

Management of Complaints Policy and Procedure			
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Target audience	All staff		
Related documents	Risk Management Strategy & Procedure Claims Policy & Procedure Incident Reporting & Management Policy Security and Confidentiality of Patient Information HR Policies and Procedures Workforce Learning and Development Policy Learning needs Analysis Supporting Staff after incidents		
Equality & diversity	<p>This policy has had an impact assessment against race, disability, gender, age, sexual orientation and religion and belief equality and diversity criteria in line with current legislation and the requirements of the Single Equality Scheme.</p> <p>NHS Wiltshire is committed to promoting equality and respect for the people of Wiltshire and for our staff. Our aim is to ensure that the way we work with individuals and communities - and their representatives - and with our staff challenges inequality and affirms difference. This means all our services are accessible, appropriate and sensitive to the needs of individuals.</p>		

Wiltshire Community Health Service is the arm's-length provider body of Wiltshire PCT and is wholly owned by and accountable to Wiltshire PCT

Consultation route

Date of Issue	Version	Distribution	Amendments
March 2009	V5		
January 2010	V6		Amendment to structure and formatting to comply with GP100. GP012a 'Habitual and Vexatious Complainants' amended and incorporated as Appendix 9.

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1.0 INTRODUCTION

It is recognised that mistakes will happen and misunderstandings will arise and that sometimes people will be dissatisfied with the care received from services commissioned and provided by the PCT. It is also recognised that under the NHS Constitution (2008), people have the right to have their complaint dealt with efficiently. This policy will ensure that any such situation is rectified at the earliest opportunity and that the PCT learns from such incidents.

The PCT has adopted the Principles of Good Administration (Box 1) established by the Parliamentary and Health Service Ombudsman. The principles are not a checklist but provide a framework which the PCT will use in assessing whether maladministration or service failure has occurred.

The Principles do not stand alone and will be applied in the context of the wide range of statutory duties, regulatory and policy frameworks within which the PCT operates. The necessity of balancing the needs of individuals and yet acting proportionately to maximise effective use of public resources is also acknowledged.

In many cases, the member of staff receiving a complaint is able to provide a sufficiently full explanation, and where appropriate an apology, to address the concerns of the complainant. PALS/Complaints team can also be contacted to assist in this process (clients: 0800 3897671 or for staff: 01380 733774).

In the event that an apology is required, the apology should wherever possible be unqualified. Phrases such as "I am sorry that you have found reason to..." or "I'm sorry that you feel that...". should be avoided. Instead apologies should be unqualified and genuine, for example, "I'm sorry that..." or "I am sorry to have".

PCT staff should not be concerned that an apology, in itself, is an admission of negligence or breach of statutory duty. The NHS Litigation Authority's circular 02/02 provides guidance on this. Staff are individually responsible for the day-to-day effectiveness of the Complaints Policy & Procedure and should take responsibility for its implementation.

Box 1

Principles of Good Administration

1. Getting it right

- Act in accordance with the law and with due regard for the rights of those concerned
- Act in accordance with the PCT's policy and guidance
- Take proper account of established good practice
- Provide effective services, using appropriately trained and competent staff
- Take reasonable decisions, based on all relevant considerations.

2. Be customer focussed

- Ensure people can access services easily
- Inform people what they can expect and what the PCT expects of them
- Keep to the PCT's commitments, including any published service standards
- Deal with people helpfully, promptly and sensitively, bearing in mind their individual circumstances
- Respond to the person's needs flexibly, including, where appropriate, co-ordinating a response with other service providers.

3. Be open and accountable

- Be open and clear about policies and procedures and ensuring that information and any advice provided, is clear accurate and complete.
- State criteria for decision making and give reasons for decisions
- Handle Information properly and appropriately
- Keep proper and appropriate records
- Take responsibility for its actions.

4. Act fairly and proportionately

- Treat people impartially, with respect and courtesy
- Treat people without unlawful discrimination or prejudice, and ensuring no conflicts of interest
- Deal with people and issues objectively and consistently
- Ensure that decisions and actions are proportionate, appropriate and fair.

5. Put things right

- Acknowledge mistakes and apologise where appropriate
- Put mistakes right quickly and effectively
- Provide clear and timely information on how and when to appeal or complain
- Operate an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

6. Seek continuous improvement

- Review policies and procedures regularly to ensure they are effective
- Ask for feedback and use it to improve services and performance
- Ensure that the PCT learns lessons from complaints and uses these to improve services and performance.

2.0 PURPOSE AND SCOPE

Under the NHS Constitution, the PCT has a responsibility to patients and the public, to ensure that it has effective complaint management systems.

The aim of this policy is to ensure that the PCT has an approach that:

- ensures there is a standardised, systematic mechanism to deal with complaints received from patients/carers/relatives
- ensure compliance with Local Authority Social Service & NHS Complaints Regulations, 2009
- enables staff to effectively deal with patient feedback as part of their every-day activities;
- ensures staff are aware of the Complaints policy & procedure
- supports the organisation with continually improving services by using patient feedback

For the purpose of this policy and procedure, 'PCT' will include Wiltshire Community Health Services (WCHS), the PCT's provider services.

