or mental incapacity;
- has given consent to a third party acting on their behalf;
- has delegated authority to do so, for example in the form of a registered Power of Attorney which must cover health affairs;
- Is an MP, acting on behalf of and by instruction from a constituent.

If the PALS/Complaints Team Manager is of the opinion that a representative does or did not have sufficient interest in the person's welfare or is not acting in their best interests, we will notify that person in writing stating the reasons.

Patients, carers and families can discuss their concerns with the clinical staff providing care who will wherever possible try to respond and resolve their concerns immediately.

Any complaints not required to be dealt with under this policy include the following:

- A complaint by a responsible body
- A complaint by an employee of a local authority or NHS body about any matter relating to that employment

4.1 How to Raise Concerns

When this is not possible, clinical staff should provide information about the Patient Advice and Liaison Service (PALS), and Complaints:

For those who require an interpretation and language service, Everyday Language Solutions can facilitate this and will be arranged through the PALS/Complaints Team.

PALS Service:

The PALS team will listen to all concerns being raised and will provide advice and agree a way forward. The team will liaise with the operational / clinical services / staff where appropriate to try and seek a resolution. The PALS Team can be contacted as follows:

- **Freephone - 0800 052 0219** (Monday to Friday, 9am to 4pm)
- Text: 07775 518086
- E-mail: tewv.pals@nhs.net
- An answerphone is available at all times for you to leave a message. A member of the PALS Team will aim to return your call as soon as possible.
- Further information about PALS is available on the Trust website: https://www.tewv.nhs.uk/about-us/patient-advice-and-liaison-services-pals/

Meetings can be arranged with staff and the person raising concerns where requested and appropriate to do so. Any feedback received can be provided either verbally or in writing.

PALS leaflets and posters should be available and displayed in all clinical areas.

Making a Formal Complaint:

To make a formal complaint this can be done either verbally or in writing as follows:

- **Freephone - 0800 052 0219** (Monday to Friday, 9am to 4pm)
- Chief Executive, West Park Hospital, Edward Pease Way, Darlington, DL2 2TS
- Complaints Manager, Flatts Lane, Normanby, Middlesbrough TS6 0SZ
- or by email to: tewv.complaints@nhs.net

Complaints Received from Members of Parliament on Behalf of Their Constituents

Complaints from MPs are usually addressed to the Chief Executive and received into their office. Any complaints from MPs received directly into the complaints department must be forwarded to the Chief Executive for action.

How to Raise a complaint – could we make reference to the interpretation and translation service to ensure that people are offered this so they can communicate their complaint effectively?

4.2 Complaints registered under the NHS Regulations 2009

Complaints can be made within twelve months from the date on which the matter that is the subject of the complaint came to the notice of the complainant. If there are good reasons for not having made the complaint within twelve months and if it is still possible to investigate the complaint effectively and fairly, the Trust may decide to consider the complaint. If a decision is made not to consider your complaint, then this will be communicated in writing stipulating the reason for not pursing the complaint.

All complaints received are registered onto the Datix system and are acknowledged within 3 working days. The Trust will also provide a complaints leaflet and other support leaflets referring to Independent Complaints Advocacy and Parliamentary and Health Service Ombudsman (PHSO).

A service user could give their consent for a third party to act on their behalf in respect of a complaint. For the consent to be valid the person must have mental capacity to make this decision. Where there is a question in relation to capacity to consent, this will be addressed with the clinical team. Appendix 2 of the policy provides further information relating to the process of capacity and consent.

Where a complaint involves more than one organisation the Trust will liaise with those respective parties to agree the most appropriate organisation to take the lead in coordinating the complaint and responding to the complainant. Permission may be sought from the complainant before sharing or forwarding a complaint to another organisation

It is important to offer the complainant an early face-face opportunity to discuss their dissatisfaction, discuss how their complaint will be investigated and what outcome they would like to receive. Direct, personal contact must be made with all complainants at the earliest opportunity.

The trust will advise the complainant who is dealing with the complaint and what they can expect, including a date they should expect to receive the complaint (within the Trust's 60 working day timescale).

Any investigation undertaken will include the reviewing of clinical care records, consultation with relevant clinical staff and seek advice as required from relevant Trust staff, e.g., Safeguarding, Pharmacy, Medical or other clinical staff

The Trust will endeavor to keep the complainant informed if there is likely to be a delay in concluding the investigation with the 60 working day timeframe. Any extensions to the original complaint can only be agreed in discussion with the PALS/Complaints Team Manager and the Head of Service when there are extenuating circumstances. The rationale for an extension will be recorded on the Datix system against the complaint. If it is agreed that the extenuating circumstances warrant an extension, the Locality Complaints Manager will discuss the rationale behind the extension with the complainant. The Locality Complaints Manager is responsible for

informing the complainant when the complaint is going to breach the agreed timescales and an extension has been requested.

