

## COMPLAINTS POLICY

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<b>CONSULTATION GROUPS:</b>	Trust Volunteers. Patient and Carer Experience Sub-Committee
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### POLICY SUMMARY

The purpose of this policy document is to ensure that complaints about services provided by the Trust are dealt with in line with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and in a speedy and efficient manner, that is open, accessible, fair, flexible, conciliatory and without blame. This policy ensures the Trust incorporates into our practice the NHSLA Risk Management Standards, CQC Registration Requirements, Making Experiences Count (DH, June 2007) and the NHS Constitution (2009).

### **The Trust monitors the implementation of and compliance with this policy in the following ways;**

The Trust Board of Directors will receive assurance reports from the Trust Executive Operational Team on complaints on a monthly basis.

The Complaints Team will provide the Executive Team with:

- Weekly complaints situation report to Executive Directors/Service Directors highlighting open complaints and completion dates.
- Fortnightly complaints overview identifying any areas of concern
- Monthly complaints information for the Quality Report
- Quarterly Thematic Reports providing trends analysis and highlighting any trends/themes.
- Quarterly lessons learned update.

The Complaints Team will provide the Clinical Commissioning Groups (CCGs) with regular assurance and exception reports.

**SCOPE**

Services	Applicable	Comments
Trustwide	✓	
Essex MH & LD	✓	
CHS	✓	

**The Director responsible for monitoring and reviewing this policy is  
Executive Director of People and Culture**

**ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST**

**COMPLAINTS POLICY**

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**ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST**

**COMPLAINTS POLICY**

**Assurance Statement**

The purpose of this policy document is to ensure that complaints about services provided by the Trust are dealt with in line with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and in a speedy and efficient manner, that is open, accessible, fair, flexible, conciliatory and without blame. This policy ensures the Trust incorporates into our practice the NHSLA Risk Management Standards, CQC Registration Requirements, Making Experiences Count (DH, June 2007) and the NHS Constitution (2009).

**1.0 INTRODUCTION**

- 1.1 This policy should be read in conjunction with the procedural guideline on complaints. This specifies how all staff will handle all expressions of public dissatisfaction in relation to any service providing care and treatment.
- 1.2 There is a statutory Duty of Candour to be open and honest with service users/residents about their care and treatment, including when it goes wrong.
- 1.3 The aim of the Trust Complaints Policy and Procedural Guidelines is to encourage communication on all sides to resolve the complaint satisfactorily. The Trust approach will be non-discriminatory and to seek conciliation.
- 1.4 The Trust aims to resolve complaints effectively by responding more personally and positively to individuals who are unhappy; and ensure that opportunities for services to learn and improve are not lost.
- 1.5 The Trust Complaints system will use a rating system that will help determine what would be a proportionate intervention for the complainant and the issue raised. This rating will be based on the consequence scale used in the National Patient Safety Agency's Risk Management matrix.
- 1.6 The Department of Health Complaints Handling Guidelines cover NHS and Social Care Complaints, so that where a complaint involves two or more organisations the relevant parts of the NHS and Social Care will decide how to handle the complaint, with one organisation taking the lead; this will usually be the organisation with whom the majority of the complaint relates to. Thereafter, the complainant will receive a single coordinated response to the issues raised.
- 1.7 The Trust has a duty to cooperate with other bodies where any complaints involve more than one NHS or Social Care organisation and any matters referred by the Clinical Commissioning Groups (CCG's) for formal investigation. The Procedural Guidelines will also specify the arrangements for discharging this duty for the handling of any complaints in this category. These arrangements will maximise convenience for the complainant (with their permission) and seek integrated, coordinated replies.