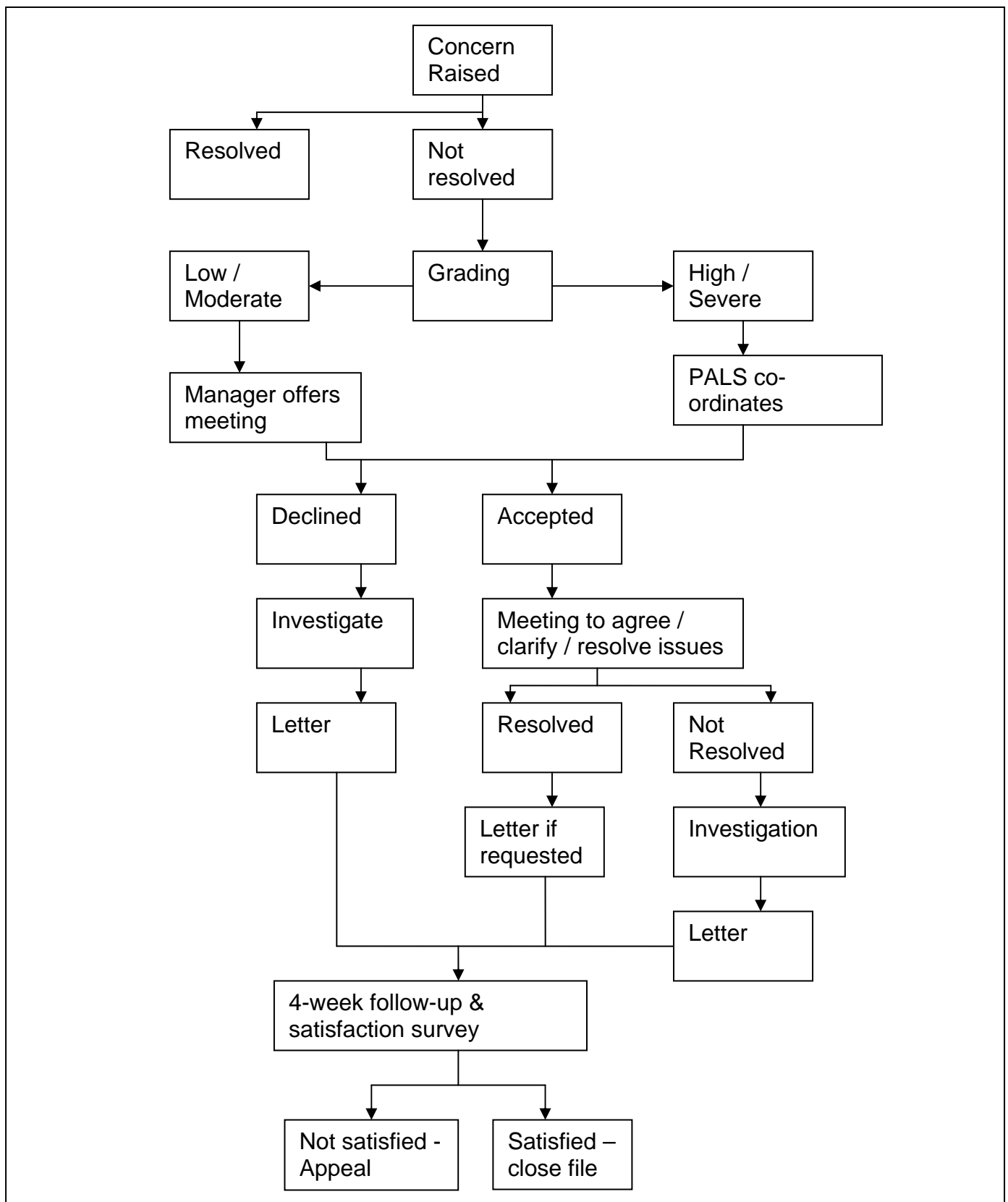
The Complaints Policy & Procedure covers feedback and complaints about the standard or quality of services provided or commissioned by Wiltshire PCT. For commissioned services, it may be appropriate (with the agreement and consent of the complainant) to refer the complaint on to the provider for investigation and response. Alternatively, it may be agreed that the PCT is best placed to handle the complaint itself.

Complaints should usually be made within 12 months of the date the matter occurred, or the matter came to the notice of the complainant.

The policy and procedure will not normally be used where legal action is being taken or a police investigation is underway. In this situation, the complaint will be put on hold, and the complainant informed of this.

Staff working or contracted to work for the PCT cannot use this procedure to complain about issues related to their employment. Such complaints would be made through the Human Resources department.

3.0 COMPLAINTS FLOW CHART



4.0 KEY PRINCIPLES (POLICY STATEMENT)

- 4.1 NHS Wiltshire is committed to listening to the views of patients and the public about services commissioned and provided by the PCT. Individuals should be able to make a complaint without fear of discrimination. Responding to complaints should be seen as a positive approach to reviewing and developing services which meet the needs of our population.
- 4.2 The PCT recognises the role of the Patient Advice and Liaison Service (PALS) and its role in the management of complaints. PALS provide a single point of contact for addressing concerns, and offers early and speedy resolution of complaints. PALS also monitors and reports changes and improvements made as a result of patient feedback and complaints.
- 4.3 All service users, carers, staff and patients' representative bodies will have access to information about how to make a complaint, including their options of seeking support and guidance through the Patient Advice and Liaison Service (PALS) and from the Independent Complaints Advocacy Service (ICAS). Patient booklets explaining the NHS Complaints Procedure, contact details including address and telephone number will be displayed at all PCT sites, as well as on the NHS Wiltshire Website.
- 4.4 Managers will ensure that all staff are aware of the Complaints Policy and Procedure, and encourage a culture where a positive approach to learning from the results of patient feedback and complaints is fostered.
- 4.5 The PCT will work collaboratively with other health and social care organisations to resolve cross-agency complaints for patients and the public where appropriate, producing one co-ordinated response (see Appendix H for Cross-organisational complaints Protocol). For commissioned services, it may be appropriate (with the agreement and consent of the complainant) to refer the complaint on to the provider for investigation and response. Alternatively, it may be agreed that the PCT is best placed to handle the complaint itself.
- 4.6 All complaints are considered significant and should, where possible, be resolved swiftly and at a local level. Complex complaints may take longer to investigate and are likely to require the support and expertise of the PCT Complaints team. The PCT undertakes to resolve all complaints within 25 working days unless agreed otherwise with the complainant. Where this is not possible, and in exceptional circumstances, an extension may be agreed with the complainant.
- 4.7 The complainant should be offered the opportunity to meet with relevant PCT staff. This may resolve the complaint with explanations given and learning points identified for action.
- 4.8 The PCT will provide a Lay Conciliator, should they be required, to facilitate a resolution.

Learning points from complaints will be identified and actioned, where appropriate.