A formal letter of response will be provided to the complaint and will be based on the findings of the investigation. The findings can be communicated in a different way to meet individuals needs as required. The language of complaint responses will demonstrate compassion, empathy and will include an explanation of how the complaint has been considered, an apology if appropriate and the conclusions reached in relation to the complaint including any remedial action that the Trust considers to be appropriate. The Trust will share with the complainant any action that has been taken or will be actioned and any lessons learnt. In addition, an invitation to discuss the response or attend a meeting if not satisfied will be provided and will be defined as 'Further Local Resolution' (FLR) as well as contact details of the PHSO as the next stage of the NHS complaints process if the complainant remains dissatisfied.

All letters of response to a complaint are shared with the Chief Executive for consideration and final approval.

The full process for handling and responding to complaints is attached at appendix 1 of this policy.

Action Planning:

Where a complaint identifies changes or improvements that need to be made to services an action plan will be developed by the Service Managers with support provided by the Locality Complaints Manager. All action plans will clearly outline the events leading to service changes or improvements and associated actions using the SMART principles. Timescales will also be provided along with the responsibility for the individual action(s). The action plans should be agreed and approved by the Operational Director and shared with the Locality Complaints Manager for recording on the Datix System against the complaint.

The Complaints Team will monitor actions and request appropriate evidence until the action plan can be finally signed off as completed, this will then be forwarded to the General Manager to request closure through their governance structure.

Appendix 3 of the policy outlines the template used within the trust.

Learning from Concerns Raised:

A key objective of the organisation is the willingness to listen, to change, improve and evolve in response to concerns raised in the form of lessons learnt which play a key role in improving the quality of care received by service users and are a priority for the Trust. These are identified and acted upon via the action plan process.

Duty of Candour:

All healthcare professionals have a Duty of Candour which is a professional responsibility to be honest with patients and their advocates, carers and families when things go wrong. The key features of this responsibility are:

- Every healthcare professional must be open and honest with service users when somethings goes wrong with their treatment or care causes, or has the potential to cause, harm or distress. This means that healthcare professionals must:

- Tell the patient (or, where appropriate, the patient's advocate, carer or family) when something has gone wrong
  - Apologise to the patient
  - Offer an appropriate remedy or support to put matters right if possible

Healthcare professionals must also be open and honest with their colleagues, employers and relevant organisations, and take part in reviews and investigations / complaints when requested. They must also be open and honest with their regulators, raising concerns where appropriate. They must support and encourage each other to be open and honest, and not stop someone from raising concerns.

4.3 Confidentiality

Complaints will be handled in the strictest of confidence and will be kept separately from patient clinical care records. All written complaints correspondence will be stored securely and accessed only by relevant authorised staff. The Trust is required to keep complaints files for ten years after which they will be appropriately disposed.

The designated Caldicott Guardian (Director of Nursing) is responsible for protecting the confidentiality of patient information and enabling appropriate information sharing. All staff will follow the seven Caldicott Principles for sharing information: -

- Justify the purpose of using Patient identifiable Information (PII)
- Only use PII when absolutely necessary
- Use only the minimum necessary PII
- Access to PII should be on a strictly need-to know basis
- Everyone should be aware of their responsibilities and obligations to respect confidentiality
- Understand and comply with the law
- The duty to share personal information can be as important as the duty to have regard for patient confidentiality.

Complainants (or a person legally responsible for the complainant) have the right to access information about them under the Data Protection Act 2018 (GDPR) and they should follow the access to records procedure.

4.4 Additional Support for Complainants

Complaints Advocacy services are independent of Trusts and provide advice, assistance and support to people that have a complaint about the NHS. The Trust will make complainants aware of these services as a means of support as early as possible and will liaise and co-operate with them whenever required with the aim of bringing about a satisfactory resolution. Contact details are:

- North East NHS Independent Complaints Advocacy (ICA)
  (Carers Federation) Telephone: 0808 802 3000

- North Yorkshire NHS Complaints Advocacy
  (Cloverleaf Advocacy) Telephone: 0300 012 4212

- York Advocacy
  (for residents in the City of York) Telephone: 01904 414357

4.5 The Care Quality Commission (CQC)

The Care Quality Commission (CQC) provides advice and support to service users detained under the Mental Health Act. The CQC check service users are well cared for, listened to and know their rights. Contact details are:

Care Quality Commission, National Correspondence, Citygate, Gallowgate
Newcastle upon Tyne, NE1 4WH
Tel: 03000 616161
E-mail: enquiries@cqc.org.uk
Website: **www.cqc.org.uk**

4.6 Parliamentary and Health Service Ombudsman (PHSO)

If a complainant remains dissatisfied with the handling of the complaint by the Trust they can ask the PHSO to review the complaint. Information about how to contact the PHSO will be provided by the Trust including the website: www.ombudsman.org.uk

The PHSO may decide to investigate a complaint where, for example:

- A complainant is not satisfied with the result of the investigation undertaken by the Trust
- The complainant is not happy with the response from the Trust and does not feel that their concerns have been resolved.

