

COMPLAINTS AND PATIENT ADVICE AND LIAISON SERVICE (PALS) POLICY

Version:	5
Ratified by:	Executive Director
Date Ratified:	22 June 2022
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Date issued:	1 July 2022
Review date:	31 March 2023
Target audience:	All staff, NHS Somerset ICB, Independent Contractors, Patients, Carers

**COMPLAINTS AND
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VERSION CONTROL**

DOCUMENT CHANGE HISTORY		
Version	Date	Comments
1.0	23 Nov 2006	Complaints Policy approved by Primary Care Trust Board
1.1	30 Oct 2007	Document revision following annual review
1.2	13 Nov 2007	Ratified by the Integrated Governance Committee
2.1	3 June 2009	Draft Policy prepared in line with changes to Complaints Regulations
2.2	9 October 2009	Draft Policy reviewed through Director of Corporate Service and Communications
3.0	31 January 2011	Revised draft policy prepared by Executive Programme Lead for the Chief Executive
3.1	17 February 2011	Policy ratified by Integrated Governance Committee under Chairman's Action
3.2	17 December 2012	Reviewed to ensure Policy in place until 31 March 2013 and legacy document until 1 November 2013
3.3	May 2013	Policy revised to reflect NHS reforms and the abolishment of PCT's and the creation of Clinical Commissioning Groups
3.4	March 2014	Revised in draft to consider Stonewall Policy Audit and Patient's Association Complaint Handling Standards
4	July 2016	Revised following review
4.1	July 2016	Amendments by Director of Quality Safety and Governance
5	July 2022	Policy revised to reflect NHS reforms; reference to CCG replaced with reference to Integrated Care Board
Sponsoring Director:		Director of Quality and Nursing
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**CONFIRMATION OF EQUALITY IMPACT ASSESSMENT FOR
NHS SOMERSET INTEGRATED CARE BOARD
DOCUMENTS/POLICIES/STRATEGIES AND SERVICE REVIEWS**

Main aim of the document:

This document sets out the commissioner's policy for the management of Complaints

Outcome of the Equality Impact Assessment Process:

Neutral impact identified

If relevant, outcome of the full impact assessment:

Review of Policy in two years

Actions taken and planned as a result of the equality impact assessment, with details of action plan with timescales/review dates as applicable:

Groups/individuals consulted with as part of the impact assessment:

The commissioning staff

COMPLAINTS AND PATIENT ADVICE AND LIAISON SERVICE (PALS) POLICY

1 INTRODUCTION

- 1.1 NHS Somerset Integrated Care Board (ICB) commissions acute, community and mental health services for the population of Somerset and aims to be an innovative and dynamic leader of quality and safety within the local health and social care community.
- 1.2 As the commissioner of acute, community and mental health services, it is important for the organisation to understand the patients' experience of the services provided and to be responsive to the needs and expectations of service users, families, carers and the general public. Somerset ICB aims to commission high quality, safe, health services, however there may be occasions when the expectations of service users, families, carers and the general public are not met and this policy explains how to raise concerns or complaints.

2 PURPOSE AND AIMS OF THE POLICY

- 2.1 The purpose of this policy is to describe the systems in place to effectively manage complaints in accordance with Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (NHS Complaint Regulations). It outlines the responsibilities and processes for receiving, handling, investigating and resolving complaints, together with Patient Advice and Liaison Service (PALS) enquiries, relating to the actions of Somerset ICB, its staff and services.
- 2.2 Somerset ICB aims to promote best practice within its complaints management function that is compliant with the NHS Complaint Regulations. Somerset ICB also adheres to the NHS Constitution, including the pledges relating to complaints and redress.
- 2.3 This policy applies to all Somerset ICB staff members, including non-executive directors and officers involved in the ICB's policy making processes, whether permanent, temporary or contracted-in (either as an individual or through a third-party supplier).
- 2.4 The aims of the policy are to ensure:
- there is a clear process in place that is accessible for service users, families, carers and the general public to raise comments, concerns, complaints and compliments
 - that all complainants are listened to and provided with a plan of how and when responses will be provided

- that complaints are treated in a positive manner by staff
- the provision of care is not adversely affected for the individual, as a result of a complaint or concern being raised
- that all complaints, concerns and Patient Advice and Liaison Service (PALS) enquiries receive a thorough investigation and a full, honest and fair reply within the time frame agreed
- that following the investigation of a complaint or concern appropriate action is taken where necessary to improve the quality of services
- all replies are considerate, courteous and sympathetic
- that replies provide a satisfactory explanation to all the issues raised
- staff involved in the investigation understand that complaints and concerns are learning events and should be used to improve services in order to prevent future occurrences
- that complainants are given the opportunity to comment on the response to their complaint and changes made to services following the raising of their complaint or concern
- that there is a culture of being open and that the Duty of Candour is applied to all complaints and apologies are provided when the service provided has not met the required standard

3 RELATIONSHIP WITH REGULATIONS AND NATIONAL GUIDANCE

3.1 All complaints are considered and handled according to the Local Authority Social Services and National Health Service Complaints England Regulations 2009 – Statutory (1 April 2009), which is a national procedure used for all complaints raised in respect of treatment and services received under the NHS. This policy also reflects the following regulations and national guidance:

- NHS England Guide to good handling of complaints for CCGs
- The Health and Social Care Act 2001 – PALS
- The Principles of Good Complaint Handling - Parliamentary and Health Service Ombudsman (2008)
- Good Practice Standards for NHS Complaints Handling - Patients Association
- Regulations and Outcomes – Care Quality Commission

- The NHS Constitution – Department of Health (updated October 2015)
- The NHS Outcomes Framework – Domains 4 for Patient Experience and Domain 5 for Patient Safety
- How to Make a Complaint – The Patients Association (January 2012)
- The mid Staffordshire NHS Foundation Trust Public Enquiry (The Francis Report February 2013)
- A review of the NHS hospitals complaints system; putting patients back in the picture – Department of Health (2013) (The Clwyd Report)
- Suffering in Silence – Healthwatch (October 2014)
- My expectations for raising concerns and complaints – Local Government Ombudsman (LGO), Healthwatch and Parliamentary and Health Service Ombudsman (PHSO) (November 2014)
- Complaints Matter – CQC (December 2014)

4 PRINCIPLES

4.1 This policy and the approach to complaints and PALS enquiries is based on the Parliamentary and Health Service Ombudsman's (PHSO's) Principles of Good Administration, Redress and Good Complaint Handling (2009), the NHS Constitution (2015) and My expectations for raising concerns and complaints (2014). The aims of this policy reflect the underlying principles of these documents which are as follows:

- getting it right
- being customer focussed
- being open and accountable
- acting fairly and proportionately
- putting things right
- ensure people know how to complain, in a way and time that suits them
- ensuring people are treated with courtesy and receive appropriate support on receipt of the complaint and throughout the complaint process

- ensuring the future treatment of anyone who has made a complaint will not be adversely affected
- acknowledging when mistakes happen, apologise, explain what went wrong and put things right quickly and effectively
- that the complainant receives a personal response, which clearly outlines the outcome/resolution in an appropriate format, which addresses all of the concerns they have raised
- to seek continuous improvement and ensure the organisation learns lessons from complaints and claims and uses these to improve NHS services
- ensuring people have a good experience of complaining and feel able to do so again

Duty of Candour

- 4.2 The above principles are supported by the Duty of Candour, which ensures that providers of NHS health services are open and honest with service users when things go wrong and they provide them with reasonable support, truthful information and a written apology.