- 4.9 If the complainant requires a response letter at the conclusion of investigations, the Associate Director of Corporate Affairs or the Managing Director of WCHS will write to the complainant. Information will be provided outlining the next step of the complaints process should the complainant feel dissatisfied with the way their complaint has been handled.

5.0 DUTIES

- 5.1 **Chief Executive:** The Chief Executive has overall responsibility for ensuring that complaints are investigated fully and that complainants receive a timely and comprehensive response.

- 5.2 **Directors:** The Associate Director for Corporate Affairs has delegated responsibility for ensuring the efficient and effective implementation of the Managing Complaints Policy & Procedure.

Directors are responsible for ensuring that management procedures are effectively and efficiently implemented. This includes identification of responsibilities of staff within their Directorate and arranging appropriate training.

- 5.3 **The Chairman and Non-Executive Directors:** The Chairman and Non-Executive Directors are responsible for receiving reports of complaints and monitoring the effectiveness of the Complaints Policy & Procedure as part of the PCT's overall approach to improving patient safety and experience.

- 5.4 **Senior Managers:** Senior Managers are responsible for ensuring that staff are aware of the complaints policy and for helping to build a culture where patient feedback is welcomed and encouraged. Senior Managers also have a duty that where their investigation has raised learning points (e.g. system errors, staff training issues) that an action plan is produced and completed within an agreed timescale. Staff should be informed about any changes to practice resulting from a complaint by their Senior Manager.

- 5.5 **All Staff:** A record of all complaints (both formal and informal- see appendix 2) received should be sent to the Complaints Team so that they may be centrally logged, although resolution might be dealt with locally

6.0 EQUALITY IMPACT ASSESSMENT

NHS Wiltshire is committed to promoting equality and respect for the people of Wiltshire and for our staff. Information about how to raise a concern and complaint is available in 25 different languages, Braille and large font on request. Interpreters and advocates are funded to support patients and the public in raising their concerns. Patients and their relatives can raise concerns without fear of discrimination.

7.0 VERSION CONTROL

Version 6 stored on NHS Wiltshire intranet (under General Policies & Procedures) and published on the NHS Wiltshire website.

8.0 TRAINING

Please refer to the annual Statutory & Mandatory Training Needs Assessment (TNA) for information about the frequency and target audience for any training relating to this policy.

9.0 MONITORING AND EVALUATION

The Audit & Assurance Committee will evaluate trends and learning from PALS and complaints, monitor the length of time it has taken to resolve complaints, the number of complaint appeal panels that have taken place during the reporting period and their outcomes as well as the number of complaint referred to the Parliamentary and Health Service Ombudsman. This will be done through the submission of a six-monthly report from the Director of Corporate Affairs and Communication. In addition, operational reviews for Wiltshire Community Health Service (WCHS) will take place at Risk & Governance sub-committee on a quarterly basis.

An annual report will be produced outlining the total number of complaints & PALS contacts received, learning from these, as well as details of any complaints referred to the Complaint Appeal Panel or the Parliamentary & Health Service Ombudsman.

These review mechanisms will be supported by the use of the following tools:

- Standards for Better Health, NHSLA risk management standards,
- NHS high-level performance indicators
- Internal standards
- PALS and complaint user questionnaires
- Audit

10.0 BIBLIOGRAPHY & REFERENCES

Local Authority Social Service & NHS Complaints Regulations, 2009 (Officer of Public Sector Information) (http://www.opsi.gov.uk/si/si2009/uksi_20090309_en_1)

A guide to better customer care, 2009 (Department of Health)

Principles of Good Administration, 2009 (Health Service Ombudsman)

http://www.ombudsman.org.uk/improving_services/principles/good_administration/principles.html)

Principles of Good Complaint Handling, 2008 (Health Service Ombudsman)
http://www.ombudsman.org.uk/improving_services/principles/complaint_handling/index.html

Principles of Remedy, 2009 (Health Service Ombudsman)
http://www.ombudsman.org.uk/improving_services/principles/remedy/index.html

Spotlight on Complaints, 2007 (Healthcare Commission)
http://www.healthcarecommission.org.uk/_db/_documents/spotlight_on_complaints.pdf

The NHS Constitution for England, 2009 (Department of Health)
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_093419

SECTION TWO: COMPLAINTS PROCEDURE

1. Complaints Handling

All complaints are significant and should form the basis for quality improvement. A summary of informal complaints and how they were resolved will be provided by the PCT Complaints team on a quarterly (3 monthly) basis using the form (Appendix B) these summaries will be reported to the Governance & Risk Committee and the Audit & Assurance Committee.

In situations where the complainant requires a full investigation and formal response from the PCT, the policy and procedures for Local Resolution must be followed. Box 2: Complaints flow diagram (below) provides more information on this process.

Guidance on how to deal with complainants who become persistent and/or difficult to deal with can be found in Appendix A.

1.1 Local Resolution of Formal Complaints

The objective of local resolution is to listen, respond and improve our services. To provide the fullest opportunity for investigation and resolution of a complaint, as quickly as is possible in the circumstances, aiming to satisfy the complainant, whilst being fair to staff. This is a flexible process, it may be that the complainant would like a meeting with staff to discuss the complaint, or they may prefer a more formal written response.

All formal complaints (which may be verbal or written) from any source, should be passed to the relevant manager/director for action. On receipt, they will:

- I. Review the complaint and grade as low/medium/high/severe using the grading template in Appendix C.

If Low/Medium:

- II. Within 3 working days contact the complainant by telephone, by letter, or meet with them to ask how they would like their complaint resolved and agree how their complaint will be handled and the likely timeframe. This should be documented on a Complaint Action Form (see Appendix A). PALS can be contacted at any time for advice/support.
- III. Conduct an investigation proportional to the severity of the complaint which should be documented on the Action Form. For complaints involving other organisations PALS should coordinate the response on behalf of the PCT.
- IV. A meeting should be offered, in order to make sure all concerns are addressed and/or respond to the concerns. A lay conciliator can attend to facilitate this process; this can be arranged through the PALS Team. (Appendix D contains guidance on holding meetings with complainants). At the end of the meeting see if the complainant feels they are satisfied with the PCT's response, and their complaint is resolved or whether they would like a further meeting, written formal response etc.