The Trust has decided not to investigate a complaint on the grounds that it was not made within the required time limit.

When informed that a complainant has approached the PHSO, the Complaints Team will:-

- Cooperate fully with the PHSO and provide all information that has been requested in relation to the complaint
- Liaise with clinical services to update on PHSO investigations, reports and recommendations to agree a Trust response
- Ensure Executive Management Team updated on any decisions made by PHSO.

4.7 Persistent and Unreasonable Contact

Detailed guidance on the management of persistent and unreasonable contact is set out in appendix 5.

4.8 Support for Staff

The Trust recognises that being involved in a complaint can be a stressful experience for staff. A leaflet is available to support staff named in a complaint, see appendix 4.

4.9 Fair Blame

The Trust promotes a learning culture whereby mistakes can be acknowledged and learnt from. Very occasionally complaint investigations will identify further consideration under the Trust's Disciplinary Procedure and in these cases, they will be taken forward separately. Where a disciplinary investigation is under way, those aspects of the complaint relating specifically to disciplinary matters will be carefully considered by the relevant operational manager, complaints manager and Human Resources.

5 Definitions

Definitions used within this policy are referenced below:

Term	Definition
PHSO	Parliamentary Health Service Ombudsman
FLR	Further Local Resolution

6 Related documents

- Quality Strategy
- Data Protection Policy
- Disciplinary Procedure
- Duty of Candour Policy
- Confidentiality Policy
- Raising Concerns
- Mental Capacity Act
- NMC / GMC Guidance - Openness and Honesty When Things Go Wrong
- NHS Constitution
- Interpretation and Translation Policy

These can be found in Policies, procedures and legislation | TEWV Intranet

7 How this policy will be implemented

- This policy will be available throughout the Trust and externally on the Trust website. PALS and Complaints staff will attend Trust induction to inform staff about PALS and the complaints process.
- Leaflets and posters will be used to promote awareness of the policy to patients, relatives and carers.

Implementation Action Plan				
Activity	**Expected outcome**	**Timescale**	**Responsibility**	**Means of verification/ measurement**
Roll out to Trust staff	Increased awareness of roles and responsibilities	3 months	PALS/Complaints Team Manager	Datix Reporting Quality Reports to QuAG, LMGB and Quality Assurance and Improvement Group

7.1 Training needs analysis

Staff/Professional Group	Type of Training	Duration	Frequency of Training
Complaints Staff	Root cause analysis	One day	Once
Team Managers	Induction	Up to one hour	Once

8 How the implementation of this policy will be monitored

Auditable Standard/Key Performance Indicators		Frequency/Method/Person Responsible	Where results and any Associate Action Plan will be reported to, implemented and monitored; (this will usually be via the relevant Governance Group).
1	Team KPI's: All complaints are acknowledged within 3 working days Number and percentage of complaints completed within the agreed timescales The number and percentage of complaints referred to the Ombudsman that are upheld. PALS issues responded to within 15 Working Days	Monthly reporting – PALS / Complaints Team Manager	PALS/Complaints Team Meeting, Quality Assurance and Improvement Group, Quality Assurance Committee, CQRG
2	Team level training needs analysis and staff appraisal	Annually in line with Trust policy	Quality Assurance and Improvement Group
3	Audit	As and when required	QuAG, LMGB, Quality Assurance and Improvement Group

8.1 Monitoring Reports

A number of reports are produced (monthly, quarterly and annually) to provide assurance that complaints are being received and responded to. Information is provided for the Trust's Quality Assurance Groups, Quality Assurance and Improvement Group (Subgroup of the Senior Leadership Group), Commissioners and Department of Health.

Types of information reported includes: -

- Number of complaints and PALS contacts received
- Subjects of Complaints and PALS issues raised
- Grading and levels of risk raised within complaints
- Themes and key issues raised
- Lessons learnt
- Actions taken or being taken to improve services
- Number of complaint cases considered by the PHSO

The numbers of complaints received and responded to each month is published on the Trust website.

