



Western Health
and Social Care Trust

POLICY FOR MANAGEMENT OF COMPLAINTS

March 2015

Title	Policy for Management of Complaints
Reference Number	MED11/009
Original Implementation Date	May 2011
Revised Date	March 2015
Review Date	May 2017 (unless legislation changes)
Responsible Officer	Complaints Manager

Table of Contents

Part 1: POLICY - Management of Complaints

- 1.0 Introduction and Context
- 2.0 Definitions
- 3.0 Policy Objectives
- 4.0 Policy Principles
- 5.0 Roles and Responsibilities
- 6.0 Training and Education
- 7.0 Information for Service Users
- 8.0 Monitoring, Audit and Review
- 9.0 Equality and Human Rights Considerations

Part 2: COMPLAINTS PROCEDURE

- 10.0 Introduction
- 11.0 Complaints/Enquiries/User Views and Associated Action.
- 12.0 Time Limit for Making Complaints.
- 13.0 Who Can Complain?
- 14.0 Third Party Complaints - Consent
- 15.0 Confidentiality
- 16.0 Unreasonable, Vexatious or Abusive Persons
- 17.0 Support for Staff
- 18.0 Assurance of Service
- 19.0 Matters Excluded from the Trust Complaints Procedure
- 20.0 Independent Service Providers (Non Trust)
- 21.0 Trust Complaints Procedure – Local Resolution Informal/Formal
- 22.0 The Northern Ireland Commissioner for Complaints (Ombudsman)
- 23.0 Learning from Complaints
- 24.0 Performance Management
- 25.0 Complaints Forum

Part 1: POLICY for the Management of Complaints and User Views

1) Introduction and Context

- 1.1 The Western Health & Social Care Trust (hereafter referred to as the “Trust”) Complaints Policy has been based on and complies with the Complaints in Health & Social Care Standards and Guidelines for Resolution & Learning April 2009, and legislative principles contained in the Health and Social Care Complaints Procedure Directions (Northern Ireland) 2009 and The Children (NI) Order 1995.
- 1.2 A separate specific policy and procedure is in place for the management of complaints under Part IV and paragraph 4, Schedule 5 of the Children (Northern Ireland) Order 1995.
- 1.3 This policy should be read in conjunction with the Complaints Procedures set out in **Appendix 1**, and other associated documentation. Relevant documents will be available on the Trusts Internet and Intranet sites.
- 1.4 Feedback from service users is an important aspect of the Trust’s governance arrangements, and helps the Trust to improve the quality of the services we offer and safeguard high standards of care and treatment. All complaints, enquiries, comments/ suggestions and compliments are encouraged, and will be taken seriously as they are viewed as a positive opportunity for learning and improving services.

2) Definitions

- 2.1 **Complaint** - “an expression of dissatisfaction that requires a response.”
- 2.2 **Complainant** – An existing or former patient, client, resident, family, representative or carer (or whoever has raised the complaint).
- 2.3 **Service User** – For consistency the term service user is used throughout this document to mean a patient, client, resident, carer, visitor or any other person accessing Health & Social Care services.

3) Policy Aims/Objectives/Purpose

- to provide ease of access to those wishing to make a complaint;
- to ensure the process for dealing with complaints is simple and straightforward;
- to ensure responses to complaints are timely whilst being comprehensive, accurate and open with an emphasis on early resolution of the complaint;
- to ensure staff and complainants are treated with the same open and fair approach;
- to ensure that complaints are used positively to support learning, continuously improve the services we provide and where possible prevent a recurrence.

4) Policy Principles:

- **openness and accessibility** – flexible options for pursuing a complaint and effective support for those wishing to do so;
- **responsiveness** – providing an appropriate and proportionate response;
- **fairness and independence** – emphasising early resolution in order to minimise distress for all;
- **learning and development** – ensuring complaints are viewed as a positive opportunity to learn and to improve services.

5) Roles and Responsibilities

5.1 Chief Executive:

- has overall accountability/responsibility for complaints management within the Trust;
- will respond in writing to all formal complaints (or delegate when appropriate);
- has overall responsibility to ensure that complaints are integrated into Trust Clinical and Social Care Governance and Risk Management arrangements.

5.2 Medical Director / Director of Social Care are responsible for:

- implementing the Trust's Statutory Duty of Quality;
- taking a strategic viewpoint on behalf of the Trust in relation to complaints;
- designating a Senior Manager to manage the Trust's Complaints Procedure.

5.3 Head of Clinical Quality & Safety / Governance Manager are responsible for:

- ensuring that the complaints process is managed in accordance with all relevant guidelines, legislation and standards and for ensuring that processes are in place to identify and disseminate learning on a Trust wide/regional basis;
- quality assuring all responses received from Assistant Directors pertaining to complaints or enquiries;
- ensuring arrangements are in place to consider formal complaints and determine level of investigation / action required.

5.4 The Investigating Officer is responsible for:

- reviewing the complaint and highlighting the issues to be addressed;
- identifying staff members to be interviewed or statements required if applicable;
- checking records / documents if required;
- determining if a meeting is required with the complainant;
- considering the value of an independent experts review;
- preparation of draft response to be submitted to the Complaints Department.

5.5 The Trust Complaints Forum is chaired by a Non-Executive Director. The Forum is responsible for:

- seeking assurance that the Trust's procedures comply with best practice in complaints management;
- reviewing analysis of complaints and enquiries to identify trends, emerging issues and potential risks, and seeking assurance that these are being considered in the Trust's planning processes;
- seeking evidence of learning and service improvement from service user feedback;
- monitoring service user feedback and the Trust's performance against the Department of Health, Social Services and Public Safety's timeframes for complaints management;
- contributing to the annual Complaints / Children Order Complaints Reports for Trust Board;
- providing regular assurance to the Governance Committee regarding the management of complaints.

5.6 Directors are responsible for ensuring that:

- managers and staff within their area of responsibility are aware of and comply with the requirements of this Policy and Procedure;
- complaints are dealt with promptly and appropriately and that learning is shared so that service improvement occurs;
- management of complaints is integrated into Directorate/ Division governance arrangements.

5.7 **Assistant Directors** are responsible for ensuring that:

- managers and staff within their Directorate are aware of, and comply with the requirements of this Policy and Procedure;
- staff are appropriately trained in receiving and responding to complaints;
- complaints are dealt with promptly and appropriately;
- learning and service improvement occurs and is shared across the Trust;
- complaints are integrated into Directorate governance arrangements;
- a deputy is designated to deal with complaints or enquires in his/her absence.

5.8 **Managers** are responsible for:

- seeking informal resolution of complaints raised at service level within identified timescales, if possible, as a rapid response and personal contact often results in effective complaints resolution;
- ensuring informal complaints are recorded on the Trust's Informal Complaints Form and retained on file;
- ensuring that the Trust's Complaints Policy and Procedure is included in the induction of their staff, and that staff are released to attend appropriate training;
- supporting, advising and assisting staff to resolve the issues giving rise to the complaint or enquiry, when possible;
- ensuring all formal complaint letters received by staff are forwarded immediately to the Complaints Manager on receipt.
- contributing to the investigation of complaints and enquiries and making sure statements and reports address all of the issues raised;
- ensuring that statements/reports are returned to the Complaints Department within the required timescales;
- identifying learning and developing action plans to prevent the problem recurring. Introducing service improvements and making sure that all relevant information is disseminated throughout the service/team and Directorate Governance Groups as necessary;
- making sure a 'fair and just' organisational culture is maintained. Ensuring that staff members are informed if a complaint is made against them, receive a copy of the complaint, are given the opportunity to provide their version of events and are made aware of the process and timescales for responding to complaints. Such staff should receive feedback on the outcome of the complaint and appropriate support from their line manager before, during and after the investigation into the complaint;
- ensuring completion and return of the monthly record of Compliments and Gifts received.