Equality and Diversity

- 4.3 Somerset ICB commissions health services available to all, irrespective of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation. NHS organisations have a duty to each and every individual they serve and must respect their human rights.
- 4.4 Somerset ICB has a wider social duty to promote equality through the services it provides and to pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace with the rest of the population.
- 4.5 Every complainant will be treated fairly and equitably, regardless of age, disability, race, culture, nationality, gender, sexual orientation and faith/belief. The patient/complainant will not receive less help, will not have things made difficult for them, nor have the quality of their care compromised as a result of their complaint.

Investigation of Complaints

- 4.6 Somerset ICB expects all staff, including temporary and agency staff, to assist the Quality Improvement Team to ensure complaints are properly investigated and ensure improvement of services and patient care through learning and development.

- 4.7 All staff are responsible for identifying training needs in respect of policies and procedures and bringing them to the attention of their line manager, and attending training/awareness session, when provided.

5 DEFINITIONS, WHO CAN MAKE A COMPLAINT AND TIMESCALES

Definitions

- 5.1 **Complaint:** a complaint is any expression of dissatisfaction regarding any aspect of service relating to patient care, clinical or non-clinical, relating to attitudes or behaviour, the environment, facilities or systems that requires an organisational response. Complaints can be made verbally, in writing and electronically and are included under this term along with formal complaints raised by Members of Parliament (MPs) on behalf of their constituents. Complaints are managed to enable patients, service users (or their representatives) to give feedback on the services they have received in as easy a way as possible.

Issues/concerns: A written or oral expression of dissatisfaction that can be resolved without the need for formal investigation or correspondence.

Joint Complaint: A formal complaint involving two or more organisations for which a co-ordinated approach is required.

NHS Complaints Advocacy (SWAN): is the organisation that provides independent help and support for people pursuing an NHS complaint.

The Parliamentary and Health Service Ombudsman (PHSO): Is the organisation that manages the second state of the NHS complaints procedure.

Serious Incident (SI): In accordance with the NHS England SI Framework, SI's are events in healthcare where the potential for learning is so great, or the consequences to patients, families and carers, staff or organisations are so significant, that they warrant using additional resources to mount a comprehensive response.

Investigating Officer: The person identified as responsible for handling and investigating an individual complaint.

Compliments: Positive feedback received, relating to Somerset ICB or one of the ICB's commissioned services.

Informal Enquiry (also known as PALS): An informal enquiry (or PALS) is an issue or concern that can be resolved informally without the need for a formal investigation.

Who can make a complaint

5.2 A complaint may be made by:

- a patient or service user
- any person who is affected by or likely to be affected by the action, omission, or decision of the ICB, or one of its providers
- a representative of either of the above in a case when that person:
 - has died
 - is a child
 - is unable by reason of physical or mental capacity to make the complaint themselves
 - has requested a representative to act on their behalf (a representative may include a parent, guardian, relative, civil partner or friend, and in these cases consent will be required, (see Appendix 1 - example of Consent Form). In the case of a patient or person affected who has died or who is incapable, the representative must be a relative or other person who, in the opinion of the Quality Improvement Team had or has sufficient interest in their welfare and is a suitable person to act as a representative. If, in any case it appears that a representative does not have sufficient interest in the person's welfare or is unsuitable to act as a representative, the Quality Improvement Team will notify the person in writing, stating the reasons why
- anonymous complaints will be accepted (for example, telephone call, letter) but if possible the person should be encouraged to provide their name and other relevant details
- if a patient is unable to act, for instance due to physical incapacity or lack of capacity within the meaning of the Mental Capacity Act (2005), consent is not required. This will be agreed on an individual basis by the manager responsible for complaints
- advocates such as SWAN (Independent Complaints Advocacy Service) and voluntary organisations, such as Healthwatch
- Members of Parliament

- parents and legal guardians can raise concerns on behalf of the child. However, if the complaint or concern raised relates to a person over 16 years of age, consent must be sought from the individual to investigate and release medical information. In circumstances when a complaint or concern is raised for a child under 16 years by anyone other than the parent or legal guardian, consent must be sought from the parent or legal guardian or from the young person if there it can be demonstrated that the young person is competent to consent

Timescales for making a complaint

- 5.3 Complaints should be made within 12 months of the event, or within 12 months of the complainant realising there is something to complain about. The NHS will not usually investigate a complaint made outside these time limits – although the limits may be waived if there was good reason for the delay.
- 5.4 If there are good reasons for not having made the complaint within the above timeframe and, if it is still possible to investigate the complaint effectively and fairly, Somerset ICB may decide to still consider the complaint.
- 5.5 When a complaint is made outside these limits and the time limits are not waived, the complainant will be informed of their rights to request the PHSO consider their case.

6 WHAT CANNOT BE DEALT WITH UNDER THE NHS COMPLAINTS PROCEDURE?

- 6.1 There are types of complaints that are excluded from the scope of the complaints process outlined in this policy including:
- a complaint that is currently/has been investigated by another NHS body or the PHSO
 - a complaint which is the same as a complaint that has previously been made and resolved
 - events requiring investigation by a professional disciplinary body
 - complaints about private medical or dental treatment
 - complaints made by another NHS body which relate to the exercise of Somerset ICB function
 - complaints made by a staff member about any matter relating to their contract of employmen

- complaints made by an independent contractor/provider or NHS Foundation Trust about any matter in relation to arrangements made by Somerset ICB with the said providers
- complaints arising out of an alleged failure by an NHS body to comply with a data subject request under the Data Protection Act 1998
- complaints surrounding the process of requesting information under the Freedom of Information Act 2000
- complaints which have given rise to Somerset ICB initiating a separate disciplinary investigation. Where there are aspects of the complaint not covered by the disciplinary investigation, they will continue to be dealt with under the complaints procedures. The Chief Executive will advise the complainant in writing of a disciplinary investigation is under-way; they may be asked to take part in that process; and how any outstanding aspects of their complaint will be taken forward
- NHS primary care services: however, it should be noted that as at 1 July 2022, national discussions are underway over the transition of the management of primary care complaints from NHS England to ICBs

6.2 Complaints about private medical treatment or private medical treatment provided in NHS premises do not apply if the service is delivered in its entirety by privately employed staff and the premises are being leased under a private agreement. This policy does cover any complaints made about employees or contractors delivering medical care to private patients under their NHS contract of employment and/or facilities provided whilst receiving private medical care delivered by NHS staff in NHS property.

7 HOW TO MAKE A COMPLAINT

7.1 Complaints can be made in person, in writing, by telephone, or by email and can be sent to the Chief Executive, the Chairman or directly to the Quality Improvement Team: The following information will be required:

- name, date of birth, address, and telephone number of the complainant
- if the complainant is acting for someone else, their details and consent
- a list of issues the complaint relates to with a summary of what happened, who was involved and when it happened, giving dates if possible

- the preferred method of communication of the complainant
- the outcome that is being sought by the complainant

7.2 Where complaints are raised with Healthcare Professionals, if the patient required a response which the Health Care Professional is not able to deal with directly, patients should be advised to contact PALS/Complaints

7.3 Health Care Professionals in primary care may raise concerns through the Health Care Professional Feedback scheme and will receive a response appropriate to the concern raised.

8 COMPLAINTS INVOLVING A SINGLE PROVIDER ORGANISATION

8.1 If a complaint is received relating to a single provider or organisation commissioned by Somerset ICB, the Quality Improvement Team will contact the complainant and seek consent for the complaint to be shared with the appropriate provider's complaints team for their investigation and direct response. If required, Somerset ICB will request a copy of the provider's response, to ensure all concerns have been addressed and appropriate learning identified.

8.2 In cases where this is not acceptable to the complainant, or Somerset ICB has particular concerns, the ICB may decide to take the lead themselves.

8.3 Somerset ICB may also attend a provider's Local Resolution Meeting, when invited by the provider, to deliver external challenge.