9 References

- Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 www.legislation.gov.uk/uksi/2009/309/pdfs/uksi_20090309_en.pdf
- Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry Executive Summary February 2013 webarchive.nationalarchives.gov.uk/20150407084003/http://www.midstaffspublicinquiry.com/report
- A review of the NHS Hospitals 'Putting Patients Back in the Picture' – Clywd, Hart, October 2013 www.gov.uk/government/publications/nhs-hospitals-complaints-system-review
- Principles of good complaints handling. Parliamentary and Health Service Ombudsman (2008) http://www.ombudsman.org/
- Good Practice Standards for NHS Complaints Handling' (Sept 2003) www.patients-association.org.uk/wp-content/uploads/2014/06/Good-Practice-standards-for- NHS-Complaints-HandlingSept-2013.pdf
- Equality Act 2010 www.legislation.gov.uk/ukpga/2010/15
- Duty of Candour www.cqc.org.uk/content/regulation-20-duty-candour
- Care Quality Commission's (CQC) state of health care and adult social care in England 2014/15 – handling complaints www.cqc.org.uk/sites/default/files/20151103_state_of_care_web_accessible_4.p df

10 Document control (external)

To be recorded on the policy register by Policy Coordinator

Date of approval:	08 December 2021	
Next review date:	08 December 2024	
This document replaces:	CORP-0019-v10.1 Complaints Policy	
This document was approved by:	Name of committee/group	Date
	Quality Assurance and Improvement Group	21 July 2021
	SLG (prior to consultation feedback changes)	27 July 2021
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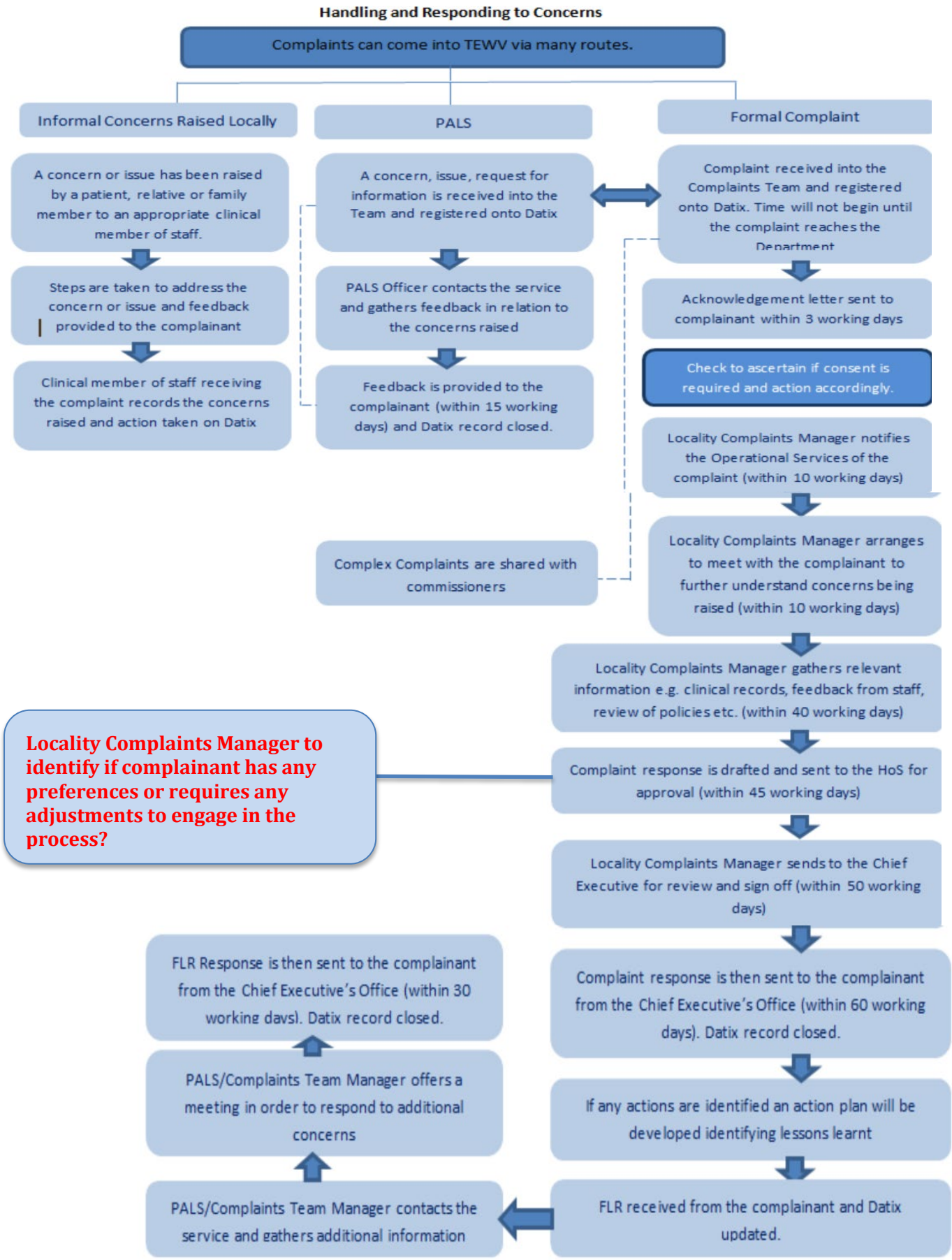
	Senior Leadership Group	08 December 2021