5.9 **Complaints Manager** is responsible for:

- managing the Complaints Department and ensuring that the complaint process complies with relevant standards in respect of complaint management;
- providing information as requested by the Northern Ireland Commissioner for Complaints;
- providing regular complaints related analyses and reports to Committees, Sub-Committees and Groups within the Governance Accountability Framework;
- managing all formal complaints received by the Trust;
- maintaining a comprehensive database of all complaints received;
- providing support and advice to staff responding to complaints;
- having access to all relevant records (including personal medical records) which are essential to any complaint referred to him/her;
- taking account of any corroborative evidence available relating to the complaint;
- identifying training needs of staff and ensuring that appropriate programmes are organised in conjunction with line managers;
- ensuring that the Complaints Officers apply the Complaints Handling Flowchart (**Appendix 2**) when processing formal complaints. Regularly raise awareness of this to Investigating Officers, Managers, Assistant Directors and Directors.
- being aware of the availability of, and advising complainants about:-
 - the support available from the Patient and Client Council
 - the Ombudsman/Commissioner for Complaints; and
 - the role and availability of conciliation or advocacy services.

5.10 **Complaints Officers** are responsible for:

- assisting the Complaints Manager in managing the complaints process;
- processing all documentation relating to Complaints & User Views and providing specialist advice, which will include contact with service users and their representatives, health and social care staff, Directorate Investigating Officers, Assistant Directors, Directors and the Chief Executive.

5.11 **All Staff** are responsible for:

- attempting to resolve complaints, as they arise, in an informal, sensitive and confidential manner;
- ensuring that the Trust's complaints posters and leaflets are available and accessible to service users to encourage all types of user feedback;
- referring the matter as soon as possible to their line manager if unable to deal with complaints raised directly with them or seeking advice from Complaints Department staff on how to proceed;
- keeping their line manager updated on complaints and enquiries they are currently dealing with and outcomes including improvements made;
- contributing to the investigation of complaints and enquiries within the service/team and returning statements, reports and other information to Investigating Officers within requested timescales;
- informing their line manager and other team members (if appropriate) when they receive a written compliment from service users and ensuring that this is noted on the monthly return form for recording compliments.

6) Training and Education

- 6.1 The Trust will ensure that training and information on The Management of Complaints and User Views is available for staff at the appropriate level. This must be included within:
- corporate induction for all new staff;
 - departmental induction for all new staff;
 - departmental training days and workshops; and
 - corporate training programmes/courses encompassing:

general training on complaints management for all staff likely to come into contact with service users to enable them to respond appropriately to complaints, enquiries, comments/suggestions and compliments; and

-specialist complaints management training for Investigating Officers, complaints staff and others, as required.

7) Information for Service Users

- 7.1 The Trust will produce information for service users on how to provide feedback on services which will be well publicised, simple and clear and available in all service areas across the Trust.
- 7.2 Information on how to make a complaint will be provided free of charge and will be available in various formats and languages. Other arrangements will be made as necessary to meet the specific needs of those wishing to comment on our services, including the provision of interpreting services.
- 7.3 All service users will be made aware of the independent service provided by the Patient and Client Council.
- 7.4 Other independent advocacy and specialist advocacy services are available for service users who wish to provide feedback. Further information is available from complaints staff.
- 7.5 When acknowledging formal complaints, complaints staff will enclose information about the Complaints Procedure. If service users require additional information or have a query about their complaint they will be advised to contact complaints staff.

8) Monitoring, Audit and Review

- 8.1 Compliance against relevant complaints handling standards will be regularly monitored by the Complaints Department. Any necessary actions following Audit will be implemented and monitored.
- 8.2 The Policy will be reviewed as necessary due to developments and initiatives as driven by external and internal influences.

9) Equality and Human Rights Considerations

- 9.1 This policy has been screened for equality implications as required by Section 75, Schedule 9, of the Northern Ireland Act, 1998.

The Trust aims to handle all complaints fairly and honestly regardless of who makes a complaint. The Trust treats all members of the community equitably and will not show bias to any particular individual or group.



COMPLAINTS, USER VIEWS AND COMPLIMENTS PROCEDURES PART II

Part 2: PROCEDURE for the Management of Complaints User Views and Compliments

10) Introduction

10.1 This Procedure details the Trust's processes following the receipt of complaints, enquiries, comments/suggestions and compliments. Guidance is also provided for front line staff in relation to dealing with complaints, which have been raised directly by service users or their representatives. It is separate from, but complimentary to, the procedure for dealing with complaints contained in the Children (NI) Order Representation and Complaints Procedure.

11) Complaints / Enquiries / User Views and Associated Action.

11.1 Complaints and Enquiries

11.1.1 A complaint or enquiry may be made in person, by telephone or in writing, including email. With regard to a verbal complaint, Complaints staff will assist service users to formulate their complaint if necessary. Once the details have been noted these will be forwarded to the complainant to view and sign as a factual description of the complaint and returned to the Complaints Department for the investigation to commence. Care should be taken to include:

- contact details for the person making the complaint or enquiry (including details regarding the service user if the complaint or enquiry has been made by a third party);
- who or what is being complained or enquired about including the names of staff if known;
- where and when the events of the complaint happened; and
- where possible, what remedy is being sought e.g. an apology, an explanation or changes to services.

11.1.2 The person making the complaint or enquiry will receive an acknowledgement letter from complaints staff confirming receipt and additional information will be attached by complaints staff regarding our Complaints Procedure.

11.1.3 **Enquiries** are subject to the same actions and responsibilities within the Trust's Complaints Procedure, which apply to the formal complaints process. Whilst enquiries are not subject to the timescales for responding to complaints set by the Department of Health, Social Services and Public Safety, it is good practice that these are investigated and responded to within the same timescales as complaints or as soon as practically possible.

11.1.4 Where views are provided in person or by telephone, complaints staff will clarify whether the person concerned wishes to make a complaint or enquiry.

11.1.5 Written correspondence received from elected representatives including Local Councillors, MEPs, MLAs, Committees within the Northern Ireland Assembly and Government Offices/Departments will be assessed by the Chief Executive and, on considering the detail presented, she will make a judgement in terms of how the correspondence should be processed. Staff must seek consent in such cases, prior to commencing investigation. Consent is not required in the case of a complaint received from a Solicitor on behalf of their client. In the case of all other matters/issues these will be processed as enquiries.

11.2 User Views (ie Comments, Suggestions and Compliments)

- 11.2.1 For the purposes of this procedure, user views are those made by or on behalf of patients/clients/visitors about the service which they have experienced.
- 11.2.2 If there is a requirement to communicate with the service user at a point in the future, this will be the responsibility of the Complaints Manager.
- 11.2.3 We acknowledge that staff involved in the delivery of health or social care will receive compliments from service users in various formats such as Thank You cards and letters on a regular basis. These items should be recorded on the Trust's Compliments and Gifts form and forwarded to the Complaints Department.