- 1.8 Complainants can also take their complaint against the Trust to the relevant CCG or NHS England, and ask them to investigate the matter. The Trust has a duty to cooperate with the CCG on these issues. The CCG and the Trust will discuss how best to handle such complaints. The Trust will always be given the opportunity to respond but the CCG must agree with the complainant how the matter is to be handled, and to obtain the necessary consent from the complainant to enable the CCG to share the complainant's concerns with another organisation.
- 1.9 The Trust is committed to resolving complaints as speedily as a proportionate intervention requires. The timescale for each complaint response will be agreed with the complainant .
- 1.10 All complaints will be acknowledged within 3 working days of the matter being received by the Complaints Department. The acknowledgement letter sent to the complainant will include information about independent advocacy services, which will provide complainants with support throughout the NHS complaints procedure.
- 1.11 The final response letter will include information about how to contact the Parliamentary and Health Service Ombudsman for an independent investigation if the complainant remains dissatisfied after all options for resolution have been offered and undertaken.
- 1.12 When complainants approach the Parliamentary and Health Service Ombudsman the trust will co-operate fully, providing all information confidentially, that has been requested in relation with the complaint investigation. The relevant Directors will be informed that a request for investigation has been made so that staff involved can be informed.
- 1.13 The Trust will learn lessons from all complaints activity and will ensure any identified learning is recorded, monitored and shared throughout the Trust to improve service delivery. Lessons learned will be sent to Service Directors quarterly asking for written feedback and evidence to be provided of how they have implemented actions/improvements to service that were identified in the investigation. It is the responsibility of the Service Director to ensure that lessons from complaints are embedded into service delivery as appropriate.
- 1.14 Complaints will be handled in the strictest confidence, and should be kept separately from patient/residents medical records. Care will be taken that information is only disclosed to those who have a demonstrable need to have access to it. Anyone disclosing information to others not directly involved with the complaint may be dealt with under the Trust's internal procedures.

## **2.0 PRINCIPLES THAT UNDERPIN THIS POLICY**

- 2.1 This Policy will ensure that individuals making complaints are treated with respect and are not penalised for making a complaint or raising a concern. A number of processes are in place to help ensure this principle is adhered to:
  - The Trust promotes an open culture with all staff
  - All staff are encouraged to learn from complaints and not assign blame
  - Complaint records are kept separately from patient/residents records

- If a member of staff was found to have penalised an individual for making a complaint / raising a concern this would be escalated to the appropriate Director and the Trust's conduct process will be initiated where appropriate.

2.2 The Trust welcomes and encourages feedback from service users/residents, carers and their families and members of the public. Feedback, including compliments and complaints, is valuable to the Trust, helping improve services by learning lessons from people's experiences. The Trust will provide a range of opportunities for people to comment and raise concerns (whether as complaints or not)

These include;

- Satisfaction Surveys
- Complaints evaluation feedback forms
- PALS freephone
- Stakeholder Meetings
- Promoting Advocacy through an Independent Complaints Advocacy Service
- Service user/resident and carer feedback through local organisations
- Friends and Family Test
- Forums and inpatient meetings

2.3 The Trust will offer a speedy and efficient system, that is open, fair (to all involved) and flexible to the needs of people wanting to make a complaint. This includes offering (where appropriate), to resolve oral complaints within 24 hours.

2.4 The Trust adopts the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling as a code of good practice to be followed by all staff and investigators who look into issues referred to them.

2.5 All allegations made will be taken as true at face value with an intervention from the Trust that is full and fair. Individuals will be given clear and specific reasons for any decision taken on their complaint (based on the evidence), and that those decisions address all of the concerns raised by the complainant.

2.6 Allegations made anonymously will be reviewed, but outside of the complaints process.

2.7 The Trust will be clear in all its communications, using plain English and avoiding jargon throughout and implementing other appropriate means of communication as needed.

### **3.0 WHAT IS A COMPLAINT? WHO CAN COMPLAIN AND HOW TO COMPLAIN**

3.1 A complaint is an oral or written expression of dissatisfaction about any matter reasonably connected with services supplied by this Trust. This includes NHS services and local authority services delegated to the Trust under its partnership agreements.

- 3.2 A complaint which is made either orally or in writing to a member of staff and is resolved to the complainant's satisfaction not later than the next working day will be recorded as a local resolution. It is the responsibility of all staff to try and resolve an issue as it arises and to notify the Complaints Department accordingly.
- 3.3 Complainants will generally be existing or former patients/residents of the Trust's services, or people who are affected by the action, omission or decision of the Trust. A patient/resident must give their written consent for someone to act on their behalf. Consent will be valid for a period of 6 months; when this has expired; the Trust will require further written consent. If the patient/resident does not have capacity other alternatives of consent will be sought.
- 3.4 A complaint may be made by a person (in regulations referred to as a representative acting on behalf of a person, but not acting on behalf of themselves without the complainant's knowledge) who has:
- requested a representative to act on their behalf.
  - delegated authority to do so, for example in the form of Power of Attorney.
  - Is an MP acting on behalf of and by instruction from a constituent about their own care and treatment. (implied consent)
  - has died;
  - is a child;
  - is unable to make the complaint themselves because of
    - (i) physical incapacity; or
    - (ii) lack of capacity within the meaning of the Mental Capacity Act 2005.
- 3.5 A complaint should be made as soon as possible after the action giving rise to it, to enable a full investigation whilst all the facts regarding the complaint are still readily available. The time limit for making a complaint is within 12 months of the event, or 12 months after the date on which the matter that is the subject of the complaint came to the notice of the complainant.
- 3.6 Persons wishing to make a complaint can contact the Complaints Team at [epunft.complaints@nhs.net](mailto:epunft.complaints@nhs.net) or by telephone on 01268 407817 or by writing to the Chief Executive. An online complaints form is available on the Trust's website <https://eput.nhs.uk/contact-us/complaints/>