- V. Notes from meetings should be written and sent to the complainant to agree.
- VI. Staff statements should follow the Guidelines for Staff (see *Appendix E, Guidelines for Staff Writing Statements for Complaint Investigations*).
- VII. It is important that the complainant is kept informed of the progress of their complaint.
- VIII. Where the complainant would like a written response to their complaint, the Investigating Manager should prepare within twenty working days a draft written response on behalf of the Service.
- IX. The final response letter will include details of the next stage of the complaints process, should the complainant not be happy with the PCT's response.
- X. Once the responsible Manager feels that the complainant is satisfied with the resolution of their complaint they will provide the Complaints Team with a copy of the completed Action Plan with full copies of any supporting documentation (e.g. meeting notes, copy of letter sent, staff statements).
- XI. Learning points from complaints should be identified and an action plan implemented to continually improve the services we offer to patients.
- XII. At the end of local resolution, all complainants will be sent a questionnaire asking them if how they feel their complaint has been handled, and if they feel satisfied with the outcome. PALS will report these back to service managers on a two-monthly basis.
- XIII. If complainants remain unhappy, further attempts at local resolution managed by the PCT complaints team will be attempted before discussing the next step in the complaints process.

If high/severe level complaint:

The same process will be followed as for low/medium level complaints, but the process will be coordinated by the PCT Complaints team.

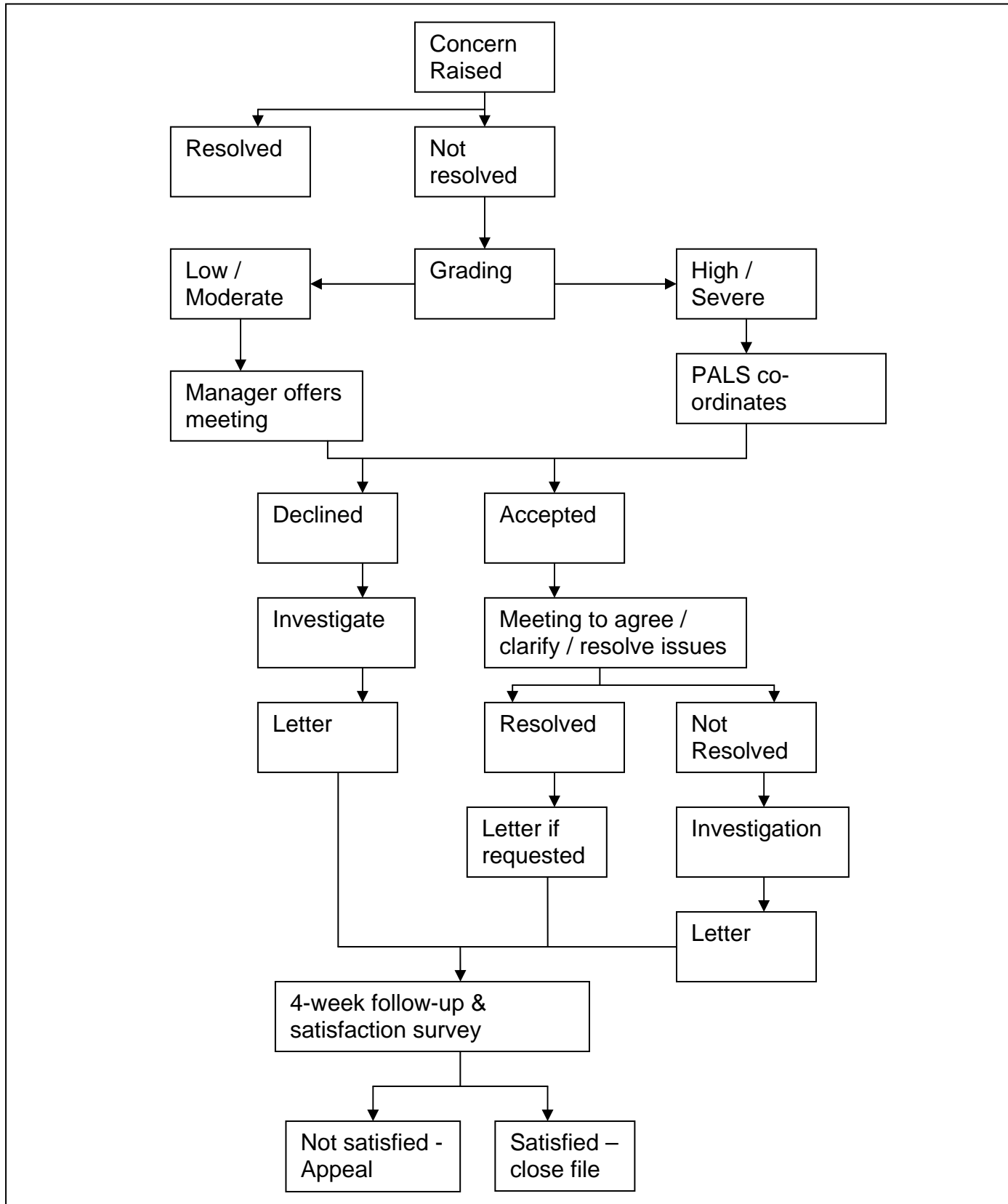
In cross-organisational complaints, a lead will be determined (depending upon where the most serious complaint lies, the number of complaints etc). This lead will ensure the coordination of organisation responses to the complainant, and liaise with the complainant. The PCT's 'Duty to Cooperate' with other organisations are laid out in the Local Authority Social Services and NHS Complaints Regulations (2009).

On receipt of a formal complaint at PCT headquarters, the Complaints team will:

- I. Open an indexed file, record receipt of the complaint and grade the complaint. If the complaint is low/medium level, the complaint will be forwarded to the appropriate service/department manager for resolution. If high/severe level, the Complaints team will contact the complainant and agree what resolution the complainant would like and document using a Complaints Action Plan.