12) Time Limit for Making Complaints

- 12.1 A complaint, written or verbal, should be made as soon as possible normally within 6 months of the event which caused the problem, or within 6 months of the person making the complaint realising he/she had something to complain about, provided that this is within 12 months of the event.
- 12.2 There is discretion to extend this time limit where it would be unreasonable, in the circumstances of a particular case, for the complaint or enquiry to have been made earlier and where it is still possible to investigate the facts of the case.
- 12.3 This discretion will be used with sensitivity, and the Complaints Manager will discuss any such complaints and enquiries as they arise with the appropriate Director and the Head of Clinical Quality & Safety/Governance Manager. Contact will then be made with the Chief Executive who will decide what action is necessary.

13) Who Can Complain?

- 13.1 A complaint may be made by:
- a service user;
 - a former service user; or
 - a member of the public or visitor using HSC services and facilities.
- 13.2 A complaint may be made by a representative acting on behalf of a person mentioned above in any case where that person:
- has died;
 - is a child;
 - is unable to make the complaint him/herself; or
 - has requested the representative to act on his/her behalf.

In such cases consent will be sought by complaints staff, where necessary.

- 13.3 Where a complaint relates to the actions of the Western Health and Social Care Trust and one or more Health and Personal Social Services (HPSS) organisations for example, another Health and Social Care Trust, there should be full co-operation between complaints staff in the organisations involved to ensure the complaint is appropriately investigated and responded to. The consent of the person making the complaint will be sought before sharing

details of the complaint across HSC organisations and complaints staff will keep him/her informed regarding how each aspect of the complaint will be dealt with and by whom.

- 13.4 Where a complaint is received relating to services from another HPSS organisation, the complaint will be forwarded to the relevant complaints office/department for investigation and issuing of a response directly to the person concerned. Complaints staff will notify the person making the complaint that his/her complaint has been re-directed and will provide information on the process to be followed including the name and contact details of complaints staff in the organisation concerned.

14) Third Party Complaints - Consent

- 14.1 Third party complaints may be made by a service user's relatives, friends, carers or other representatives such as their Solicitor or elected representatives. Third party complaints are acceptable provided the service user has given his/her written consent. However, in such circumstances we will judge each complaint on its own merits and the Trust will reserve the right to seek written consent from the service user prior to releasing information, i.e. of a sensitive or personal nature, beyond general issues.
- 14.2 Where a person is unable to act for him/herself, his/her consent will not be required.
- 14.3 In circumstances where the consent of the service user cannot be obtained an explanation will be requested as to why this is the case. A decision will be taken with the appropriate Director, Head of Clinical Quality and Safety/Governance Manager and the Chief Executive, if appropriate, as to whether the person representing the service user has sufficient interest to act as a representative before confidential information can be released. If it is determined that a person is not suitable to act as a representative, information will be provided in writing outlining the reasons for the decision having been taken.
- 14.4 Those wishing to make third party complaints who want to pursue their own concerns can bring these to the attention of the organisation without compromising the identity of the service user. Any identified concerns will be considered, investigated and addressed as fully as possible. A response will be provided to the third party on any issues it is possible to address without breaching the service user's confidentiality.

15) Confidentiality

- 15.1 HSC staff have a legal and ethical duty to protect the confidentiality of the service user's information. The legal requirements are set out in the Data Protection Act 1998 and the Human Rights Act 1998. Ethical guidance is available from the respective professional bodies and from the DHSSPSNI 'Code of Practice on Protecting the Confidentiality of Service User Information' published on January 2009. The common law duty of confidence must also be observed.
- 15.2 Care must be taken at all times to make sure that any information disclosed about the service user is confined to that which is relevant to the investigation of the complaint and is only disclosed to those people who have a demonstrable need to know for the purpose of investigating the complaint.
- 15.3 It is good practice to inform the service user that in order to investigate and fully answer their complaint it may be necessary to examine information within their health or social care notes and records relevant to the investigation of their complaint or enquiry. Such information will only be available to those with a demonstrable need to know. Service users should be advised to contact complaints staff immediately if they do not agree to their notes and

records being examined. The service user's wishes should always be respected, unless there is an overriding public interest in continuing with the matter.

15.4 As indicated at section 14.1 explicit consent must be obtained before identifiable information is given to any third party. In addition, the following principles also apply to all complaints:

- records relating to complaints must be stored securely;
- information pertaining to the investigation of the complaint including statements or reports, notes of meetings and copies of relevant sections from health and social care records and the written response must be filed separately to the service user's health or social care records;
- the reference number provided by complaints staff, not the person's name, should be used wherever possible during investigations to maintain confidentiality;
- information and reports produced to identify trends and inform future good practice from lessons learned should safeguard the confidentiality of service users and staff; and
- when forwarding information electronically all identifiable information pertaining to the person making the complaint or enquiry should be enclosed as attachments and password protected.

15.5 The duty of confidence applies equally to third parties who have given information or who are referred to in the service user's records. Particular care must be taken where the service user's records contain information provided in confidence, by, or about, a third party who is not a health or social care professional. Only that information which is relevant to the complaint should be considered for disclosure, and then only to those within the HSC organisation who have a demonstrable need to know in connection with the investigation into the complaint or enquiry.

15.6 Third party information must not be disclosed to the service user unless the person who provided the information has expressly consented to the disclosure. If the third party objects, then it can only be disclosed where there is an overriding public interest in doing so.

16) Unreasonable, Vexatious or Abusive Persons

16.1 Whilst recognising the right of every individual to make a complaint and to be treated equitably in having these thoroughly investigated and fully responded to, there will be times when nothing further can be done to assist them.

16.2 The difficulty in handling such persons making complaints can cause undue stress for staff and place pressures on time and resources. However, someone should only be categorised as unreasonable, vexatious or abusive as a last resort after all reasonable measures have been taken to resolve the complaint using the Trust Complaints Procedure. Unacceptable actions are outlined at **Appendix 3**.

16.3 If the person making the complaint is felt to be unreasonable, vexatious or abusive staff should raise the matter as soon as possible with the relevant Investigating Officer within their Directorate who will inform the relevant Director. Complaints staff experiencing similar difficulties can raise concerns with the Governance Manager and/or Head of Clinical Quality and Safety initially.

16.4 Consideration needs to be given as to whether the Complaints Procedure has been correctly applied as far as possible and that no issue within the complaint or enquiry has been overlooked or inadequately addressed. It also needs to be determined whether a fair

approach has been taken and that we can identify the stage at which the person has become unreasonable, vexatious or abusive.