Leaflets are available at all Trust sites and details on the Trust website [www.eput.nhs.uk](http://www.eput.nhs.uk)

### **4.0 COMPLAINTS HANDLING PROCEDURE**

- 4.1 A step by step guide to handling complaints received in writing as well as those made to front-line staff is provided in the Complaints Procedural Guidelines.

### 5.0 SCOPE

- 5.1 This policy and associated procedure is intended for use by all those employed by and working on behalf of (e.g agency, bank, contractors etc) the Trust. It applies to all sites to ensure that all staff are aware of and can apply best practice when dealing with complaints.
- 5.2 This policy should not be used by staff to complain about the conduct, harassment or the capability of other staff members, nor should this process be used to lodge complaints regarding the late payment of invoices. There are separate policies and procedures dealing with these.

### 6.0 ROLES AND RESPONSIBILITIES

- 6.1 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 require that the Trust designates the Chief Executive to take responsibility for ensuring compliance with the arrangements. The Trust designates the Executive Director of People and Culture to be responsible to the Chief Executive for ensuring compliance with the Regulations and the Trust Complaints Policy and Procedural Guidelines and that action is taken in light of the outcome of any investigation.
- 6.2 The Executive Director of People and Culture has overarching responsibility for the complaints process.
- 6.3 Directors or Service Managers are responsible for appointing a suitable person (who was not involved in the events leading up to the complaint) as the investigating officer.
- 6.4 All Directors of the Trust are responsible and accountable for the implementation of this policy and associated procedures within their area of responsibility. They will ensure that all complaints are managed in accordance with the policy and procedure and ensure agreed timeframes and assurances are met.
- 6.5 Non-Executive Directors will undertake reviews of randomly selected complaint responses, to monitor adherence to process and any identified learning.
- 6.6 The Investigating officer will be responsible for contacting the complainant to agree timescales for responding and undertaking a robust investigation in line with the Complaints Procedure.
- 6.7 The Head of Complaints will support the Executive Directors and Chief Executive to monitor the progress of each complaint and ensure appropriate record keeping and risk rating processes of all complaints are adhered to.
- 6.8 The Head of Complaints is responsible for working with the Risk Management Team and Legal Services Team to produce regular aggregated analysis of Complaints, Incidents and NHSLA Claims data

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- 6.9 The Complaints Manager is responsible for managing the internal complaints handling process as well as the management of handling of joint complaints with other organisations in line with the complaints procedure.
- 6.10 All members of staff have a responsibility to
- familiarise themselves with the content of the complaints policy and procedure,
  - work within the standards and guidelines
  - review their practice as a result of any complaint raised or received and
  - ensure that service users/residents, their relatives and carers are not treated differently as a result of raising a concern/complaint
- 6.11 All members of staff are responsible for responding to a concern/complaint made directly to them by ensuring they listen to the complainant and take the appropriate action in line with the complaints procedure.
- 6.12 Line managers of staff who are the subject of a complaint will provide support to those staff. This is fully described in the accompanying procedure.
- 6.13 The Executive Operational Sub Committee is responsible for monitoring completion of action plans and escalating concerns to the appropriate Operational Director for immediate action where no progress is made.