9 COMPLAINTS THAT SPAN A NUMBER OF NHS AND/OR OTHER ORGANISATIONS

9.1 Enquiries/complaints may be received which may relate to services provided by more than one provider including NHS providers, the local authority or the independent sector. In these cases, there should be full co-operation between all providers in seeking resolution.

9.2 When determining which organisation will take the lead role in a joint complaint, the following should be taken into account:

- which organisation manages integrated services
- which organisation has the most serious complaints about it
- whether a larger number of the issues in the complaint relate to one organisation compared with the other organisation(s)
- which organisation originally received the complaint (if the seriousness and number of complaints are about the same for each one)

- whether the complainant has a clear preference for which organisation takes the lead

- 9.3 Somerset ICB has signed the local joint working protocol with the main health providers for Somerset area which is included at Appendix 2.
- 9.4 The Quality Improvement Team will liaise with individual service providers to agree who is best to respond to complaints or concerns received by Somerset ICB that relate to a single provider. If the decision is to pass the correspondence onto the organisation concerned and this is agreed with the complainant, the decision will be confirmed in writing to the complainant.
- 9.5 Providers of healthcare services will inform Somerset ICB if issues arising from a complaint raised are the subject of internal or local investigation. There should not be more than one investigation into a complaint at any one time.
- 9.6 The roles and responsibilities of Somerset ICB in managing complaints are set out in Appendix 3.

10 CONFIDENTIALITY

- 10.1 It is not necessary to obtain a patient's express consent to use personal information to investigate a complaint or concern they have raised. Care must be taken to ensure that any information disclosed about the patient is confined to what is relevant to the investigation and only disclosed to those people who have a need to know for the purpose of the investigation.
- 10.2 If a complaint or concern is raised on behalf of a patient who has not authorised someone to act for them, care must be taken not to disclose personal health information to the complainant unless the patient has consented to its disclosure.
- 10.3 There may be rare occasions that, when for the sake of the patient's safety, it is necessary to override confidentiality. This action would only be taken if the complainant, the patient or any other person is at risk or harm. Any such action will be taken with advice and authorisation from the Director of Quality and Nursing.
- 10.4 In transferring complaints between agencies (including the PHSO) confidentiality will be maintained at all times. Every effort will be made to obtain consent from the patient/service user (or their representative) before sharing confidential information with another body or organisation. Consent will be obtained in writing, or where this is not possible, Somerset ICB will seek further advice from the Caldicott Guardian.

11 CONSENT

- 11.1 If a complaint or concern is received from a person acting on behalf of a patient (including solicitors), permission must be obtained from the patient before information is provided.
- 11.2 Permission will be required from the complainant when Somerset ICB is required to forward a complaint for investigation, for example to an acute trust.
- 11.3 The Quality Improvement Team will be responsible for obtaining such written consent.
- 11.4 Where there is concern about the validity of a signed consent form further steps may be taken to confirm the validity.

Correspondence received from Members of Parliament

- 11.5 Members of Parliament (MP), acting on behalf of their constituents, are already considered to have obtained consent from the complainant. This is supported by the Data Protection Act 1998 – Processing of Sensitive Personal Data – Elective representatives Order 2002 SI2002 No 2905 (v2,0 May2006). Where a constituent approaches an MP on behalf of someone else, then consent may be required to ensure the complainant is acting with the individual's authority.
- 11.6 In cases when the MP complaint requires cross organisational investigation, the Quality Improvement Team will request consent from the constituent to investigate their complaint with the additional organisations identified.

12 SUPPORT FOR COMPLAINANTS - ADVOCACY

- 12.1 Within Somerset, SWAN Advocacy provides support for people in making a complaint and can provide advice about the NHS complaints process. SWAN can help draft or write a complaint letter, attend meetings with the complainant and provide an interpreter if required. SWAN has a number of advocates that provide a free, independent and confidential service. SWAN can be contacted:

Telephone: 03333 447928 (Monday to Friday, during office hours)

Fax: 01722 341379

E-mail: somerset@swanadvocacy.org.uk

Web: www.somerset-ias.org.uk

- 12.2 An independent conciliator can be involved at any stage to help achieve local resolution. Conciliators are trained to resolve disputes through discussion and are independent of the NHS. Either party can request conciliation, but both parties must agree to participate before it can proceed.

13 PATIENT ADVICE AND LIASION SERVICE (PALS)

Concerns and Suggestions

13.1 PALS is able to help people who are not happy about the care or treatment/service they have received, but do not wish to make a formal complaint. The team can help resolve concerns quickly and informally and make enquiries to ensure concerns and suggestions are used constructively to improve services.

13.2 The PALS service for Somerset ICB is provided in-house and will provide the following:

- a responsive and efficient service to those contacting the service, seeking advice and where possible have an early resolution of the issues and concerns through problem solving and negotiation
- co-ordinate the delivery of an effective visible and accessible PALS Service
- manage a triage process of all contacts received by Somerset ICB to assess the urgency required to address the issues raised and ensure that appropriate action is taken in agreed timescales
- act as advocate on patients' behalf in relation to patient transport
- provide assistance and advice relating to GP practices

13.3 The service will also provide:

- essential information about local networks and support including a wide range of local intelligence and understanding with expert advice on the service and assistance for users of the service
- data capture and reports, including from the Datix system which captures relevant data in a way which ensures that information is available to monitor trends on a regular basis
- facilitation for meetings and liaison with patients, families and providers.

Compliments

13.4 The PALS service will pass on all compliments received about health care services in order for staff and their managers to use this information to help improve other service areas.

14 HANDLING OF COMPLAINTS, CONCERNS AND COMPLIMENTS

Risk Assessment

14.1 On receipt, each complaint/concern will be risk assessed using the NHS risk assessment matrix. This ensures the right action is taken, in addition to the complaints process. The Quality Improvement Team will ensure that any high risk 'red' complaints are brought to the immediate attention of senior managers within the directorate and relevant leaders, as appropriate. Examples of 'red' complaints include:

- a complaint/concerns about the patient's immediate safety and care
- concerns that could impact on the safety and care of other patients
- a complaint that details substantial failings in basic care
- a complaint where care has been compromised
- a complaint detailing potential safeguarding concerns
- a complaint which could also be a potential Serious Incident and therefore should be managed as such in accordance with NHS England guidance

14.2 The Designated Nurse Safeguarding Children should be contacted if a complaint or concern received raises an issue relating to Safeguarding Children.

14.3 The Director of Quality and Nursing should be contacted if a complaint or concern received raises an issue relating to Safeguarding Adults.

First Stage – Local Resolution

14.4 The first stage of the NHS complaints procedure is called Local Resolution. The purpose of Local Resolution is to deal with concerns or minor complaints quickly and informally. In many cases a verbal concern or minor complaint can be presented to a member of staff within the provider organisation involved. This could be a doctor, nurse, dentist, receptionist or any other appropriate staff member. The alternative for people wishing to speak to someone who is not directly involved with their healthcare is to contact PALS. Contact details for the relevant PALS teams in Somerset are provided at Appendix 4.

14.5 A complaint can be made orally, in writing or electronically. If Somerset ICB receives a verbal complaint the member of staff receiving the complaint must make a written record of the complaint and provide a copy to the Quality and Improvement Team as soon as possible. The Quality Improvement Team will acknowledge the complaint within 3 working days of receipt. (Appendix 5 – Complaints Process Flowchart).