16.5 If the Director is in agreement that the person has become unreasonable, vexatious or abusive, contact should then be made with the Complaints Manager who will inform the Chief Executive. Various possible actions should be considered:

- it may be appropriate to inform the individual in writing that they are at risk of being classified as being unreasonable, vexatious or abusive and providing an explanation as to the reason for this. The individual should then be allowed the opportunity to modify their behaviour or action before a decision is taken;
- try to resolve matters before categorising someone as unreasonable, vexatious or abusive, by drawing up a signed agreement with the individual setting out a code of behaviour for the parties involved if the Trust is to continue dealing with them. If the agreement is breached consideration would then be given to implementing other actions as outlined below;
- Affected staff should be consulted and involved in drawing up such an agreement;
- restrict further contact with the individual either in person, by telephone, letter or email - or any combination of these provided that one form of contact is maintained. In extreme situations further contact may be restricted to liaison through an identified third party;
- notify the individual in writing that previous responses have answered the issues raised with a view to resolving the complaint, that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The individual should also be notified that the correspondence is at an end and that further letters received will be acknowledged but not answered;
- notify the individual that only a certain number of issues will be considered in any given period and ask him/her to limit or focus their requests accordingly;
- only take telephone calls from the individual at set times or on set days;
- return irrelevant documents to the individual or, in extreme cases advise the individual that further irrelevant documents will be destroyed;
- temporarily suspend all contact with the individual, or investigation of the complaint, whilst seeking legal advice from the Directorate of Legal Services (CSA);
- or take other action considered to be appropriate.

16.6 Further actions may need to be considered in addition to the above measures, and advice sought from the Head of Clinical Quality and Safety, the Governance Manager, the Police Service of Northern Ireland (PSNI) or the Directorate of Legal Services (CSA) if the unreasonable, vexatious or abusive behaviour persists.

16.7 The individual should be informed in writing what action is being taken and reasons why and if relevant, the length of time any restrictions will be in place.

A copy of any correspondence forwarded to unreasonable, vexatious or abusive individuals will be copied promptly and forwarded to the relevant Assistant Director or Director and the relevant Investigating Officer for information and onward dissemination to staff. A record will be kept within the Complaints Office, for future reference, of the reasons why an individual has been classified as unreasonable, vexatious or abusive and actions taken.

16.8 With regard to telephone calls taken from aggressive, abusive or offensive individuals the staff member taking the call has the right to make the decision to tell the caller that his/her behaviour is unacceptable and end the call if the behaviour does not stop. Similarly with regard to other aggressive or abusive behaviours staff directly experiencing this may take the

decision to deal immediately with that behaviour in a manner they consider appropriate to the situation and in accordance with the Trust's Zero Tolerance Policy.

With the exception of these immediate decisions taken at the time of an incident, decision to restrict contact made by such individuals with the Trust should only be taken after careful consideration of the situation by the relevant Director.

- 16.9 Once individuals have been classified as unreasonable, vexatious or abusive, there needs to be a mechanism for withdrawing this status if, for example, the individuals subsequently demonstrate a more reasonable approach or if they submit a further complaint or enquiry for which the normal Complaints Procedure would be appropriate. The decision on the continuation/cessation of this status should rest with the Chief Executive.
- 16.10 The decision to restrict contact can be appealed by the individual concerned. A Director who was not involved in the original decision should consider the appeal. The individual will then be notified in writing that either the restricted contact arrangements still apply or a different course of action has been agreed

17) Support For Staff

- 17.1 Service Managers should bear in mind that staff will often require support if a complaint is received. Support is available from line management, Occupational Health, Staff Care Services as well as support from the Complaints Manager.

18) Assurance of Service

- 18.1 Service Users have an absolute assurance that the submission of a Complaint will not in any way lead to the withdrawal of the services they are assessed as being in need of. Staff should therefore ensure that there is no suspension of contact with a service user when a complaint is made or intimated, and their actions should in no way construe this as being the case.

19) Matters Excluded from the Trust Complaints Procedure

- 19.1 Some matters are excluded from investigation through the Trust HSC Complaints Procedure. Exclusions are as follows:
- Legal Action;
 - Disciplinary action;
 - Children Order representations and complaints;
 - Child Protection Procedures;
 - Staff grievances;
 - Investigation by professional regulatory bodies;
 - Independent enquiry and criminal investigation;
 - Complaints about services commissioned by Boards;
 - Complaints outside the HPSS;
 - Issues related to Data Protection/Freedom of Information;
 - Coroner's Cases;
 - Protection of Vulnerable Adults.

20) Independent Service Providers (Non-Trust) Registered Establishments and Agencies

When a complaint or enquiry is received which relates to an independent (non-Trust) regulated establishment or agency registered with the Regulation and Quality Improvement Authority (RQIA) the person making the complaint or enquiry will be advised to raise the matter initially with the registered provider. The registered provider is required by legislation to ensure the complaint is fully investigated.

In the event that the matter has not been resolved to the satisfaction of the person making the complaint or enquiry, the Trust will then investigate the complaint if it has commissioned the service user's care.

If the issue being complained or enquired about relates to the registered establishment or agency's failure to comply with regulations or associated standards, this should be referred to RQIA who will deal with this under its policy in respect of failure to comply with regulations.

Service users may approach the Ombudsman if they remain dissatisfied. It is possible that referrals to the Ombudsman where complaints are dealt with directly by the registered provider without the HSC Trust participation in local resolution will be referred to the HSC Trust by the Ombudsman for action.

The Trust's contracts with Independent Providers will reflect how the handling of complaints relating to Independent (Non-Trust) Registered Establishments and Agencies will be undertaken.

21) Trust Complaints Procedure - Local resolution

The purpose of local resolution is to provide an opportunity for the person making the complaint and the organisation to attempt a prompt and fair resolution of the complaint.

We are committed to promoting active approaches to resolving complaints informally at local level, sensitively and rapidly, alongside the formal complaints investigation.

A flowchart is provided in **Appendix 4** detailing the process for both formal and informal complaints. Criteria are also provided in **Appendix 5** for staff to use in determining which complaints might be suitable for local resolution.

21.1 INFORMAL COMPLAINTS PROCESS

Informal, verbal and written complaints made directly to front line staff

- 21.1.2 Staff must view complaints investigation and management as a central component of the delivery of a holistic package of care to service users. Therefore all complaints received should be treated with equal importance and every effort should be made to resolve such complaints. Staff must make sure that the service user's immediate care needs are being met before matters relating to the complaint are addressed. If staff are unsure about how to deal with any complaint they should seek advice from their line manager on what should be the appropriate approach. Advice and assistance can also be sought at any time from complaints staff.
- 21.1.3 Any action needing to be taken should be agreed verbally with the person making the complaint and the need for further contact clarified, if appropriate. Once the necessary action has been taken a written response should be issued only when felt to be appropriate/necessary. Information regarding these informal complaints should be noted on the Trust's Informal Complaints form and kept on file within the manager's office.
- 21.1.4 If the person making the complaint remains dissatisfied with the outcome, the procedure for making a more formal complaint via the Complaints Manager should be explained.

21.2 FORMAL COMPLAINTS PROCESS

Verbal and written complaints received via the Complaints Manager or the Chief Executive's Office dealt with under the formal complaints process

- 21.2.1 For those complaints dealt with under the formal complaints process a written acknowledgement letter will be sent to the person making the complaint on behalf of the Chief Executive within two working days of receipt of the complaint.

Included with each acknowledgement letter will be the Trust's Complaints Leaflet which states:

- information on how the Complaints Procedure works;
- reference to the supportive role offered by the Patient and Client Council;
- guidance on further action which can be taken if the person making the complaint is not satisfied with the final written response; and
- contact details for complaints staff should the person making the complaint have any queries.