### **7.0 MONITORING OF IMPLEMENTATION AND REVIEW OF EFFECTIVENESS**

- 7.1 The Trust Board of Directors will receive assurance reports from the Trust Executive Operational Sub Committee on complaints on a monthly and quarterly basis.
- 7.2 The Complaints Team will provide:
- Weekly complaints situation report to Service Directors highlighting open complaints and completion dates.
  - Fortnightly complaints overview identifying any areas of concern to the Executive Operational Sub Committee
  - Monthly complaints information for the Quality Report
  - Quarterly Thematic Reports providing trends analysis and highlighting any trends/themes.
  - Quarterly lessons learned update.
- 7.3 The Complaints Team will provide the Clinical Commissioning Groups (CCGs) with regular assurance and exception reports.
- 7.4 A complaints annual report will be produced for the Trust Board.

## **8.0 INDEPENDENT REVIEW**

- 8.1 Complainants may refer their case to the Parliamentary and Health Service Ombudsman for review where:
- They are not satisfied with the result of the Trust's investigation
  - The complaint has not been resolved within six months (or such longer period as may be agreed before the expiry of that period with the complainant)
  - The Trust has decided not to investigate the complaint on the grounds that it was not made within the time limits.
- 8.2 A complainant can approach the Parliamentary and Health Service Ombudsman with his/her complaint. It is unlikely that the Ombudsman will take up the complaint prior to the completion of the Trust's Health Service Complaints Procedure. However, the Ombudsman does have the power to consider complaints that have not been put to the Trust and/ or where the stages of the complaints procedure have not been exhausted.
- 8.3 The Trust will make these arrangements for Ombudsman review known to all complainants at the end of the process and will include the Parliamentary Health Service Ombudsman's contact details in the final response letter.
- 8.4 Any reports from independent reviews conducted by the Ombudsman will be used as valuable sources of feedback for the Trust to learn from.

## **9.0 MATTERS EXCLUDED**

- 9.1 The following are outside of the Trust Complaints procedure.
- 9.2 Complaints made by an NHS body which relates to the services provided by another NHS body, except where a joint response is required under this procedure.
- 9.3 Complaints made by an independent provider about any matter relating to arrangements made by an NHS body with that independent provider unless otherwise stated in the contractual arrangements.
- 9.4 A complaint made by an employee about any matter relating to their contract of employment. Separate mechanisms exist under the Trust 'Grievance Policy Procedure.
- 9.5 A complaint which has already been investigated by the Trust or is being or has been investigated by the Ombudsman except where they have referred an issue back to the Trust for further investigation.
- 9.6 A complaint arising out of the Trust's alleged failure to comply with a data request under the Data Protection Act 2018 or a request for information under the Freedom of Information Act 2000. The Trust Information Governance Manager should be consulted with regard to complaints arising out of data subject requests under the Data Protection Act 2018.

- 9.7 A complaint by non-patient third parties, who have not been affected by an action, omission or decision of the Trust.

## **10.0 PERSISTENT AND UNREASONABLE COMPLAINANTS**

The guidance in the complaints procedure relating to persistent and unreasonable complainants is intended for use as a last resort after all reasonable measures have been taken to try and resolve a complaint.

## **11.0 RECORD KEEPING**

- 11.1 Keeping clear and accurate records of complaints is important and they should be retained for 10 years by the Trust. Complaints correspondence should not be filed in patients' medical records.

## **12.0 TRAINING AND AUDIT**

- 12.1 The procedure will set out the requirements for training staff and auditing the effectiveness of this policy.

## **13.0 REFERENCES**

- The Principles of Good Complaint Handling (Parliamentary and Health Service Ombudsman February 2009) <http://www.ombudsman.org>
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 <http://dh.gov.uk>
- CQC Essential Standards of Quality and Safety (January 2010)
- Listening, Responding, Improving a guide to better customer care (February 2009) <http://dh.gov.uk>
- Report of Mid Staffordshire NHS Foundation Trust Public Inquiry, by Robert Francis QC, Executive Summary (February 2013)
- Clwyd/Hart Report recommendations (November 2013)
- Statutory Duty of Candour for Health and Adult Social Care Providers (Department of Health April 2015)

## **14.0 REFERENCE TO OTHER TRUST POLICIES**

- Workforce Wellbeing Policy.
- Claims Policy and Procedure.
- Conduct and Capability Policy.
- Raising Concerns (Whistleblowing) Policy and Procedure.
- Safeguarding Adults Policy.
- Safeguarding Adults & Children Guidelines (joint Mental Health & Learning Disabilities and Community Healthcare).
- Adverse Incidents Policy and Procedure.

**END**