- II. Contact the relevant services involved in the complaint, and liaise with responsible manager to ensure complaint is handled as agreed.
- III. Facilitate as full and timely response as possible to all the issues raised in the letter of complaint, where appropriate.
- IV. Where required, present draft response letters which have been reviewed by the responsible director to the Associate Director of Corporate Affairs or Managing Director of WCHS for consideration along with a copy of the complaint file
- V. Ensure a copy of the final response letter goes back to the manager so that it can be shared with the staff involved and any required actions can be delivered.
- VI. Ensure that feedback about the complaints system is sought from complainants, and that this is used to improve the service provided

Box 2: Complaints Flow diagram



1.2 Complaint Appeal Panel

Where a complainant feels dissatisfied with the way their complaint has been handled, they can choose to refer their complaint to the Complaint Appeal Panel (see Terms of Reference in Appendix F) or alternatively to the Health Service Ombudsman. Should they wish to choose an Appeal Panel, this is Chaired by a PCT Non-Executive Director and membership includes the Chief Executive (or in their absence, a nominated Director) and where appropriate, an Expert Advisor (for example, the PCT Nursing Lead for a nursing complaint). This Panel should meet within 20 working days of the complainant asking for their complaint to be referred to the Panel. This Complaint Appeal Panel will be administered by the Complaints team.

Complainants will be able to attend the Panel meeting, present their concerns in person (should they wish) or provide a written statement which will be read out. They will be able to attend the full Panel hearing. The Panel will make its decision in private. The complainant and the responsible director will receive a formal written response from the Panel's Chair within one week of the Panel date.

1.3 Parliamentary and Health Service Ombudsman

Should the complainant not wish for their complaint to be referred to the Complaints Appeal Panel, or if they remain dissatisfied after the Panel's hearing, they have the right to take their complaint to the Parliamentary and Health Service Ombudsman. Full details of how to do this will be provided with the formal response to their complaint.

2 Confidentiality

- 2.1 The information about complaints and all the people involved is strictly confidential, and is only disclosed to those with a demonstrable need to know in line with the Data Protection Act (1998), Freedom of Information Act (2000) and Caldicott principles.
- 2.2 If personal information needs to be obtained from a service not managed by the PCT in order to investigate a complaint, consent from the patient must be sought. In these cases, consent must be obtained from the complainant prior to investigation (*see Appendix G for sample consent form*). It is good practice to explain that information from health records may need to be disclosed to those involved.
- 2.3 Where a complaint is made on behalf of an existing or former patient, consent must be obtained from the patient to disclose personal health information and the results of any investigation. This will uphold the duty of confidentiality to the patient. The complainant should be asked to return a consent form (*Appendix G*) to PALS within 5 working days.
- 2.4 If once requested there is a delay in obtaining consent, this may mean a delay in the investigation of the complaint.

3 Support for Complainants

- 3.1 The PALS/Complaints team can help to guide a complainant through the NHS complaints procedure.
- 3.2 Complainants will be made aware that they can request an advocate to support them throughout the complaints process. This information is available from PALS, and is included in the Complaints Leaflet.
- 3.3 Complainants where English is not their first language will be provided with translated information and access to an interpreter. Such access will be provided in line with PCT policy.

4 Support for Staff Who Are Complained Against

- 4.1 The PCT Complaints team will be able to advise and inform staff members about the complaints process and procedure and answer any queries. A member of the team will also be happy to meet with staff involved
- 4.2 Human Resources can be contacted for all personnel issues and information relating to staff support
- 4.3 The Staff Support Service is available for staff to talk in confidence.
- 4.4 Staff can also choose to contact their relevant professional body or trade union.

5 Legal Implications

- 5.1 The complaints procedure will be put on hold where the complainant is pursuing legal action against the PCT. If so, the complainant will be advised of this.
- 5.2 The PCT Complaints team will inform the PCT's legal service team where it is considered that there is a risk of litigation. In these cases, the PCT's claims & litigation policy will be followed.

6 Risk Management

- 6.1 The PCT Complaints team will inform the Risk Management Team of any risk issues arising out of cases considered.
- 6.2 Individual staff are responsible for identifying any risks which need to be recorded on their service or directorate Risk Register.
- 6.2 The Risk Management Team will inform the PCT Complaints Team of clinical incidents that may result in a complaint, so that appropriate support can be offered to patients and their families.

7 Counter Fraud

- 7.1 The PCT Complaints team will inform the Local Counter Fraud Specialist of any allegations of fraud brought to their attention within 48 hours. Anyone who has concerns about fraudulent activity within the PCT can contact the Local Counter Fraud Specialist or if preferred telephone the Fraud & Corruption reporting line on 0800 028 40 60.

8 Reporting

- 8.1 Members of the Risk Management, Patient Experience and Litigation teams meet on a monthly basis to systematically review and analyse incidents, complaints and claims.

A quarterly aggregated Risk Management report is produced which includes an aggregated analysis of incidents, complaints and claims. This report is submitted to the Governance and Risk Committee, along with a more detailed Patient Experience report providing information on PALS contacts and complaints raised. These reports are submitted to the Governance & Risk Committee, Audit & Assurance Committee, Provider Services Committee and the Primary Care Trust Board. The reports are also cascaded to individual Directorate Care Governance groups for dissemination at local governance meetings. Minimum content of the aggregated report includes number and type of occurrences, severity, service involved, learning outcomes and trend analysis.

The Assistant Director of Patient Safety will be responsible for monitoring compliance which will be evidenced through workplans and local directorate governance group minutes and actions. Specific learning will be reflected in individual action and learning plans.

- 8.2 The PCT Complaints Team will have direct access to the Chief Executive to discuss any specific complaint.
- 8.3 The PCT Complaints Team is responsible to the Associate Director of Corporate Affairs for the implementing and monitoring of the PCT's Complaints Policy and Procedure; preparing Board and other reports as required; completing Department of Health Annual returns (KO41/A), and for maintaining appropriate records.
- 8.4 Complaint files concerning clinical issues are to be retained in accordance with relevant legislation, normally 8 years for adults and until a child's 25th birthday.