- 21.2.2 The complaint will be forwarded to the relevant Investigating Officer with a copy to the relevant Director and Assistant Director. The Investigating Officer undertakes and completes an investigation which will be forwarded by complaints staff along with a copy of the complaint. An Investigation Template for Investigating Officers is provided in **Appendix 6**. Staff guidance notes on writing statements and reports have been produced and are attached as **Appendix 7**. Consideration will also need to be given, as appropriate to involving:

- conciliators / mediators;
- independent advocates;
- independent experts; or

- lay persons.

21.2.3 Where the complaint involves more than one area of service or Directorate the relevant Director/s will be asked to identify which Investigating Officer will be responsible for co-ordinating the investigation and drafting the response. Those complaints covering more than two areas of service or Directorates will be co-ordinated by complaints staff who will request reports via the relevant Investigating Officer/s and collate the draft response.

21.2.4 The Investigating Officer either during or on completion of his/her investigation should consider whether there is a need to contact or meet with the person making the complaint before the written response is issued.

This decision should be reached through consultation with the relevant Assistant Director and/or Director and include identification of those staff members requiring to be present at the meeting. Guidance notes developed with regard to complaints-related meetings are attached at **Appendix 8**.

21.2.5 It is the responsibility of the relevant Investigating Officer to prepare the draft response from the information obtained from the investigation. Guidance notes for Investigating Officers on drafting responses are provided in **Appendix 9**. The response should be clear, accurate, balanced, simple and easy to understand. The draft response should aim to answer all the issues raised in the complaint, be open and honest explaining the situation, why it occurred and reporting the action taken or proposed. The draft response should also include an apology where things have gone wrong with the aim of assuring the person making the complaint, that we have taken their concerns seriously. Useful phrases for possible inclusion in complaints responses is provided in **Appendix 10**.

21.2.6 The draft response should then be sent by the Complaints Team to the relevant Director, Assistant Director for approval and then forwarded to the Head of Clinical Quality and Safety/Governance Manager to be quality assured.

21.2.7 Complaints staff will amend the draft response, if required, and forward it to the Chief Executive for approval/signature

21.2.8 If it has been identified that there will be a delay in the draft response being prepared or forwarded it is important that the relevant Investigating Officer, or Assistant Director notify complaints staff of the likely length of any delay and the reason/s for this. This will allow complaints staff to issue a holding letter to the person making the complaint at the earliest possible opportunity.

21.2.9 As required by the Department of Health, Social Services and Public Safety complaints must be investigated and the person making the complaint issued with a written response from the Trust within 20 working days. A holding letter will be issued, if necessary explaining that the response will be delayed and providing a reason for the delay. Any additional delays should be notified to complaints/ staff to allow them to keep the person making the complaint informed of progress. Any delay in issuing the written response should not normally exceed an additional 20 working days.



- 21.2.10 An offer to meet with the person making the complaint may be included in the written response, if this is felt to be appropriate. In advance of the response being issued contact details for a member of staff should be identified with whom complaints staff can liaise if the person making the complaint wishes to take up the offer of a meeting, requires additional information or feels there are outstanding issues requiring to be resolved.
- 21.2.11 A copy of the final response will be sent to the relevant Investigating Officer, Assistant Director and Director for appropriate action, learning and service improvement.
- 21.2.12 If the person making the complaint is not satisfied with the written response and has outstanding issues/concerns, action should be taken as appropriate in an attempt to review and resolve the complaint. The person making the complaint should also be advised of their right to take their complaint to the Northern Ireland Commissioner for Complaints (Ombudsman).
- 21.2.13 Information pertaining to each formal complaint should be stored centrally in the Complaints Department within a master file ensuring there is a complete record of the investigation and action taken, should this information be requested by the Northern Ireland Commissioner for Complaints or the Regulation and Quality Improvement Authority.
- 21.2.14 Complaints staff can be contacted for advice by Investigating Officers, Assistant Directors and Directors if necessary during the investigation of complaints and when draft responses are being prepared.

22) The Northern Ireland Commissioner for Complaints (Ombudsman)

- 22.1 Complaints may be made to the Commissioner for Complaints where:
- the Trust has refused to investigate a complaint where it felt the complaint fell outside the time limits set by HSC Board;
 - a service user or their representative is dissatisfied following receipt of the Trust's written response and have exhausted the local resolution process.
- 22.2 There may be circumstances where the Ombudsman is prepared to accept a complaint directly without the person having first put their complaint to the organisation concerned.
- 22.3 The Ombudsman is completely independent of both the DHSSPSNI and the Government and can be contacted by completing a complaint form (available from the Ombudsman's Office) or if preferred individuals may write a letter of complaint. To ensure complaints can be dealt with as quickly as possible, information should be provided regarding the organisation being complained about, what is being complained about and how the person has suffered as a result. Any relevant correspondence or documentation should be enclosed along with the complaint and sent to:

Northern Ireland Ombudsman
Free post BEL RTKS-BAJU-ALEZ
BELFAST
BT1 6BR
Freephone: 0800 34 34 24
E Mail: ombudsman@ni-ombudsman.org.uk, www.ni-ombudsman.org.uk

23) Learning from Complaints

- 23.1 The Trust supports the ethos of learning from complaints and regular reports are provided to Directors and management staff to ensure that they are made aware of any issues of learning arising from complaints.
- 23.2 Directors, Assistant Directors, managers and staff are responsible for ensuring that actions/learning identified is implemented. The Complaints Forum Committee will request updates on progress, as necessary.