An equality analysis was completed on this document on:	19 August 2021
Document type	Public
FOI Clause (Private documents only)	N/A

Change record

Version	Date	Amendment details	Status
9	6 April 2016	Updated to reflect the national picture of openness and transparency in relation to complaints. Title changes as new policy focusses on complaints and concerns.	Withdrawn
10	21 Mar 2017	• Updated to reflect audit recommendations relating to complaint action plan management and escalation processes. • Members of working party changed to reflect new 2016/17 team structure. • Further local resolution statement added.	Withdrawn
10.1	13 June 2018	Sections 9 and 10 revised in line with Data Protection Act 2018 (GDPR)	
10.1	14 April 2020	Review date extended to 05 October 2020	
10.1	October 2020	Review date extended to 05 April 2021	Published
11.0	(May 2021) Oct 2021	Policy reviewed and format amended to reflect change in standard template. Roles and responsibilities have been strengthened; timescales have been included in relation to the FLR process, inclusion of compassion, learning and inclusion of capturing of concerns raised locally and updated action plan template. Minor change to section 8 How the implementation of this policy will be monitored – 'As and when required'	 Ratified

Appendix 1 – Raising and Handling of Concerns



Appendix 2 – Capacity and Consent

Capacity and Consent Adult Mental Health and C&YPS

Complaints on behalf of Adults who lack Mental Capacity

- A complaint may be made by a third party on behalf of a patient where that person lacks the mental capacity to make the complaint themselves. In such circumstances and where the patient is open to services, the Complaints Team should liaise with the clinical team to establish whether the patient lacks capacity to deal with the complaint themselves.

- It should not be assumed that, because the patient has been previously considered to lack capacity to consent to treatment, that they also lack capacity regarding making a complaint or agreeing to someone doing so on their behalf. An assessment of capacity regarding the complaint process should be carried out and documented in their clinical records.

- The capacity assessment should cover whether the patient understands the areas of concern that are being raised, who is making the complaint and that personal information about the patient's care and treatment may be shared with the person making the complaint and that information may also be shared externally (eg with the Parliamentary and Health Service Ombudsman).

- If the outcome of the assessment is that the patient has capacity then consent will be required from them before the complaint can proceed.

- If the outcome of the assessment is that the patient lacks capacity a proper investigation will take place, even if the patient is compliant with care and treatment. Where a decision is made not to respond directly to the third party, it is important to consider what level of investigation is required to ensure the service user is not being placed at a disadvantage because they lack capacity to make the complaint for themselves.

- Consider whether a Best Interests assessment is required once the investigation is concluded to determine whether it is appropriate for the third party to make a complaint on behalf of the patient and what level of response should be provided. For example, where there are concerns that the third party may not be motivated by genuine concern for the service user, consider whether a response can be given that provides reassurances to the third party without disclosing confidential information that should not be shared.

- When deciding whether a complaints response should be provided to a third party consider the following:

  Is the third party an appropriate person to raise a complaint on behalf of the service user?
  Is it appropriate for confidential information to be shared in the context of a complaints response?
  Has the service user previously (when capable) indicated they would not want information to be shared with the third person?
  Is the service user objecting (whilst incapable) to information being shared with the third party?

Complaints on behalf of Young People

- A child is anyone under the age of 16. A young person is aged 16 or 17.

- If a complaint is received about a patient aged 16 or over, they are presumed in law to be competent and therefore written consent from the child must be provided.

- If a young person lacks capacity, follow the process relating to complaints on behalf of incapable patients as outlined in the previous section. In addition to following the guidance for incapable adults it would be appropriate to liaise with someone who has parental responsibility for the young person in respect of the complaint unless the young person is indicating or has previously indicated they do not wish for a person with parental responsibility to be involved **or** there is reason to believe that it would not be appropriate for the person with parental responsibility to be involved in the complaints process.