9 Review

- 9.1 This policy follows new complaint regulations introduced in April 2009. This policy will be reviewed in January 2013 and then at 3-yearly intervals.

Signed (following approval by and on behalf of the Trust Board):

.....Chief Executive

Date:

Review Date: January 2013

Responsible for Review: Complaints Manager



Complaint Action Plan

Complainant:
Date Complaint Received:

Name	
Address	
Telephone No	
Date of Birth	
Ethnic Background	

Client/Patient (if different from above)

Name	
Address	
Telephone No	
Date of Birth	
Ethnic Background	
Consent given (if not applicable please record the reasons why)	

Does the complainant/ referrer have any special requirements or barriers to communication that need to be considered when responding?	
--	--

Summary of Complaint

Care Group	
Service	
Person Receiving Complaint	
Team	
Lead Manager	
Investigating Staff	

Details of Complaint

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A complaint must be acknowledged within 3 working days, this can be done in person, by telephone or in writing

Has the complaint been acknowledged?	By telephone? In writing?
--------------------------------------	------------------------------

Actions required to resolve complaint?

Actions required	By Whom?	By When?
1.		
2.		
3.		
4.		

Meeting offered/requested?	Yes	No
Meeting required?	Yes	No
Date of Meeting:		
Meeting notes attached?	Yes	No

Timescale Agreed To:	
Extension to timescale agreed with client	
Reasons for Extension	
Method of response (more than one method may apply)	Telephone Meeting Formal written response

Informal Complaints Received.

To be reported quarterly by Service/Locality Manager to the PCT Complaints team. They will then be compiled and reported to Service Director and summary to the PCT Board.

Service Name:

Reporting Manager:

Date:

No.	Details of complaint	Profession involved	Outcome and action taken	Resolution time

Complaint Grading System

Low	<ul style="list-style-type: none"> - Simple, non-complex, one organisation issues - No relationship issues with complainant which would require PALS support 	<ul style="list-style-type: none"> - Delayed or cancelled appointments - Single failure to meet care needs - About commissioned service (e.g. cleanliness)
Moderate	<ul style="list-style-type: none"> - Several issues relating to short period of care but all in one care area - No relationship issues with complainant which would require PALS support 	<ul style="list-style-type: none"> - Delayed discharge/discharge arrangements - Miscommunication/misinformation/staff attitude - Failure to meet care needs - Unhappy with commissioning decision
High	<ul style="list-style-type: none"> - Multiple issues relating to longer period of care - Involving different services or organisations - Contentious issues/sensitive 	<ul style="list-style-type: none"> - As above Moderate list - May have resulted in serious harm - Quality/risk issues/media sensitive/risk litigation - Unhappy with exceptions panel decision
Severe	<ul style="list-style-type: none"> - Multiple issues relating to serious failures - Causing serious harm - Contentious issues/sensitive 	<ul style="list-style-type: none"> - Events resulting in serious harm or death - Involving different services or organisations - Gross professional misconduct - Quality/risk issues/media sensitive/risk litigation

Adapted from: Guide to better customer care complaint grading (DH, 2009)

Guidance for Meetings with complainants

This is an opportunity to listen and learn what has happened and not to make excuses. It should not be seen as an interrogation of the complainant and the meetings should be conducted in a manner that is as non-threatening as possible.

It is essential that staff consider risk factors if the visit is arranged in a complainant's home, especially if there is any reason to suspect that the complainant is particularly angry. **It may not be appropriate for a meeting to take place at all.** If a member of staff has any concerns prior to the visit, these should be discussed with her/his line manager. All staff visiting a complainant in their own home should adhere to the PCT's Lone Working Policy.

Give thought to:

- place to meet - health service premises or alternatives such as complainant's home or neutral territory
- type of room - pleasant, light, sufficient space
- seating arrangements - informal or round a table, not confrontational
- time available - make sure sufficient time and limit interruptions
- refreshments to be made available, if appropriate

Meetings guidance:

- Begin with introductions and your understanding of the reasons for the meeting.
- Have a note-taker at the meeting to ensure that the discussions and action points can be followed up after the meeting.
- Give the complainant a chance to explain their complaint and listen to them.
- Apologise, if appropriate. We don't always get things right and it's important to recognise this when it happens.
- At the end of the meeting, reflect back what you have heard. Explain that a summary of notes made at the meeting will be sent to them. Explain what will happen next.

The Independent Complaints Advocacy Service is available to provide independent support to a complainant. A complainant may want an ICAS caseworker present at the meeting to act as their advocate and to support them. Lay conciliators are also available to help those involved in a complaint. She/he will talk to the complainant about their concerns and can attend the conciliation meeting in order to make sure everyone is heard. Please contact the PALS Team for more information.

Guidance for Investigating a Complaint

1 The role of the Investigating Officer

The role of the Investigating Officer is to collate information and medical records related to each issue identified by the complainant and use this information to draft a comprehensive response to concerns raised. They must ensure that any meeting, investigation and draft response is completed within the agreed timeframe.

The PALS Team can provide advice and support.

All staff involved in a complaint should be made aware of the concerns raised and should be asked to write a statement detailing their response (see Guidelines for Writing Statements, below). These should be prepared as soon as possible after the complaint is raised.

The Investigating Officer should keep a copy of all staff statements, copies of relevant medical notes and any other relevant information in a complaint file. A copy of this file should be passed to the PALS Team at the end of the investigation along with any draft response (see flowchart in Appendix I).

It is important to note that the contents of this file are open to disclosure. This file may be shared with the Ombudsman, should the complainant be dissatisfied with the PCT's handling of their complaint. The file may also be used if legal proceedings commence.

Wherever possible, meetings with complainants are encouraged in order to clarify in person the concerns that have been raised, listen to the complainant's views and, where possible, to provide an immediate response.

The response letter should be laid out clearly, addressing each point raised by the complainant. It is often useful to use subheadings for each point addressed. Letters should provide comprehensive consideration of concerns raised, include an apology and identify what the PCT has learnt from the complaint. Avoid using jargon, abbreviations and technical words or phrases, and ensure the letter can be read easily.