- 14.6 Patient confidentiality will be maintained at all times when dealing with complaints. Written consent will be sought from a patient and/or representative to the sharing of confidential information necessary for an investigation.
- 14.7 Where possible (unless the complaint is anonymised), the Quality Improvement Team will contact the complainant to discuss the following issues:
- details of the concerns
 - the outcome the complainant seeks
 - the preferred method of communication
 - agree the period of time in which the investigation is likely to be completed
 - consent
 - provide an explanation of the complaints process and the plan of action
- 14.8 During the complaints process, Somerset ICB will keep the complainant informed as to the progress of the investigation. If any delays occur, they will be informed of the reason why and a revised date for the response will be agreed with them.
- 14.9 Somerset ICB may also consider seeking an external review to assist the complaints investigation, where an expert opinion is required. Such a decision will be at the ICB's discretion.
- 14.10 The Quality Improvement Team will endeavour to provide the complainant with a full response within 25 working days. However, if this timescale is not realistic given the number of providers involved or the complexity of the investigation, this will be discussed with the complainant and a target date agreed.
- 14.11 On completion of the investigation, a written signed response will be sent from the Chief Executive, Chair (or other senior level Director), addressing the complainants concerns. The response will include:
- an explanation of how the concerns raised were investigated
 - the conclusions reached in relation to the complaint, including any remedial action that Somerset ICB considers appropriate
 - confirmation that Somerset ICB is satisfied any action required as a result of the complaints has been or will be taken

- 14.12 The formal written response can be in the form of minutes of a meeting held with the complainant, where a response has been provided.
- 14.13 If a complainant is dissatisfied with the response, every effort will be made to achieve a satisfactory outcome at local level by:
- identifying outstanding issues
 - arranging a Local Resolution Meeting
 - providing a further written response

Second Stage – Handling and Consideration of Complaints referred to the PHSO

- 14.14 If a complainant remains dissatisfied with the response gained at local resolution stage, they can ask the PHSO to review the case. The PHSO considers complaints made by or on behalf of people who believe there has been an injustice or hardship because an organisation has not acted properly or fairly or has given poor service and not put things right. This service is free for everyone.
- 14.15 Requests must be made within 12 months of the event, or within 12 months of the complainant realising there is something to complain about. This time can be extended where good reason is shown. The Ombudsman can carry out independent investigations into complaints about poor treatment or service provided through the NHS in England. The PHSO contact details are as follows:

Parliamentary and Health Service Ombudsman
Millbank Tower
Millbank
London
SW1P 4QP

Complaints Helpline Tel: 0345 015 4033
Email: phso.enquiries@ombudsman.org.uk
Text: 07624 813 005
Website: www.ombudsman.org.uk

- 14.16 Literature and information explaining the process is available from Somerset ICB and all commissioned organisations. The information is available in paper, electronic and audio format and in other languages.

15 WITHDRAWAL OF A COMPLAINT

- 15.1 Any complaint or concern received by Somerset ICB can be withdrawn at any stage of the procedure. Any issues against an individual/ those complained about and/or the provider organisations involved, will be informed as soon as possible.

- 15.2 Where possible, any learning identified from any investigations which had already taken place will be shared with the relevant parties.

16 CONFIDENTIALITY - THIRD PARTY CONFIDENCE

- 16.1 A duty of confidence applies equally to third parties who have given information or where there is reference made to a third party in a patient's record. Care must be taken if information has been provided in confidence by or about a third party who is not a healthcare professional. Prior knowledge must be given to the person(s) concerned to ensure they have consented to the disclosure of the information. If anonymous information is deemed to be adequate, identifiable information should be omitted. This does not remove the legal duty of confidence.

17 CORONER'S INQUESTS

- 17.1 A complaint associated with a death that has been referred to the Coroner may need to be suspended or delayed. Where appropriate the Quality Improvement Team will liaise with the Coroner's Office and the complainant will be advised in writing with a clear explanation of the reason.

18 LEGAL ACTION

- 18.1 When a complaint is received and there is a prima facie case of negligence or an indication of possible legal action, the Quality Improvement Team will inform and seek advice from the Director of Quality and Nursing. The complaint investigation will continue. If there is a stated intention to initiate legal action, Somerset ICB will seek legal advice on whether the complaint investigation can continue alongside this.
- 18.2 In the event of a complaint being received that involves allegations of misconduct about a member or members of staff warranting a management investigation, involvement of a professional regulatory body or a criminal investigation, the Quality Improvement Team will inform the Director of Quality and Nursing, who will determine the action to be taken.

19 LEARNING FROM COMPLAINTS

Root Cause Analysis

- 19.1 Where a complaint investigation highlights significant issues in patient safety, procedures, systems or clinical outcomes, the Quality Improvement Team will consider whether this incident should be reported as a Serious Incident and may decide to instigate a root cause analysis investigation. The purpose of this approach to investigation is to determine the root cause of an incident and the lessons learned and recommendations for improvements to patient care or service delivery.

- 19.2 Investigations should be carried out by a team nominated by the Director of Quality and Nursing. When making this appointment, they should consider whether the investigator should be brought in from another part of the organisation or from an external body (for example because the issues are particularly sensitive or recurrent, or because the service manager is involved). There will also be consideration of the relevant clinical expertise and advice required.
- 19.3 It should be borne in mind by those conducting a detailed investigation that statements taken and the investigation report produced may be disclosable to the defence in any legal action. Therefore care could be taken to ensure that they are:
- accurate
 - complete
 - factual
 - based on evidence rather than supposition or anecdote
- 19.4 Concerns and complaints provide a rich source of patient feedback on the health services which we commission and provide. They help to identify areas of risk and the need for change and improvement. Following each complaint investigation, actions should be identified, where appropriate, by the relevant NHS provider, Somerset ICB Directorate or service area to ensure service improvement, risk management, prevention of recurrence and staff learning, as a result of the complaint. This evidence may be in the form of an action plan, a copy of which should be filed in the complaint file. Actions as a result of complaints should be monitored regularly by the NHS Provider, Directorate or service areas, to ensure continued compliance with the change/ improvement. Provider organisations should have systems in place, to ensure that learning is disseminated within their organisation. The ICB has processes in place to share learning more widely within the local health community, through the SafetyNet Newsletter, and through the quarterly quality monitoring meetings with NHS providers.
- 19.5 Where no actions are deemed necessary as a result of a complaint, evidence to this effect should be provided, for inclusion in the complaint file.

20 ASSURANCE, MONITORING AND GOVERNANCE

- 20.1 The philosophy of Somerset ICB for the management of complaints is to recognise their positive value through effective investigation and monitoring. The ICB will monitor performance in relation to the complaints process for all NHS Providers and seek assurance that learning has been embedded through the following means:

- themes and trends of complaints will be discussed with the provider organisations at their Clinical Quality Review Meetings (CQRM's) and any further action identified
- the implementation of learning and completion of actions will be monitored through the CQRM's
- Somerset ICB will use intelligence from complaints relating to provider organisations to inform Quality Assurance visits and use this opportunity to seek assurance that specific actions have been implemented and embedded
- Somerset ICB will use the intelligence gained from complaints information to develop a greater awareness of services commissioned and where these may not meet quality standards. This intelligence will be shared with the commissioning teams to inform future service development

Reporting

- 20.2 A quarterly complaints report will be presented to the Somerset ICB Governing Body as part of the overall performance and patient safety reporting. The reports will identify any trends and patterns arising from complaints and any subsequent action taken as a result of lessons learned.
- 20.3 A Complaints and PALS Annual Report will be produced each year on the handling of complaints, outline actions, monitoring compliance and outcomes.

Equality Monitoring and Diversity Forms

- 20.4 Equality Monitoring forms are sent to complainant with consent forms at the outset of an investigation and again when the complaint is closed with a complaints handling evaluation survey. These forms are filed separately and analysed at least annually to check whether there are any protected groups who are being adversely affected by service provision or complaints handling processes. (Appendix 6)

21 VEXACIOUS AND PERSISTENT COMPLAINANTS

- 21.1 It is recognised that there are times when there is nothing further that can reasonably be done to rectify a real or perceived problem.
- 21.2 Unreasonably persistent, serial, or habitual complainants are those complainants who, because of the frequency or nature of their contact with Somerset ICB hinder the consideration of their or other people's complaints.