24) Performance Management - Reports

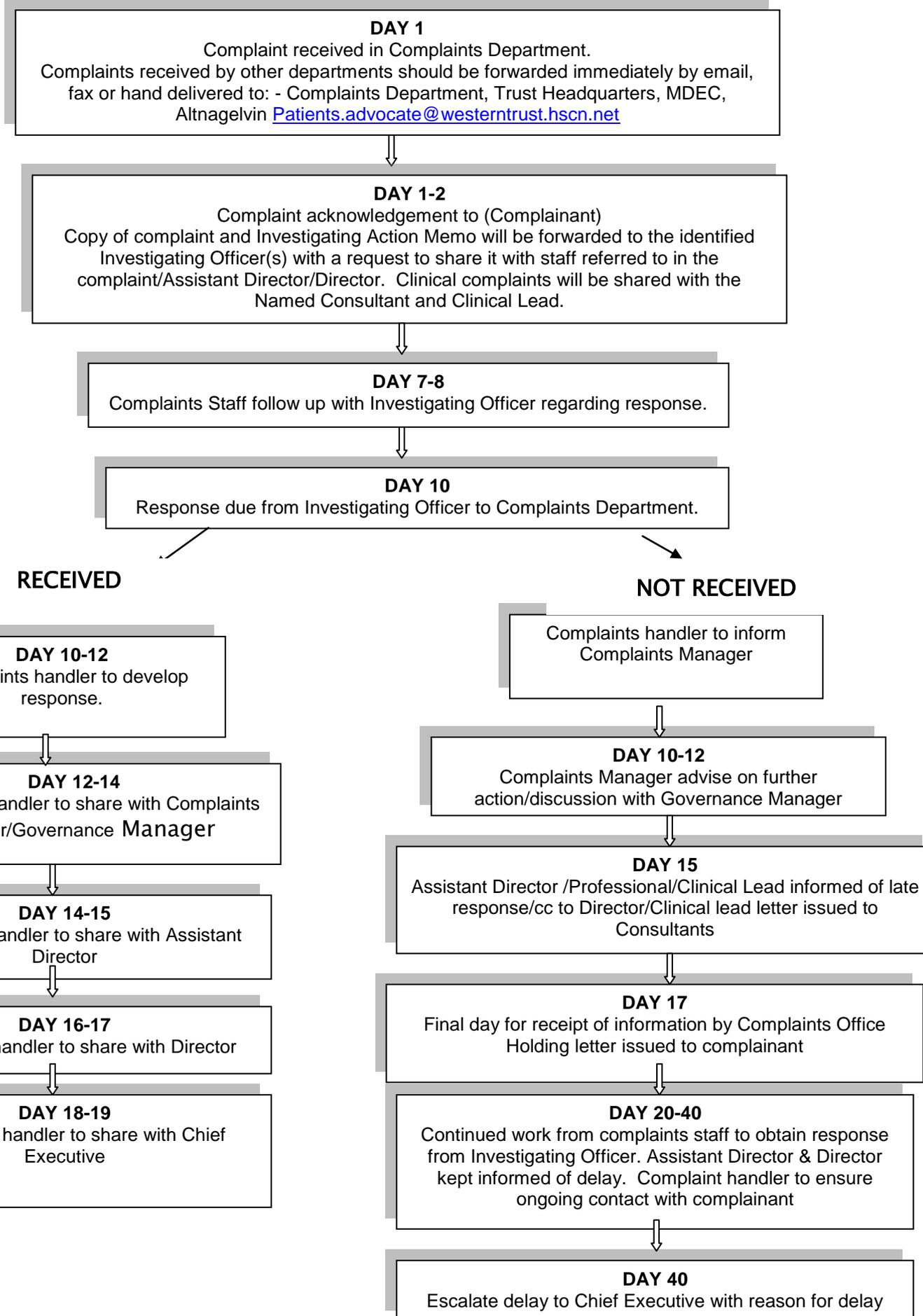
- 24.1 The Governance Manager will ensure that quarterly and annual reports are produced which include information on complaints management. Such reports will be considered by the relevant Committees within the Trust's Governance Accountability Framework.
- 24.2 The Complaints Manager will be responsible for ensuring that appropriate monitoring reports are returned to the Department of Health, Social Services and Public Safety and other organisations as required.
- 24.3 Directors will receive copies of all quarterly and annual service reports and analyses produced by complaints staff for their consideration, and onward dissemination to senior managers and services/teams within their Directorate.
- 24.4 Such reports will be used to consider emerging issues/trends, potential risks and actions taken. This monitoring also providing assurance that lessons have been learned, ensuring information has been shared within Directorates and across the organisation and that service improvement has resulted thus minimising the chance of mistakes reoccurring.

25) Complaints Forum

- 25.1 The Complaints Forum main purpose, on behalf of Trust Board, is to seek assurance that complaints and other forms of service user feedback are managed in line with best practice and inform service improvements.

COMPLAINTS HANDLING FLOWCHART

Appendix 2



Criteria applicable to unreasonable, vexatious or abusive persons making complaints or enquiries

Aggressive or abusive behaviour

Violence is not restricted to acts of aggression that may result in physical harm. It includes the behaviour or language (whether verbal or written) that may cause staff to feel afraid, threatened or abused. Examples of behaviours grouped under these headings include: threats, physical violence, personal verbal abuse, derogatory remarks and rudeness. Inflammatory statements and unsubstantiated allegations are also considered to be abusive behaviour.

Staff should be treated courteously and with respect. Violence or abuse towards staff is unacceptable and a Zero Tolerance approach must be adopted. Often a person making a complaint or enquiry can be angry due to the subject matter of their complaint. However, it is not acceptable when anger escalates into aggression directed towards staff.

Unreasonable demands

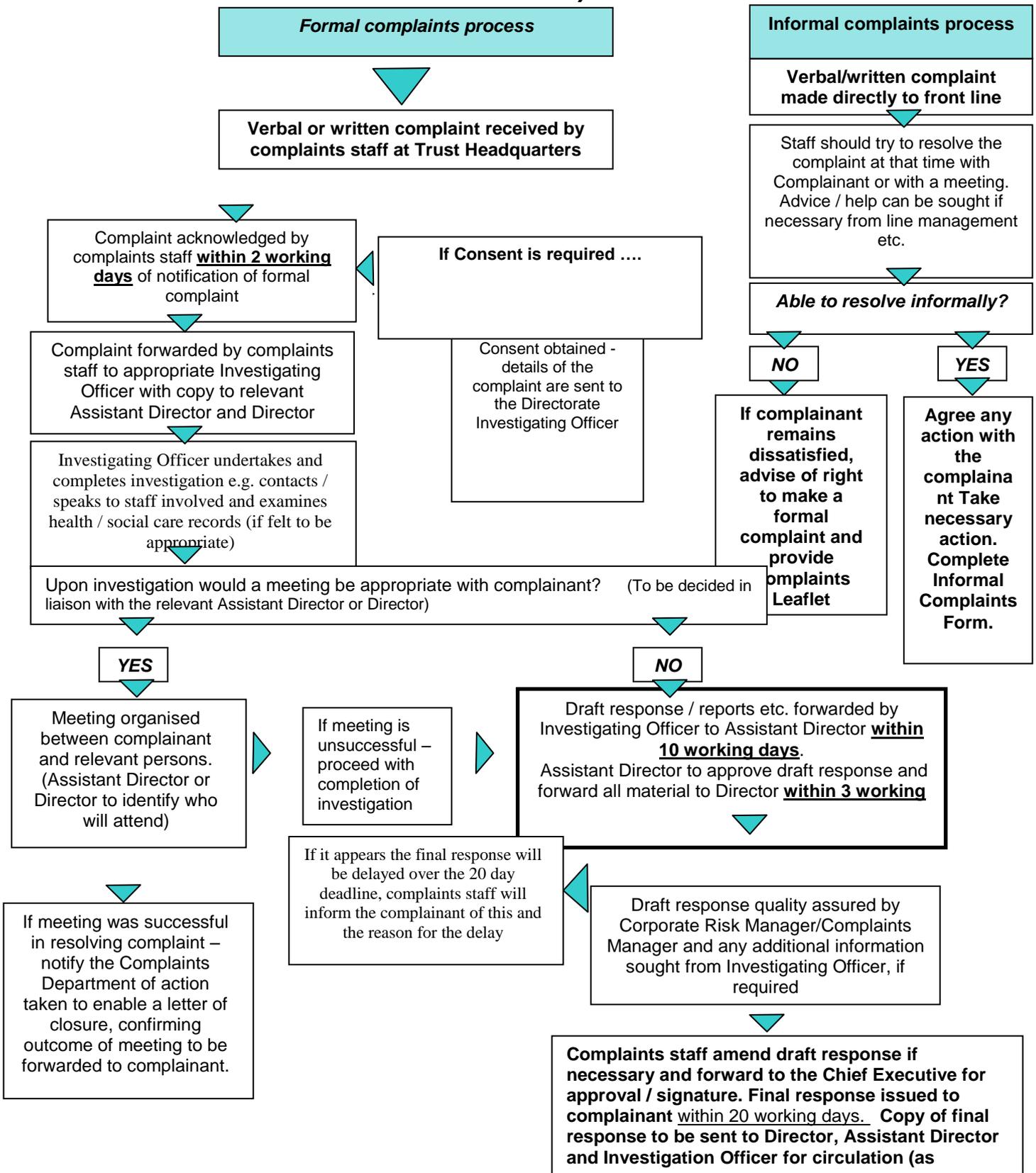
A person making a complaint or enquiry can make unreasonable demands through the amount of information they seek, the nature and scale of service expected or the number of approaches he/she makes. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the seriousness of the issues raised. Examples of actions grouped under this heading include demanding responses within an unreasonable timescale, insisting on seeing or speaking to a particular member of staff, continual telephone calls or letters, repeatedly changing the substance of the complaint or raising unrelated concerns.