2. Guidelines for staff writing statements

All staff involved in a complaint should submit written statements as part of a complaint investigation.

- 2.1 Staff asked to provide statements will be supported in this process by the Investigating Officer and their line manager. Further advice can be obtained from the PALS Team.
- 2.2 The Complaints Officer is responsible for ensuring that appropriate patient consent for the release of personal information is obtained.

- 2.3 Statements should be written in ink or typed, and be legible and concise. The information provided must be factual, accurate and relevant. Avoid offering any opinions or expressing any views about other people's intentions.

**NHS Wiltshire
Complaints Appeal Panel**

Terms Of Reference

1. Overview

Following the publication of new NHS Complaint regulations (2009) and Department of Health Guidance (A guide to better customer care, 2009) the PCT's complaints handling process was reviewed. With continued emphasis on improving local resolution of complaints, it was agreed that a Complaint Appeal Panel would be established to allow complainants the chance to have their complaint reviewed by senior staff within the PCT where they feel dissatisfied with the way their complaint had been handled so far.

2. Purpose of the Committee

- The Complaint Appeal Panel is the second stage of the PCT's complaint policy.
- The purpose of the Panel is to review complaints where the complainant feels dissatisfied with the local resolution of their complaint so far.
- Complaints considered will be about services the PCT provides (through Wiltshire Community Health Services) or commissions or corporate issues.

3. Accountability/authority

The group will be accountable to the NHS Wiltshire Board.

4. Membership/Quorum

- 4.1 The membership of the Group will be made up of:
- Non-Executive Director (Chair)
 - Chief Executive
 - Expert Advisor appropriate to the complaint subject (e.g. Director of Nursing for nursing complaint)
- 4.2 It may at times be necessary for the Panel to ask additional individuals from representative groups within the Trust and/or outside organisations or other local representative groups to attend and offer specialist advice.

5. Responsibilities/Duties

- 5.1 The PCT is responsible for arranging a Complaints Appeal Panel no more than 20 working days after the complainant has said they would like their complaint to be considered by a Panel, unless there are extenuating circumstances.
- 5.2 As soon as the Complaints Appeal Panel date is arranged, the complainant will be contacted and invited to attend along with an information leaflet explaining the process and what to expect.

Complainants may choose to bring a spouse / relative / friend / advocate with them to the meeting. Legal advisors will not be permitted to attend as the Panel is not a formal legal process.

- 5.3 Panel members and the complainant will be provided with a full copy of the complaints file (including investigation information, copies of relevant clinical records etc) five working days before the Appeal Panel date.
- 5.4 At the start of the Panel meeting, the Chair will introduce each member and outline the proceedings for the benefit of Panel members and the complainant, if they are present.
- 5.5 If the complainant is present, they will be allowed to inform the Panel in person why they feel dissatisfied and what outcome they would like. If the complainant is unable to attend, they may wish to submit a written statement which will be read out to the Panel.
- 5.6 The Panel will then consider the way the complaint has been handled, understanding what the complainant has said, the complaint file and information provided by the PCT Complaints staff. Advice and guidance can be sought from the expert advisor (if present). The complainant and the relevant manager can listen to these considerations.
- 5.7 After the considerations, the Panel will meet in private to discuss the outcome of their findings.
- 5.8 A letter will be produced within five working days outlining the Complaint Appeal Panel's conclusions and will be sent to the complainant, as well as to the responsible director. This letter may uphold the complaint partially or totally, suggest any further action needed or may not uphold the complaint in which case no further action is needed. The PCT Complaints Team will oversee this process.
- 5.9 The Panel letter will include information on how to complain to the Parliamentary and Health Service Ombudsman, should the complainant remain dissatisfied with the outcome of the local process.

6. Reporting Framework

- 6.1 Six monthly summaries of all Complaint Appeal Panels and their findings will be reported to the Audit & Assurance Committee.
- 6.2 Individual comments on the quality of complaint handling (including staff investigation, statements, quality of records) will be reported the responsible director and to staff involved on an individual basis within five working days of the Appeal Panel meeting.

7. Review Arrangements

The Terms of Reference will be reviewed after three months

Approved March 2009

Acknowledgement Letter to Complainant



Date:

Ref:

Southgate House
Pans Lane
Devizes
Wiltshire
SN10 5EQ
Tel: 0800 3897671
Fax: 01380 733856
e-mail:pals@wiltshire.nhs.uk

Dear

Thank you for your letter, which was received on x. I am sorry to hear that you are disappointed with x .

I would be very grateful if you could contact me on xxxtel no to discuss your complaint further, and how you would like your concerns to be handed. If you would prefer, then please confirm this in writing to me.

I enclose a copy of the PCT's complaints leaflet which explains the NHS Complaints Procedure. The Patient Advice and Liaison Service (PALS) can help to support you whilst making a complaint, and can be contacted on freephone 0800 3897671.

I look forward to hearing from you.

Yours sincerely

xxxx

Enc. Complaints booklet

Consent Form to release personal information



Please return to:

Complaints team
NHS Wiltshire
Southgate House
Pans Lane
Devizes
SN10 5EQ

I consent to my letter of complaint being forwarded to my GP Practice / hospital involved in my treatment for investigation and response in accordance with the NHS complaints Procedure.

Signed:

Date:

Consent Form to release personal information to a third party



**Authorisation for the Release of Personal Health
Information to a Third Party**

Please return to:
Complaints Team
Southgate House
Pans Lane
Devizes
Wiltshire
SN10 5EQ

Name [Next of kin]

Address [Next of kin]

I hereby consent for information regarding the care and treatment of my
[Relationship]:

[Name]

[Address]

[Date of birth]

To be released to [Complainant]

[Address]

Signed: Date:

Printed Name:



Cross Organisational Complaints Handling Protocol

The purpose of this Protocol is to ensure that cross organisational complaints are dealt with consistently and effectively, avoiding confusion for the complainant.