21.3 Somerset ICB acknowledge that such complainants may have a genuine grievance that should be properly investigated. Before deciding that someone is an unreasonable persistent complainant, the ICB must be satisfied that:

- the complaint is being or has been investigated properly
- any decision reached on the complaint is the right one
- communication with the complainant have been adequate
- the complainant is not now providing any significant new information that might affect the ICB's view on the complaint.

21.4 Further clarification of vexacious / habitual complaints can be found in Appendix 7.

22 FREEDOM OF INFORMATION REQUESTS

22.1 The Director of Corporate Affairs will respond to any request for information under the provisions of the Freedom of Information Act. Any complaints that arise out of Somerset ICB alleged failure to comply with either a data subject request under the Data Protection Act 1998 or Freedom of Information Act 2000 will be considered under the terms of the NHS Somerset ICB Freedom of Information Act Policy.

23 RECORDING OF COMPLAINTS IN HEALTH RECORDS

23.1 Records of contacts and their complaints or concerns are kept separate from health records. This applies to all reports and medical reports produced during an investigation. Electronic records will be stored within a secure database managed by and accessible only to the Quality Improvement Team. Any hard copy (paper) records will be kept securely locked and accessible only to the Quality Improvement Team.

23.2 Complaints records will be stored in accordance with the NHS Records Management Code of Practice and will be kept by the organisation for a minimum of 10 years.

24 DISSEMINATION AND ACCESSIBILITY OF POLICY

Dissemination, Accessibility and Implementation

24.1 The organisation will make leaflets and posters explaining the complaints procedure available to all staff and will be made available in a variety of formats and languages. The policy shall be posted on the Somerset ICB intranet for ease of access and reference for all staff.

24.2 Similar information will also be made available on the Somerset ICB internet site and provided to Somerset Healthwatch. A copy of this policy shall be given, free of charge, to any patient or member of the public requesting it.

24.3 Somerset ICB is committed to ensuring that the guidance in this policy is accessible to all. This means that, as required, additional support will be provided to help ensure that the information in this policy can be understood and its guidance followed. This support includes (but is not limited to):

- the provision of the policy and any associated documents in alternative formats or languages
- enabling individuals to have an advocate or interpreter involved for support with communication
- making reasonable adjustments, in discussion with individuals or their representatives, to procedures where these are necessary to ensure their accessibility

Training

24.4 Managers and staff referred to within the Policy are responsible for ensuring they and their staff are adequately trained to carry out the roles and responsibilities described.

24.5 The Quality Improvement Team will provide training within the ICB to all new staff and provide advice to providers as required.

25 ASSOCIATED DOCUMENTS

25.1 This policy should be read in conjunction with the following policies and documents:

- Risk Management Strategy and Policy
- Policy on Procedural Documents
- Guide to Producing Patient Information
- Incident Reporting Policy
- Claims Policy
- “Being Open” Policy
- Raising Concerns Policy

26 REFERENCES

The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009 No. 309. Office of Public Sector Information. Available at: www.opsi.gov.uk

The Principles of Good Complain Handling (Parliamentary and Health Service Ombudsman) 2008. Available at: www.ombudsman.org.uk

The Patients Association – How to make a complaint. Available at: www.patients-association.org.uk

Listening, Improving, Responding – A guide to Better Patient Care (Department of Health 2009). Available at: www.dh.gov.uk/publications

The NHS Constitution for England (Department of Health 2009)
Available at: www.dh.gov.uk/publications

Health and Social Care Act 2012. Available at: www.legislation.gov.uk

Being Open – communicating patient safety incidents with patients and their carers (NPSA, 2009). Available at www.npsa.nhs.uk/beingopen

Review of the NHS Hospital Complaints System – Putting Patients Back in the Picture (Department of Health, 2013) (The Clwyd Report). Available at: www.gov.uk

The Francis Report. Available at: www.midstaffspublicinquiry.com/report

Regulation 20: Duty of Candour, Care Quality Commission. Available at: www.cqc.org.uk

NHS England Serious Incident Framework. Available at: www.england.nhs.uk

Access for Health Records Act 1990. Available at: www.legislation.gov.uk

Data Protection Act 1998: Available at: www.legislation.gov.uk or www.gov.uk/data-protection

Mental Health Capacity Act 2005. Available at: www.gov.uk

NHS Complaints Procedure. Available at: www.england.nhs.uk

Freedom of Information Act 2000. Available at www.gov.uk

APPENDICES

CONSENT TO INVESTIGATE COMPLAINT
PATIENT DETAILS (if not person raising the issue)

Name:

Address:

.....

Date of Birth **Signature** **Date**

PERSON RAISING THE ISSUE

Relationship to Patient:

Name:

Address:

..... **Daytime contact number:**

Signature **Date**

I /WE GIVE OUR CONSENT FOR

	Please Circle	
	YES	NO
NHS Somerset to investigate our/my issues with all with all parties concerned. NB: this may mean sharing your comments with those parties.	YES	NO
NHS Somerset to access any medical records that they feel are relevant to these issues.	YES	NO
Other Clinicians or services that provide advice and healthcare on the management of our/my issues.	YES	NO
I understand that any information in relation to this complaint will be retained and stored in line with the latest national guidance and NHS Records Management Code of Practice	YES	NO

I give my consent for the person named above to act on my behalf and I understand that this may involve disclosure of my medical history and treatment. If there are any matters you wish to exempt from disclosure, please complete the box below.

Please return this form to: Complaints, FREEPOST – RRKL- XKSC – ACSG, NHS Somerset, Wynford House, Lufton Way, Yeovil, BA22 8HR

The information contained is **confidential** and intended to be read by the addressees only. If you are **not** the intended recipient, please note that any review, comment, dissemination or copying of this consent form is **prohibited**. If you have received this form in error, please notify the NHS Somerset immediately by telephone on 0800 0851 067. Thank you.

PROTOCOL FOR JOINT WORKING ON PALS/COMPLAINTS

An agreement between:

Taunton and Somerset NHS Foundation Trust
Yeovil District Hospital NHS Foundation Trust
Somerset County Council
NHS Somerset Integrated Care Board
South Western Ambulance Service NHS Foundation Trust
Devon Doctors Limited

Version 6
July 2022

PROTOCOL FOR JOINT WORKING ON PALS/COMPLAINTS

1 INTRODUCTION

- 1.1 If a complaint is made about care delivered by more than one organisation named in this protocol, it is important to provide a single point of contact and a single response to the enquirer/complainant.
- 1.2 This document is an agreed protocol for handling such enquiries or complaints. The aim of this protocol is to:
- help to avoid confusion for the enquirer/complainant
 - provide clarity about the responsibilities of each organisation
 - encourage regular communication
 - help to ensure that the relevant organisations learn from the incident, and provide jointly agreed timescales for resolution
- 1.3 This document includes:
- confirmation of the signatory organisations
 - a flow chart showing how joint PALS/complaints will be handled

2 PURPOSE

- 2.1 Dealing with a wide range of health and social care organisations can be confusing for people. This protocol aims to address this, by bringing together the various organisations to provide a unified, responsive and effective service for enquirers/complainants.
- 2.2 This protocol provides a framework for collaboration in handling enquiries and complaints, to ensure:
- a single consistent and agreed contact point for all contacts
 - regular and effective liaison and communication between PALS/Complaints Managers and contacts, and
 - that learning points arising from enquiries/complaints covering more than one body are identified and addressed by each organisation involved in that case

3 THE ROLE OF THE COMPLAINTS MANAGERS

- 3.1 The designated PALS/Complaints/Customer Experience Manager in each organisation that signs up to this protocol is responsible for:
- co-ordinating whatever actions are required within jointly agreed timescales
 - co-operating with other managers and agreeing who will take the lead role in joint cases

- ensuring that there is someone else to whom any requests for collaboration can be addressed when they are absent

4 IDENTIFYING WHO THE LEAD ORGANISATION WILL BE

4.1 When determining which organisation will take the lead role in a joint enquiry/complaint, the following will be taken into account:

- which organisation manages integrated services
- which organisation is care managing the individual patient / client
- which organisation is responsible for the most significant element of the enquiry/complaint
- which organisation does the larger number of issues in the enquiry/complaint relates to
- which organisation originally received the complaint (if the seriousness and number of complaints are about the same for each one)
- whether the complainant has a clear preference for which organisation takes the lead

4.2 At the outset of the enquiry / complaint, the lead organisation should clarify with the complainant the outcome the complainant is seeking and re-visit this, during the process, as appropriate.