Such demands will be considered unacceptable and unreasonable if they start to impact substantially on the work of the organisation, such as taking up an excessive amount of staff time to the disadvantage of other persons making complaints or enquiries or functions.

Unreasonable persistence

Some persons making complaints or enquiries will not or cannot accept that the Trust is unable to assist them further or provide a level of service other than that provided already. Such persons may persist in disagreeing with the action or decision taken in relation to their complaint or enquiry or contact the Trust persistently about the same issue. Examples of actions grouped under this heading include persistent refusal to accept a decision made in relation to a complaint, unwillingness to accept documented evidence as being factual, persistent refusal to accept explanations relating to what the Trust can or cannot do and continuing to pursue a complaint without presenting any new information. Such actions are considered unacceptable when they take up what the Trust regards as being a disproportionate amount of time and resources.

Complaints Procedure – Actions and Responsibilities (Local resolution)



Criteria for use by staff in determining which complaints might be suitable for informal resolution

Possible complaints which might be suitable for informal resolution:

- Communication/information issues;
- Staff attitude/behaviour (excluding negligence/misconduct issues);
- Alleged breaches of confidentiality or issues regarding patient/client privacy or dignity;
- Waiting times for outpatient appointment, community services or at Accident and Emergency Departments;
- Appointment delay or cancellation (outpatients);
- Delay or cancellation of admission, operation or procedure;
- Transport issues – late or non-arrival of transport, journey time and suitability of vehicle/equipment;
- Quality of treatment and care;
- Access to premises/facilities;
- Records/record keeping issues;
- Assessment of need;
- Patients' status/discrimination issues;
- Consent to treatment;
- General/minor infection control issue;
- Complaints about the environment, Hotel or Support Services, Security.

Complaints which **should** be dealt with through the formal complaints process:

- Complex complaints involving more than two service areas;
- Complaints made in relation to someone who has died whilst in receipt of services or where it is felt the Trust contributed in some way to the person's death;
- Complaints which indicate possible medical/clinical negligence;
- Complaints likely to attract significant media attention;
- Complaints where possible future legal action has been indicated;
- Complaints which relate to an area where an external or independent review is planned or underway;
- Complaints where the person making the complaint has clearly indicated that they had initially raised their concern/issues with front line staff and that resolution had not been possible;
- Complaints relating to misdiagnosis;
- Policy or commercial decisions;
- Patients' property/expenses/finance;
- Complaints about waiting lists for services (where explanation from service has not been accepted);
- Complaints about quantity of treatment and care;
- Complaints about waiting for aids, adaptations and appliances;
- Complaints relating to contracted regulated establishments and agencies or other contracted services;
- Discharge/transfer arrangements.

Investigation template for Investigation Officers
(To assist with audit trail and drafting the response)

Reference number:	
Date sent to Investigating Officer:	
Name of person making complaint:	
Service user name (if different from above):	
Investigating Officer:	
Date info to be sent to Assistant Director:	
Date info to be sent to Director	
Date info to be returned to complaints/service user experience staff:	
Responsible Complaints Officer:	

Summary of complaint:

Read through the complaint and summarise the key issues contained in the complaint or enquiry. Identify what the complaint is asking for e.g. apology, additional services etc.

Identify who is being complained about (including names/full job titles, where appropriate)

Investigation:

If specific staff members referred to in complaint arrange to speak to or obtain statements from them.

Date statement/s requested (and whom from):

Date statement/s obtained (and whom from):

If no staff mentioned specifically, obtain statements from those staff involved in the area of care relevant to the issues contained in the complaint.

Date statement/s requested (and whom from):

Date statement/s obtained (and whom from):

Need to discuss with Assistant Director or Director whether contact or meeting required with person making complaint before the written response is issued? Complex or serious complaints only

Yes / No

If Yes, date discussed:

Action recommended/taken:

Need to obtain and review relevant section/s of case notes/records?

Yes / No

If Yes, date reviewed:

Information obtained from review of case notes/records:

(Note: you need to be mindful of the following – errors, inconsistencies, omissions, over-writing, non-chronological entries)

Note: Contact complaints/service user experience staff immediately if you know that the draft response will not be ready within 10 working days of receipt of information

Findings/Analysis

Check statement/s and reports received for accuracy. Any conflicting information should be identified

Set out the findings in the order they appear in the complaint. Make sure all points are addressed

There is no need to include background information, or past medical history or dates seen or reviewed unless specifically relevant to the complaint

If through contact with the person making the complaint further issues have been raised, please include these in the response being issued.

Conclusions

Set out the conclusions from the findings. You should identify what went wrong, if anything, and why?

You must be able to satisfy yourself that the investigation process was robust and you have gained all the facts necessary to enable you to draft the response

When preparing the draft response:

- Be non-defensive and apologetic, where appropriate
- Do not include any opinions
- Make sure technical language, medical/clinical terms and abbreviations are explained.

Identify recommendations that are to be made as a result of the investigation.

Some possible actions have been detailed:

- No action required
- Apologise and offer a remedy
- Are there lessons to be learned from the complaint and if so, what action is to be taken
- Does the complaint identify a gap in services
- Does the complaint identify that policies/procedures need to be tightened/revised
- Do staff need training/re-training.

Complete Summary of Action Form regardless of whether action is taken or not

Draft response

Forward copy of draft response, investigation template, Summary of Action Form and relevant statements and reports to relevant Assistant Director

Date material forwarded:

Outline in chronological order any telephone calls or meetings held (including notes taken) during the investigation not detailed elsewhere on the template

Date:	Notes of telephone calls, meetings, interviews, requests for information and other investigation activity not recorded elsewhere

Note: This template can be extended and added to as required.

Staff guidance notes on writing statements and reports

Statements and reports

Trust staff may be asked to help with an investigation into a complaint or enquiry by providing a written account. The following guidance aims to help staff with writing a statement or report.

Begin with your full name, work base, job title and location at the time of the complaint. Refer to the service user's case notes or records, if necessary/applicable.

Statements and reports should be:

- Factual;
- A record of what you did and why;
- An accurate and full description of what happened giving precise dates and times;
- Honest;
- Thorough;
- Legible;
- A record of why you did certain things rather than others.

They should not:

- Be written hastily, briefly, dismissively or seek to blame others;
- Avoid giving opinions and use of hearsay (i.e. someone else's view or version of events);
- Make statements beyond your knowledge or recollection;
- Comment on the aftermath, rather than the event;
- Make subjective statements;
- Comment on what you would have done according to normal practice;
- Include jargon or abbreviations (without providing explanations).