1. Review of complaint and services/organisations involved

- Has complainant copied their complaint to other organisations involved or given consent for their complaint to be shared with other organisations?
- If no, contact complainant to discuss how they want their complaint handled, and if needed, send consent form to allow sharing with other organisations involved (see appendix Ga).
- If yes, determine organisation to take the lead role & make contact with the complainant within 3 working days

NB: If the complaint is about Safeguarding Children or Protection of Vulnerable Adults or any other service user safety issues the receiving organisation has an obligation to pass on this information to the appropriate service provider with or without complainant consent.

2. Agree a lead organisation with complaint colleagues from organisations involved in the complaint taking into account:

- Which organisation has the most serious complaints about it
- Whether a large number of issues in the complaint relate to one organisations compared to other organisations
- Whether the complainant has a clear preference for which organisation takes the lead
- Which organisation originally received the complaint (if the seriousness and number of the complaints are about the same for each one)
- The impact on the organisation's governance arrangements

3. The role of the lead organisation is to:

- Provide a single consistent and agreed contact point for complainants
- Provide regular and effective liaison between the complaint staff and the complainant
- Facilitate any meetings, joint investigations, coordinated response letter with complaint colleagues in other organisations involved
- Ensure that lessons learnt are shared between organisations involved.

Protocol for Dealing with Persistent Complainants

1. Introduction

- 1.1 People who bring persistent concerns can be difficult to deal with
- 1.2 Whether you think they are right, or not to pursue their complaint, they need support from complaint team staff in order to attempt to resolve their concerns. This team should be involved at an early stage.
- 1.3 Labelling a complainant as persistent should be seen as a last resort. Staff should be aware that this may get in the way of your ability to understand why the complainant is so persistent, and may only prolong the time it takes to reach a conclusion
- 1.4 If the complainant raises the same or similar issues repeatedly despite receiving a full response, there may be underlying reasons for this persistence.

2. How do you identify a persistent complainant?

A persistent complainant is someone who raises the same issue despite having been given a full response. They may continually contact the complaints or PALS service, meaning that they take up a disproportionate amount of staff time. They are likely to display certain types of behaviour such as:


- complains about every part of the health system regardless of the issue
- seeks attention by contacting several agencies and individuals
- always repeats full complaint
- automatically responds to any letter from the trust
- insists that they have not received an adequate response
- focuses on a trivial matter
- is abusive or aggressive.

3. Dealing with persistent complainants

- 3.1 Managers should contact the Complaints Service who will implement this process
- 3.2 Identify the key concerns/issues raised
- 3.3 Use language that the patient/service user can understand
- 3.4 Mutually agree how the complaint will be handled (including investigations, timeframe etc).
- 3.5 Where the complainants request is found to be unrealistic (e.g. timeframe would not allow investigation), try to explain the reasons for this

- 3.6 Address each concern objectively and without making assumptions
- 3.7 If the patient/service user is abusive or threatening, it is reasonable to require him/her to communicate in a particular way, i.e. in writing not by telephone, or solely with one or more designated members of staff. This may also mean that resolution meetings or appeal panels are not offered as part of the local resolution process, in order to protect staff safety. Staff are reminded that if a patient/service user is abusive or threatening they should ask them to moderate their tone and/or language or the conversation will be terminated.
- 3.8 If threats are made against any members of staff, support and guidance can be sought from the PCT's Security Management Specialist on telephone number 01373 828209
- 3.9 It is not reasonable to refuse to accept or respond to communications about an issue/concern until it is clear that all practical possibilities of resolution have been exhausted. Where local resolution has been exhausted the next step in the complaints process is the Health Service Ombudsman.
- 3.10 It is good practice to make clear to a patient/service user regarded as unreasonably persistent the ways in which his/her behaviour is unacceptable, and the likely consequences of refusal to amend it, before taking drastic action
- 3.11 The decision to treat a patient/service user as persistent should be taken by the Chief Executive or their nominated deputy. The Complaints Manager will present details of the case to this Chief Executive. This should be communicated in writing to the patient/service user specifying the reasons why further assistance is being refused.
- 3.12 Such decisions will be monitored by the PCT's Audit & Assurance Committee on behalf of the PCT Board.

This guidance has been based on an Avon, Gloucester & Wiltshire's Health & Social Care PALS Network Protocol and 'Dealing with Difficult Complainants' Department of Health advice.

Equality & Diversity Impact Assessment		
Title of Document	Management of Complaints	
Is the policy new or existing?	Existing (updated)	
Date policy was created	January 2010	
Does this policy contain the Trust's statement on Equality?	Yes	
Date policy is due to be reviewed	January 2013	
Who was/will be consulted over this policy?	Key Staff Managers in both NHS Wiltshire & WCHS National consultation	
What is the main purpose of this policy	To outline how concerns and complaints raised about NHS services will be managed by NHS Wiltshire and WCHS	
Is this policy contractual?	Yes	
Who is this policy aimed at or who will be affected by it?	All staff	
What are the likely implications for the Trust of this policy?	Improved management of concerns and complaints	
What, if any, are the resource implications of this policy?	No additional	
What is the legislation, ethic or other guiding principle behind this policy?	National Regulations (Local Authority Social Service & NHS Complaints Regulations, 2009)	
Is this policy likely to have an adverse effect on any specific group taking into account: sex, gender, ethnicity, colour, national origin, and disability, physical or mental health?	Information about how to raise concerns and complaints available in 25 different languages, Braille and large font on request. Interpreters and advocates are funded to support patients and public raising concerns or complaints.	
Could this policy discriminate directly or indirectly against any staff group with reference to Sex, Race Disability Discrimination acts or the Regulations on Religion or Belief and Sexual Orientation? If so how?	Information about how to raise concerns and complaints available in 25 different languages, Braille and large font on request. Interpreters and advocates are funded to support patients and public raising concerns or complaints.	

If this policy could be discriminatory in any way, what actions will be taken to remedy this?	Policy would be reviewed
Where will this policy be stored and how will it be accessed?	PCT intranet and internet