5 PROCESS

5.1 The enquirer/complainant should receive one single, co-ordinated response by the method agreed by the lead organisation.

5.2 PALS/Complaints managers will need to co-operate closely, with the agreement and involvement of the enquirer/complainant where appropriate.

5.3 The lead organisation should ensure that the draft response is circulated for comment and agreement before it is sent to the enquirer/complainant as part of the quality assurance for the PALS/complaints process.

5.4 Timescales for due process will be agreed between all organisations and the enquirer/complainant.

6 COMPLAINTS ABOUT ONE ORGANISATION THAT ARE ADDRESSED TO ANOTHER ORGANISATION

6.1 On occasions, a complaint that is concerned in its entirety with one provider's services is sent to another provider or Trust. The Complaints Manager of the organisation receiving such a complaint should:

- contact the complainant within three working days
- advise them that the complaint has been addressed to the wrong organisation

- ask if they want it to be forwarded to the other organisation on their behalf

6.2 Provided that the complainant agrees, the complaint should be sent to the other organisation immediately and a written acknowledgement should be sent to the complainant, detailing where/to whom the letter has been sent, including the contact details.

7 ENQUIRER'S/COMPLAINANT'S CONSENT ABOUT SHARING INFORMATION BETWEEN ORGANISATIONS

7.1 By law, all organisations have to ensure that information relating to individual service users and patients is protected, in line with the requirements of the Data Protection Act, Caldicott 2 principles and the confidentiality policies of that organisation.

7.2 The enquirer/complainant must give their consent before information relating to the concern/complaint is passed between organisations. Wherever possible, this should be in written form, but otherwise verbal consent should be recorded and logged. The enquirer/complainant is entitled to a full explanation of why their consent is being sought.

7.3 If the enquirer/complainant does not agree to the concern/complaint being passed to the other organisation, the PALS/complaints manager of the receiving organisation should:

- advise the complainant that elements of their complaint involves other organisation(s) and this is essential if they are seeking resolution of those particular elements
- seek to resolve any issues or concerns with the complainant about remit and responsibility
- offer any liaison that could contribute to resolving the matter
- remind the complainant of their entitlement to contact the other organisation directly

7.4 The Data Protection Act requires informed and explicit consent for the sharing of sensitive personal information such as Medical and Social Care records. However, there are a number of exemptions detailed in the Act. The most likely to be encountered is the need to share in accordance with Safeguarding Children or Protection of Vulnerable Adults procedures or other service user safety issues. In such cases, the organisation should refer to their own individual safeguarding procedures and advice.

7.5 It will be the responsibility of the lead organisation to obtain valid consent from the patient or their representative. If there is any doubt as to the veracity of the consent, then an identity check will be sought.

7.6 It is essential for the effective continuity of care and the successful resolution of the complaint, that information is exchanged where appropriate and both NHS and Social Care should do all they can to facilitate the process for the benefit of patients and clients. Close co-operation between PALS/complaints managers is crucial to ensure that confidential case file information is shared appropriately, and that the necessary safeguards are put in place.

7.7 Information exchanged under this protocol can be used only for the purpose for which it was obtained.

8 LEARNING FROM COMPLAINTS

8.1 It is vital to identify communication, procedural, operational or strategic issues within and across each organisation. It may be necessary to share information with other organisations when serious concerns are raised about a health or social care worker.

8.2 If matters come to attention regarding competency and fitness to practice these must be raised through the employing organisation's HR procedures.

8.3 Enquirers and complainants may be kept updated of learning outcomes following resolution if the complainant has requested this information.

8.4 Learning from individual complaints should be collated by the lead organisation and be included in the joint response letter. It should also be fed back to the other organisations involved in the complaint. There is an expectation that this learning is then taken forward by each individual organisation through their own processes/procedures.

8.5 The protocol will be adopted by each participating organisation by inclusion in their individual complaints policy and approved by each organisation through their usual governance procedures.

8.6 The Duty of Candour will need to be considered. In general, each organisation must discharge their own obligation for Duty of Candour. Where the Duty is shared, or is not clear, then agreement must be reached between relevant organisations about who will take responsibility.

FLOW CHART FOR HANDLING JOINT ORGANISATION COMPLAINTS

Complaint received – the protocol sets out the factors that determine which organisation will take the lead and new timescales for completion are agreed. If this is not clear, the PALS/Complaints Manager contacts the other organisations involved to jointly agree how the complaint is best dealt with.



Once this is decided the lead PALS/Complaints Manager should contact the enquirer/complainant to discuss their concern/complaint, agree how the concern/complaint will be handled, confirm the issues to be addressed and establish the outcome the complainant is seeking. Explain the implications of a joint organisation concern/complaint and who will co-ordinate the response and advise of timescales set by the organisations involved with the investigation.



Further contact with the enquirer/complainant to be made if the timescales look like they will be breached. New timescales negotiated and shared with organisations involved.



Lead PALS/Complaints Manager to circulate draft response for comment and agreement before it is sent to the enquirer/complainant.



Enquirer/complainant provided with joint organisational response and same shared with all organisations involved.



Action plans are prepared by each organisation to demonstrate learning and organisational improvement where appropriate. These should be shared across the organisations concerned.

ROLES AND RESPONSIBILITIES

1 ROLES AND RESPONSIBILITIES

NHS Somerset Integrated Care Board (ICB)

1.1 The role of Somerset Integrated Care Board (ICB) is to ensure it is assured around the quality of commissioned services and holds providers to account in relation to the management of complaints and all associated actions and learning. Somerset ICB will:

- designate the Director of Quality and Nursing as the Executive Lead for Complaints with the responsibility of ensuring compliance with national regulations
- receive regular information on Complaints/Patient Advice and Liaison Service (PALS) as part of its patient experience reports
- receive an annual report on Complaints/PALS

The Chair

1.2 The Chair is ultimately accountable for the quality of care commissioned by the ICB. The Chair is accountable for responding in writing to all complaints whether they have been made verbally, electronically or in writing and:

- at times of absence, will appoint a deputy to sign complaint responses
- with the Executive Lead for Complaints, will be responsible for determining any necessary action in the case of 'unreasonable or persistent' complaints, as identified in "Vexacious and Persistent Complaints (Appendix 7)
- will give assurance that the ICB is receptive to comments or suggestions whether critical or positive

Director of Quality and Nursing

1.3 The Director of Quality and Nursing:

- is the designated Executive Lead for Complaints and PALS, to ensure compliance with the complaint regulations and what action is taken from the outcome of any investigation
- will advise the Chairman and Managing Director on complaints that refer to clinical issues

Patient Safety and Quality Assurance Committee

- 1.4 The role of the committee is to work to ensure that commissioned services are being delivered in a high quality and safe manner, ensuring quality sits at the heart of everything the ICB does.
- 1.5 The committee takes an active role in reviewing and advising on all patient experience issues and reviewing themes, trends and learning from complaints. The Patient Safety and Quality Assurance Committee regularly triangulates information from Complaints with other intelligence to inform the wider quality agenda.