Read through your statement carefully. Sign and date your comments at the end. Keep a copy for reference in a safe place and forward to the relevant Directorate Investigating Officer within the identified timescale.

Guidance notes for complaints-related meetings

Meetings can be a particularly effective way of diffusing a potential complaint, resolving an ongoing complaint or clearing up outstanding issues following a final response to a complaint. It is often far easier to discuss issues and avoid misinterpretation through verbal communication rather than written correspondence.

A meeting may be helpful initially if the complaint is complex.

You may find some staff will say “we’ve already been through this and have answered their concerns” but maybe the person making the complaints did not understand it or wants clarification. Therefore, a meeting should be seen as a tool to assist resolution of the matter and lessen the likelihood of an escalation of the issue.

Checklist

- Meetings will be organised by the Directorate in which the complaint is ‘lodged’.
- Check with the person making the complaint what their issues are and make them aware they can be supported at the meeting by a person(s) of their own choosing. Seek clarification if anyone will be attending with them.
- Determine with the person making the complaint where and when the meeting will be. The person making the complaint may have views on which staff should be present at the meeting
- Consider carefully which staff need to attend the meeting. Remember too many Trust staff in attendance at the meeting may be intimidating for the person making the complaint. Decide who will chair the meeting, which will usually be a senior manager at Level 4 or above.
- In difficult cases you may wish to set a deadline at which the meeting will end.
- Before the meeting, review the circumstances and details with staff involved and with staff who will be at the meeting, to maintain honesty, accuracy and consistency.
- Make sure everyone who is to be involved in the meeting is kept up-to-date.
- If you feel the person making the complaint or those in attendance with them may be intimidating to a staff member you may take the decision not to have that staff member at the meeting.
- Ensure that staff who attend the meeting are briefed and offered support, they should not be left to take the full brunt of the person’s anger etc.
- Ensure the venue is appropriate. Have refreshments, water etc. available.
- Begin with introductions and your understanding of the reasons for the meeting.
- Listen – ask the person making the complaint to outline his/her key issues. Clarify any outstanding issues from those that might already have been addressed.
- Have the background file to hand for reference, if required.
- Accept blame and apologise if necessary.
- Have someone identified to be a note-taker at the meeting. Their role is to summarise the key points, actions agreed and who will undertake them as well as any outstanding issues. This will enable a written response to be issued after the meeting, if necessary.
- It is important to stress at the beginning of the meeting that detailed notes/minutes will not be taken instead information recorded will be as outlined above.

- At the end of the meeting the chair will summarise key actions in response to the issues raised to make sure all the points have been covered. Where issues have not been resolved, explain to the person making the complaint what will happen next and when. For example, further information may need to be obtained and forwarded to the person making the complaint or the Trust will write to the person making the complaint outlining the reason why it is not possible to answer the issues raised.
- Adhere to any timescales you have agreed at the meeting.
- Complaints staff will not be in attendance at any meetings except with regard to complex complaints where their presence is considered to be of particular value or benefit.
- Similarly, conciliators can be involved to chair a meeting if agreed by all parties. The conciliator is an independent lay person, not employed by the Trust, who acts as a neutral mediator between the person making the complaint and those complained against in order to resolve outstanding concerns. The aim being to identify areas of conflict, make sure all issues are fully discussed and help bring the situation to a satisfactory conclusion and resolution, if possible. Alternatively, a senior manager from another Directorate could be approached to chair the meeting with a view to resolving the person's issues/concerns.

Guidance notes for Investigating Officers on drafting responses

Responding to complaints

This guidance sheet has been drafted to assist Investigating Officers draft responses to complaints. It outlines the Trust's commitment to making sure that people making complaints receive appropriate, timely and constructive responses which address their concerns and provide information on necessary action/improvements.

Care needs to be taken when drafting responses. Here are some shortfalls in responses previously received.

Complaints responses:

- are sometimes poorly written in terms of vocabulary or grammar or contain technical terms, medical terminology or abbreviations which are not understood by the person making the complaint;
- are often defensive rather than constructive;
- do not answer all the points raised in the letter/complaint;
- do not include apologies when appropriate;
- do not include details which demonstrate that an investigation has been undertaken;
- do not mention any follow-up or learning/action taken or to be taken;
- do not demonstrate that there was an offer of a meeting with complainants for complex complaints;
- are delayed; or
- include an unnecessary chronology of care.

This results in:

- the draft response being returned for redrafting;
- delays in meeting the 20 day target set by the DHSSPS;
- potential adverse involvement of the media etc;
- cases being referred to the Northern Ireland Commissioner for Complaints (Ombudsman);
- dissatisfied complainants/further correspondence; and
- problems for risk management.

Think of the positive value of complaints:

- they are a measure of quality (or lack of it);
- they are a catalyst for change;
- they aid future planning;
- they reflect the views and opinions of our service users;
- they project the image of the organisation; and
- they can be an early warning system.

Steps to a good response:

- read the complaint and identify the key issues;
- address each issue as identified by the complainant;
- think of the complainant not yourself;
- give explanations;
- avoid using technical language or being verbose;
- apologise if necessary;
- imagine you are speaking to someone;
- outline action taken or planned to prevent the event occurring again;
- write as much as possible in active not passive tenses e.g. “We will send a report to your doctor” rather than “A report will be sent to your doctor”;
- leave the complainant feeling that they have been taken seriously and their concerns have been listened to and acknowledged;
- avoid being patronising or too defensive; and
- ensure that all facts are correct.

How to ensure the tone of your response is right:

- if the tone of your complaints response is in jeopardy of showing a negative view of complaints then it may be better to allow someone else to read it to see if they pick up a negative tone;
- take the time to do a personal check where you step out of your role and put yourself in the shoes of the complainant to see if you have satisfactorily answered the complaint. Look at the situation from their point of view – would you be satisfied with the response; and
- if there is a reason why a specific issue cannot be addressed this should be stated in the response.

Remember to:

- address the reader directly;
- keep sentences short and simple;
- explain any abbreviations; and
- avoid jargon.

What leaves the complainant dissatisfied?

- Not addressing or answering key points.
- Not acknowledging feelings/perceptions.
- Responses which are too technical, patronising or defensive.
- Responses with a chronology of care not relevant to the concerns raised.
- Factual inaccuracies and silly mistakes.
- No details of appropriate changes/improvements are given.

Useful phrases for possible inclusion in complaints responses

A template for preparing a draft response has been developed. The following phrases may prove helpful to Directorate Investigating Officers when drafting responses:

- In discussion with ...
- I was sorry to hear that you were unhappy with ...
- I am sorry you found [xx] to be upsetting, as this was not the intention.
- The normal practice is [xx]. I am sorry in this instance this did not occur.
- I apologise for any additional anxiety this caused.
- As a result of your letter ...
- I trust that my letter has answered the issues you raised and I sincerely regret that this situation arose.
- It is always our intention to provide excellent and responsive care for service users and I am sorry you found this not to be the case/this is not reflected in your experience.
- Your experience of our services falls short of the standard we set for patient/client care and I would like to apologise, as would all staff concerned, for the stress and anxiety this experience has caused you.
- The Trust would expect all staff to treat service users with respect and dignity and would apologise for any staff rudeness. [he/she] would like to assure you that this was not [his/her] intention.