Complaints on behalf of children

- The competence of a child to deal with the complaint themselves should be assessed. Unlike adults, there is no presumption as to competence and therefore a judgment should be made on a case-by-case basis. The assessment should consider whether the patient is of sufficient maturity and understanding to consent to the investigation being carried out and information being shared with a third party at the conclusion of the investigation.

- If a child is aged 13 –15 years of age they are presumed in law to be competent. If deemed competent the child must give their consent otherwise person with parental responsibility can.

- If the outcome of the assessment is that the child is deemed competent to consent to information being shared for the purpose of investigating and responding to the complaint, then the child's consent will be required for information to be given to a third party (including someone with parental responsibility).

- Where the child lacks competence and the complaint is brought by a person who has parental responsibility for the child, it would usually be appropriate to respond to that person unless the child is indicating or has previously indicated they do not wish for the person with parental responsibility to be involved with their care **or** there is reason to believe that it would not be appropriate for that person with parental responsibility to be involved in the complaints process

- If a complaint is brought on behalf of an incompetent child by a person who does not have parental responsibility, the consent of the person with parental responsibility should be obtained unless: the child is indicating or has previously indicated that they do not wish for a person with parental responsibility to be involved in their care **or t**here is reason to believe that it would not be appropriate for the person with parental responsibility to be involved in the complaints process.

- Where a child is found to lack competence, a proper investigation is carried out in relation to any concerns raised about a child's care, even where the child appears to be compliant with the care and treatment given or where a decision is made not to respond to the complaint.

- An assessment as to whether the third party is an appropriate person to raise a complaint on behalf of the child should also be undertaken to ensure it is in the child's best interest for the response to be given to the third party. For example, where there is concern about the sensitivity of the information or that the third party is not motivated out of genuine concern for the patient. Consider whether a response could be formulated that provides reassurances without disclosing confidential information that should not be shared.

Appendix 3

ACTION PLAN MONITORING TEMPLATE

PLAN LOCATION/TEAM: **PLAN DEVELOPED BY:** **DATE PLAN AGREED:**

Ref	What is the agreed action we are going to take? Immediate and long term	What is the learning?	Who will receive the action?	How will we know the action has been effective?	What are the key things we are going to measure and when?	How will the learning be evaluated and what are the anticipated results?	Evidence (To be retained by action owner)

Appendix 4 -

Support for Staff (Making Experiences Count)

What this means for me as a member of staff

What is a complaint?

An expression of concern raised by a patient or a relative, an advocate, MP or Independent Complaints and Advocacy Service (ICAS), relating to the care of a patient.

There's been a complaint in which you are involved … so how do you feel?

You may be …***angry, upset, frustrated***...and this is entirely understandable.

But try to bear in mind that we receive very few complaints compared to the number of patients seen by clinical staff every day.

Receiving a complaint about the service you provide can be distressing, but the PALS and Complaints team and your manager aim to support you through this. You may also find the following supportive:

- colleagues
- chaplaincy
- occupational health

Verbal complaints can be resolved either by clinical staff, or via the PALS helpline in liaison with clinical staff and feedback given verbally to the complainant.

Complaints registered under the Complaints Regulations 2009 requiring investigation are dealt with by the PALS and Complaints team.

How are complaints dealt with?

The aim is to provide an explanation that is an open and honest account of what has happened.

It is the role of the PALS and Complaints team to investigate the patient or carers concerns and provide an explanation. To do this you may be contacted for information and we may ask to meet you to discuss the issues.

What do we expect from you?

All registered complaints receive a written response, the majority are sent from the Chief Executive who needs to give a full response to the issues raised.

To ensure a timely response to the complainant we need information from you as soon as possible. The information may be a written or verbal account, we will advise you on this and offer any support you feel you need.

To resolve concerns, it may be helpful for PALS and complaints staff to meet with the complainant to clarify issues if it is not clear. Complainants are offered the opportunity to discuss their complaint.

What happens after I have given my information to the PALS and Complaints team?

When the team receive all the relevant information, a response will be drafted on behalf of the Chief Executive and you will usually be asked to comment on this draft. Timescales are tight, so please give your comments as soon as possible.

On receipt of all comments the letter goes to the Chief Executive for signature.

If the complainant remains dissatisfied there may be a need for further information, and it may be necessary to contact you again.

Is this the end of the complaint?

Usually, yes ... local resolution of the complaint concludes the matter.

However, on occasions the complainant will write to the Parliamentary and Health Service Ombudsman requesting an independent review as is their right.

You will only be updated of any further developments.

Please remember that generally when the letter leaves the chief executive's office that is the end of the complaint.

So, it is **vital** that all issues are responded to in detail to avoid further local resolution.