Senior Management

- 1.6 All Directors are responsible for ensuring that the ICB's Complaints Policy and Procedure is implemented across their Directorates and complaints are:
- investigated in accordance with this policy
 - ensure satisfactory resolution of complaints, including the implementation of any lessons learned.
- 1.7 Directors, Service Heads and Leads are responsible for disseminating the Complaints Policy and Procedure and ensuring that staff understands the procedure.

Quality Improvement Team

- 1.8 The Quality Improvement Team will:
- be readily accessible to the public and members of staff providing advice on any aspect of complaints resolution
 - contact the complainant and negotiate how the complaint will be investigated, agree timescales and desired outcomes
 - obtain consent to disclose information if the complainant is not the patient
 - distribute complaint letter/details to appropriate staff within working three working days
 - co-ordinate the complaints investigation
 - be the central point of contact for all provider organisations with regards to complaints and maintain contact with the Investigator to ensure good progress of the complaint

- maintain an oversight of investigations and quality assurance of all responses ensuring all areas have been addressed and responses detail appropriate apology, as well as actions taken
- ensure extended investigating periods are negotiated where appropriate
- ensure robust investigations are undertaken
- attend meetings with the complainant, where direct involvement will assist resolution
- organise and/or provide alternative dispute resolution where appropriate
- provide advice to the investigating officer in the formulation of the draft response letter
- ensure all the complainant's questions have been answered
- send the draft response to the Chairman or designated deputy, for sign off within 25 working days wherever possible
- ensure learning is shared with appropriate services and individual members of the organisation
- review themes and trends
- facilitate learning across the health system and maintain a record of all action plans and changes in practice resulting from complaints
- provide training and advice to staff on complaints handling
- ensure all complaints are recorded on DATIX and an electronic complaints file is established and held securely
- ensure the complaints files are accessible to the complainant under the Access to Health Records Policy
- ensure records management is in line with the Data Protection Act 1998
- prepare quarterly reports on performance and issues raised through complaints

- prepare an annual report on performance themes and learning for review by the ICB
- ensure that actions identified to improve services are implemented within appropriate timescales
- provide all relevant information to the Parliamentary and Health Service Ombudsman (PHSO) on request and ensure recommendations made by the PHSO are carried out and completed
- inform all relevant staff within the ICB, such as Contract Leads and Quality Leads, of emerging themes to assist with commissioning decisions and service improvements

Investigating Officer

1.9 The Investigating Officer will:

- investigate the circumstances of the complaint within the set time scale
- retain copies of staff statements, relevant extracts of medical records and any other relevant documentation in the complaints file
- in handling complaints, the role of investigating officer will often be shared between officers in provider services, who will retain these records as part of their own complaints file. Where appropriate, they may be shared with the ICB officer handling the complaint, to support the drafting of the response to the complainant.
- attend meetings with the complainant, where direct involvement will help resolution of the complaint
- ensure that, in the event of a delay in completing the investigation, the Quality Improvement Team is notified of the reason for the delay so that they may contact the complainant to ask for an extension of the investigation period
- prepare a draft letter of response, integrating responses from other services where appropriate
- carry out a risk assessment of the situation and draw up an action plan
- identify lessons learned and communicate these with stakeholders involved

PALS CONTACTS

SOMERSET CLINICAL COMMISSIONING GROUP

PALS Tel No: **0800 0851 067**

Email: somccg.pals@nhs.net

By post: FREEPORT-RRKL-XKSC-ACSG
Somerset Clinical Commissioning Group
Patient Advice and Liaison Service (PALS)
Wynford House, Lufton way
YEOVIL
BA22 8HR

SOMERSET NHS FOUNDATION TRUST

PALS Tel No: **01823 343536**

Email: PALS@SomersetFT.nhs.uk

By post: Somerset NHS Foundation Trust
Musgrove Park Hospital
Patient Advice and Liaison Service (PALS) / Complaints
Block 51
TAUNTON
TA1 5DA

YEOVIL DISTRICT HOSPITAL NHS FOUNDATION TRUST

PALS Tel No: **01935 384706**

Email: pals@ydh.nhs.uk

By post: Yeovil District Hospital NHS Foundation Trust
Patient Advice and Liaison Service (PALS)
Level 3, Higher Kingston
YEOVIL
BA21 4AT

**NHS SOMERSET INTEGRATED CARE BOARD
COMPLAINTS FLOW CHART**

Complaints made to ICB						
Patients/families/ carers/MPs/ others	Commissioning Teams	NHS England	Providers	Regulators	PALS	Third sector



Quality Improvement Team				
Receive	Record	Respond	React	Reply



Complaint Process				
Agree timecales to investigate and respond	Allocate investigator and deadlines for completion	Collate investigation reports and draft response	Directors/Service lead sign off	Facilitate local resolution meetings as required



Recommendations		
Monitor actions	Record outcome of implementation	Share learning with others

NHS SOMERSET ICB EQUALITY MONITORING FORM

The ICB is committed to providing equal access to healthcare services to all members of the community. To achieve this, gathering the following information is essential and will help us ensure that we deliver the most effective and appropriate healthcare. There are some guidance notes on the next page. **Responding to these questions is entirely voluntary and any information provided will remain anonymous**

DETAILS BELOW RELATE TO THE PATIENT

What is the patient's age? Please write in the box below	<input type="checkbox"/> Prefer not to state
What is the patient's gender?	<input type="checkbox"/> Prefer not to state
<input type="checkbox"/> Male <input type="checkbox"/> Female	
Has the patient ever identified themselves as trans or transgender?	<input type="checkbox"/> Prefer not to state
<input type="checkbox"/> Yes <input type="checkbox"/> No	
What is the patient's status?	<input type="checkbox"/> Prefer not to state
<input type="checkbox"/> Single <input type="checkbox"/> Married/Civil partnership <input type="checkbox"/> Divorced/Dissolved	
<input type="checkbox"/> Widow(er) <input type="checkbox"/> With partner <input type="checkbox"/> Separated	
Is the patient a carer? for a relative or friend	<input type="checkbox"/> Prefer not to state
<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the patient pregnant or has had a baby in the last six months?	<input type="checkbox"/> Prefer not to state
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable	
Which best describes how the patient thinks of themselves?	<input type="checkbox"/> Prefer not to state
<input type="checkbox"/> Heterosexual (attracted to the opposite sex) <input type="checkbox"/> Bisexual (attracted to both sexes)	
<input type="checkbox"/> Lesbian/Gay (attracted to the same sex) <input type="checkbox"/> Other	
Does the patient consider that they have a disability?	<input type="checkbox"/> Prefer not to state
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> I don't know	
If yes, how would you describe the patient's disability?	<input type="checkbox"/> Prefer not to state
<input type="checkbox"/> Sensory <input type="checkbox"/> Learning <input type="checkbox"/> Mental Health	
<input type="checkbox"/> Physical <input type="checkbox"/> Other _____	
Does the patient have a religion or belief?	<input type="checkbox"/> Prefer not to state
<input type="checkbox"/> Buddhism <input type="checkbox"/> Islam <input type="checkbox"/> No Religion	
<input type="checkbox"/> Christianity <input type="checkbox"/> Judaism <input type="checkbox"/> Other Religion/Belief _____	
<input type="checkbox"/> Hinduism <input type="checkbox"/> Sikhism	
What is the patient's first language? please write in the box below	<input type="checkbox"/> Prefer not to state
Please tell us the patient's ethnic group	<input type="checkbox"/> Prefer not to state
White: <input type="checkbox"/> British <input type="checkbox"/> Irish <input type="checkbox"/> Gypsy, Romany or other traveller heritage	
<input type="checkbox"/> Any other White background, please state _____	
Dual-Heritage <input type="checkbox"/> White and Black Caribbean	
<input type="checkbox"/> White and Asian <input type="checkbox"/> White and Black African	
<input type="checkbox"/> Any other Dual-Heritage, please state _____	
Asian or Asian British <input type="checkbox"/> Indian <input type="checkbox"/> Pakistani <input type="checkbox"/> Bangladeshi	
<input type="checkbox"/> Any other Asian background, please state _____	
Black or Black British <input type="checkbox"/> Caribbean <input type="checkbox"/> African	
<input type="checkbox"/> Any other Black background, please state _____	
Chinese or other ethnic group <input type="checkbox"/> Chinese	
<input type="checkbox"/> Any other ethnic background, please state _____	

Guidance notes to help you complete the form

If there is any information that you do not want to provide just tick the box **Prefer not to state**

<p>Has the patient ever identified themselves as trans or transgender?</p> <p>The process of transitioning from one gender to another. A person who is transgender is someone who expresses themselves in a different gender to the gender they were assigned at birth. Although legislation covers gender reassignment, for the purposes of analysis we adopt the term 'trans' to encompass the wider community.</p>
<p>What is the patient's status?</p> <p>Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.</p>
<p>Is the patient a carer?</p> <p>Carers provide care for anyone (such as a parent, child, other relative, an elderly person, friend or neighbour) who has any form of disability (sensory loss, physical, learning disability, mental health problem) long or terminal illness.</p>
<p>Which best describes how the patient thinks of themselves?</p> <p>Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.</p>
<p>Does the patient consider that they have a disability?</p> <p>The Equality Act 2010 says that a person has a disability if they have a physical or mental impairment which has a long term and substantial adverse effect on their ability to carry out normal day to day activities. Physical or mental impairment includes sensory impairments such as those affecting sight or hearing.</p>
<p>Does the patient have a religion or belief?</p> <p>Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of believe (such as atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.</p>
<p>Please tell us the patient's ethnic group</p> <p>Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour and nationality (including citizenship), ethnic or national origins.</p>

VEXACIOUS / PERSISTENT COMPLAINTS

1 INTRODUCTION

1.1 Persistent complainants are becoming an increasing problem for NHS staff. The difficulty in handling such complaints is placing a strain on time and resources and is causing undue stress for staff that may need support in difficult situations. NHS staff are trained to respond with patience and sympathy to the needs of all complainants but there are times when there is nothing further which can reasonably be done to assist them or to rectify a real or perceived problem. It is also recognised that a persistent complainant should be protected by ensuring that they receive a response to all genuine grievances and are provided with details of independent advocacy.

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

1.3 There are exceptional circumstances where Somerset ICB can reasonably do nothing further to rectify a real or perceived problem from a complainant. Complainants (and/or anyone acting on their behalf) may be deemed to be vexacious or persistent complainants where previous or current contact with them shows that they meet two or more of the following criteria:

- they persist in pursuing a complaint where the complaints procedure has been fully and properly implemented and exhausted
- repeatedly change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions (care must be taken not to discard new issues which are significantly different from the original complaint)
- continue to pursue a complaint with Somerset ICB after appropriate consent has been sought to forward the complaint to the provider for investigation
- are unwilling to accept documented evidence of treatment given as being factual (i.e. records) or deny receipt of an adequate response in spite of correspondence specifically answering their questions, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed
- are unwilling to accept documented evidence of treatment given as being factual, for example, drug records, GP records, nursing notes

- deny receipt of an adequate response despite evidence of correspondence specifically answering their questions
- do not clearly identify the precise issue which they wish to be investigated, despite reasonable efforts and/or where concerns identified are not within the remit of Somerset ICB to investigate
- focus on a matter to an extent which is out of proportion to its significant and continues to focus on this point (it is recognised that this can be subjective and careful judgements must be used)
- have in the course of addressing a complaint had an excessive number of contacts with the organisation placing unreasonable demands on staff (this can be by telephone, fax, email, letter or in person and discretion must be taken in determining “excessive”)
- are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties
- displayed unreasonable demands or expectations and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice)
- used inappropriate verbal or written language against members of staff

2 PROCEDURE

2.1 The following procedure will be used in exceptional circumstances and as a last resort, after all reasonable measures have been taken via the complaints procedure.

Stage 1

2.2 Somerset ICB employees should refer the complainant to the Quality Improvement Team. They will take action specifically targeted to try and help the complainant and staff involved, depending on the behaviour the complainant is displaying. This could include:

- explaining the complaints process
- informing a limit to the number of and duration of telephone conversations, emails and written letters

- where hand-written correspondence is unclear, the complaint will be acknowledged and the opportunity provided to contact the Quality Improvement Team to discuss the concerns. If this option is not taken the correspondence will be returned and the complainant signposted to the NHS Complaints Advocacy, in Somerset, SWAN Advocacy
- use of recorded delivery postage
- seeking help from SWAN Advocacy to contact and liaise with the complainant where appropriate
- the Quality Improvement Team identified as the sole organisational contact point for the complainant
- informing the complainant that written communication will be the only communication between Somerset ICB and the complainant
- the Quality Improvement Team will contact all staff likely to receive contact from the complainant, advising them of action decided upon and provide a suitable script which staff should read to the complainant (and repeat up to 3 times) in the event of the complainant contacting them before calls are terminated. This will be regularly reviewed.

Stage 2

2.3 If Stage 1 is not effective and the situation deteriorates, then one or more of the following may be taken:

- the Quality Improvement Team will write to the complainant informing them why their behaviour is preventing any possible resolution of the complaint, and include an 'agreement' setting out a code of behaviour for both parties listing grounds on which the complaint will be dealt with and which it will not
- if the individual has threatened or used actual physical violence towards staff or their families or associates at any time - this will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication. (All such incidents should be documented in line with the Managing Violence and Aggression towards Staff policy)
- have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this.) Staff should document all incidents of harassment in line with the Zero Tolerance Procedures, completing an incident form

Procedure for dealing with persistent Vexacious/Persistent complainants

- 2.4 Check to see if the complainant meets sufficient criteria to be classified as an habitual complainant.
- 2.5 Where there is an on-going investigation the Chairman should write to the complainant setting parameters for a code of behaviour and the lines of communication. If these terms are contravened consideration will then be given to implementing other action.
- 2.6 Where the investigation is complete, at an appropriate stage, the Chief Executive or Chair should write a letter informing the complainant that Somerset ICB has responded fully to the points raised, and has tried to resolve the complaint, and there is nothing more that can be added, therefore, the correspondence is now at an end.
- 2.7 The organisation may wish to state that future letters will be acknowledged but not answered.
- 2.8 The Quality Improvement Team will write to the complainant informing them that the points raised have been fully responded to and that to continue to contact us on this matter would serve no useful purpose. The letter will include advice on contacting the PHSO.
- 2.9 The Quality Improvement Team will escalate the case to an Executive Director and agree a suitable course of action, which will be communicated to the complainant in writing.
- 2.10 If the action above does not have the desired effect, the Quality Improvement Team will compile a report for the Chief Executive detailing the issues and sequence of events. The Chief Executive will then write to the complainant informing them of Somerset ICB's actions.

Withdrawal of status

- 2.11 Once a complainant has been deemed as vexacious or habitual, the status will be withdrawn at a later date if, for example, the complainant subsequently demonstrates a more reasonable approach or if they submit a further complaint for which the normal complaints procedure would appear appropriate. Discretion should be used in removing the status.