PALS and Complaints Team, Flatts Lane Centre, Flatts Lane, Middlesbrough, TS6 0SZ
Tel: 0800 052 0219 (PALS helpline)

Appendix 5

Guidance for dealing with persistent and unreasonable contact

1. Introduction

This guidance covers all contacts, enquiries and complainants. It is intended for use as a last resort and after all reasonable measures have been taken to try and resolve a complaint within the Trust's Complaint Policy.

Persistent contact may be as a result of individuals having genuine issues and it is therefore important to ensure that this process is fair and the complainant's interests have been taken into consideration.

The procedure should only be implemented following careful consideration by, and with the authorisation of, the Chief Executive or his nominated deputy

2. Purpose of the Guidance

To assist the Trust to identify when a person's contact is persistent or unreasonable. To set out the action to be taken.

3. Definition of persistent and unreasonable complaints

There is no one single feature of unreasonable behaviour. Examples of behaviour may include those who: -

i. Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted.
ii. Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by staff, and where appropriate, the relevant independent advocacy services could assist to help them specify their complaint.
iii. Continually make unreasonable or excessive demands in terms of process and fail to accept that these may be unreasonable e.g., insist on responses to complaints being provided quicker than agreed/published timescales
iv. Change the substance of a complaint or seek to prolong contact by continually raising further concerns or questions. Care must be taken however not to discard new issues that are significantly differed from the original issue. Each issue of concern may need to be addressed separately.
v. Consume a disproportionate amount of time and resources, placing unreasonable demands on staff with excessive number of contacts either in person, by telephone letter or fax
vi. Threaten or use actual physical violence towards staff.
vii. Have harassed or been personally abusive or verbally aggressive on more than one occasion (this may include written abuse e.g., emails).
viii. Will not accept documented evidence as being factual. Actions prior to designating a persons' contact as unreasonable or persistent

It is important to ensure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of considerations to bear in mind when considering imposing restrictions upon a complainant.

These may include:

i. Ensuring the persons' case is being or has been dealt with appropriately and that reasonable actions have followed the final response letter.
ii. Confidence that the person has been kept up to date and that communication has been adequate with the complainant prior to them becoming unreasonable or persistent.
iii. Checking that new or significant concerns are not being raised, that requires consideration as a separate case.
iv. Applying criteria with care, fairness and due consideration for the client's circumstances, e.g., physical or mental health conditions which may explain difficult behaviour. This could include the impact of bereavement, loss or significant/sudden changes to the complainant's lifestyle, quality of life or life expectancy.
v. Ensuring the complainant has been advised of the existence of the policy and has been warned about and given a chance to amend their behaviour.

Consideration should be given as to whether any further action can be taken prior to designating the persons' contact as unreasonable or persistent

This should include: -

i. Raising the issue with the Director of Governance/Director of Nursing/Locality Director.
ii. Where no meeting with staff has been held, consider offering this to discuss (only when appropriate risks have been assessed).
iii. Where a number of different people are being contacted by the complainant, consider a strategy to agree one point of contact
iv. Consider whether the assistance of an advocate may be helpful.
v. Consider the use of ground rules for continuing contact with the complainant.

Ground rules may include: -

i. Time limits on telephone conversations and contacts
ii. Restricting the number of calls that will be taken or agreeing a timetable for contacting the service.
iii. Contact to be made with a named member of staff and agreeing when this should be
iv. Requiring contact via a third party e.g., Advocate
v. Limiting the complainant to one mode of contact.
vi. Informing the complainant of a reasonable timescale to respond to correspondence.

Appendix 6 - Equality Analysis Screening Form

Please note: The Equality Analysis Policy and Equality Analysis Guidance can be found on the policy pages of the intranet

Name of Service area, Directorate/Department i.e. substance misuse, corporate, finance etc.	PALS/Complaints Team, Nursing & Governance					
Policy (document/service) name	Complaints Policy					
Is the area being assessed a…	Policy/Strategy	X	Service/Business plan		Project	
	Procedure/Guidance				Code of practice	
	Other – Please state					
Geographical area covered	Trust wide					
Aims and objectives	The Trust has established a clear policy statement and procedure for the effective reporting, investigating and management of all concerns received about its services. This policy provides clear guidance on handling of concerns whether informally or through a formal process. Complaints usually represent a small proportion of those people who are dissatisfied with the service they have received and are an important source of information about the Trust's overall quality of service. A well-handled complaint can enhance the Trust's reputation. Suggestions, constructive criticism and complaints are a valuable and positive aid in maintaining, improving and developing better standards of health care and should be seen as such.					
Start date of Equality Analysis Screening (This is the date you are asked to write or review the document/service etc.)	Date: 15.07.21					
End date of Equality Analysis Screening	Date: 15.07.21 (reviewed by E&D 19 August 2021)					

(This is when you have completed the equality analysis and it is ready to go to EMT to be approved)	

You must contact the EDHR team if you identify a negative impact. Please ring the Equality and Diversity Team on 0191 3336267/3046

1. Who does the Policy, Service, Function, Strategy, Code of practice, Guidance, Project or Business plan benefit?

   Service users, carers and families

2. Will the Policy, Service, Function, Strategy, Code of practice, Guidance, Project or Business plan impact negatively on any of the protected characteristic groups below?

Race (including Gypsy and Traveller)	No	**Disability** (includes physical, learning, mental health, sensory and medical disabilities)	No	**Sex** (Men, women and gender neutral etc.)	No
Gender reassignment (Transgender and gender identity)	No	**Sexual Orientation** (Lesbian, Gay, Bisexual and Heterosexual etc.)	No	**Age** (includes, young people, older people – people of all ages)	No
Religion or Belief (includes faith groups, atheism and philosophical belief's)	No	**Pregnancy and Maternity** (includes pregnancy, women who are breastfeeding and women on maternity leave)	No	**Marriage and Civil Partnership** (includes opposite and same sex couples who are married or civil partners)	No

Yes – Please describe anticipated negative impact/s

No – Please describe any positive impacts/s

3. Have you considered other sources of information such as; legislation, codes of practice, best practice, nice guidelines, CQC reports or feedback etc.? **If 'No', why not?**	**Yes**	**X**	**No**	

Sources of Information may include: • Feedback from equality bodies, Care Quality Commission, Equality and Human Rights Commission, etc. • Investigation findings • Trust Strategic Direction • Data collection/analysis • National Guidance/Reports	• Staff grievances • Media • Community Consultation/Consultation Groups • Internal Consultation • Research • Other (Please state below)

4. Have you engaged or consulted with service users, carers, staff and other stakeholders including people from the following protected groups? Race, Disability, Sex, Gender reassignment (Trans), Sexual Orientation (LGB), Religion or Belief, Age, Pregnancy and Maternity or Marriage and Civil Partnership

Yes – Please describe the engagement and involvement that has taken place

Through standard policy consultation mechanisms

No – Please describe future plans that you may have to engage and involve people from different groups

Not Applicable

5. As part of this equality analysis have any training needs/service needs been identified?

No formal training needs have been identified only policy awareness

~~Yes/~~No	Please describe the identified training needs/service needs below General policy awareness

A training need has been identified for;

Trust staff	N/A	Service users	N/A	Contractors or other outside agencies	N/A

Make sure that you have checked the information and that you are comfortable that additional evidence can provided if you are required to do so

If you need further advice or information on equality analysis, the EDHR team host surgeries to support you in this process, to book on and find out more please contact the team.

Appendix 7 – Approval checklist

To be completed by lead and attached to any document which guides practice when submitted to the appropriate committee/group for consideration and approval.

	Title of document being reviewed:	Yes/No/ Not applicable	Comments
1.	**Title**		
	Is the title clear and unambiguous?	Yes	
	Is it clear whether the document is a guideline, policy, protocol or standard?	Yes	
2.	**Rationale**		
	Are reasons for development of the document stated?	Yes	
3.	**Development Process**		
	Are people involved in the development identified?	Yes	
	Has relevant expertise has been sought/used?	Yes	
	Is there evidence of consultation with stakeholders and users?	Yes	
	Have any related documents or documents that are impacted by this change been identified and updated?	Yes	
4.	**Content**		
	Is the objective of the document clear?	Yes	
	Is the target population clear and unambiguous?	Yes	
	Are the intended outcomes described?	Yes	
	Are the statements clear and unambiguous?	Yes	
5.	**Evidence Base**		
	Is the type of evidence to support the document identified explicitly?	Yes	
	Are key references cited?	Yes	
	Are supporting documents referenced?	Yes	
6.	**Training**		
	Have training needs been considered?	Yes	
	Are training needs included in the document?	Yes	
7.	**Implementation and monitoring**		

	Title of document being reviewed:	Yes/No/ Not applicable	Comments
	Does the document identify how it will be implemented and monitored?	Yes	
8.	**Equality analysis**		
	Has an equality analysis been completed for the document?	Yes	
	Have Equality and Diversity reviewed and approved the equality analysis?	Yes	
9.	**Approval**		
	Does the document identify which committee/group will approve it?	Yes	
10.	**Publication**		
	Has the policy been reviewed for harm?	Yes	
	Does the document identify whether it is private or public?	Yes	Public
	If private, does the document identify which clause of the Freedom of Information Act 2000 applies?	n/a	