

COMPLAINTS POLICY

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The electronic version of this document is the definitive version	

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1	Oct 2006	Policy drafted
2	July 2009	This policy supersedes the policy 'Complaints Policy and Procedure Learning from experience' (October 2006).
3	Oct 2010	This policy supersedes the policy 'Complaints Policy and Procedure Learning from experience' (July 2009).
4	Oct 2012	This policy supersedes the Policy dated Oct 2010 and incorporates the changes required to meet the new documentation procedural framework.

A translation service is available for this document. The Interpretation/Translation Policy, Guidance for Staff is located on the intranet under Trust-wide Policies.

ACCESS TO THIS POLICY

This policy will be given, free of charge, to any person who makes such a request. It will be available on the Trust's website.

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THE DUDLEY GROUP NHS FOUNDATION TRUST

COMPLAINTS POLICY

1. INTRODUCTION

The Trust is firmly committed to continuously improving the quality of care and the services it provides and one of its aims is to ensure the satisfaction of its customers and users. The Trust is accountable for its services and is keen to promote and adhere to the values of public service. It therefore encourages the views, comments and suggestions of its service users, their families and carers, to learn from their experiences.

Competent handling of complaints can assist in improving the quality of care by listening to the voice of service users and using this as an opportunity for the organisation to learn from patient/carer experience.

It is important that the Trust has a consistent and orderly process for receiving and handling complaints appropriately and making positive use of the information gained to avoid similar occurrences, and to generally improve services. People must be able to complain in a variety of ways and expect a detailed, considered and prompt response. They must not have their avenues of complaint restricted by rigid systems.

2. STATEMENT OF INTENT

The Trust will listen and respond to concerns raised by patients and/or their carers/representatives, to learn from their experiences and improve services. Issues raised will be dealt with promptly, fairly and justly with the primary aim of resolving problems to the complainant's satisfaction as soon as possible. The Trust will promote fairness for both staff and complainants and ensure that complainants are not discriminated against and that any complaint made does not prejudice the care and treatment provided.

The Trust's complaints procedure aims to meet the following criteria:

- be well publicised and easy to access
- be simple to understand and use
- be fair, impartial and open
- allow complaints to be dealt with promptly and as close to the point where they arise as possible
- provide answers or explanations quickly and within established time limits
- ensure that rights to confidentiality and privacy are respected
- provide a thorough and effective mechanism for resolving complaints and also matters of concern
- enable lessons learned to be used to improve the quality of services
- be regularly reviewed and amended if found to be lacking in any respect
- provide the essential information for complaints reporting, eg. Copy of complaints procedure to complainant (containing information regarding assistance from ICAS-POhWER and the Parliamentary and Health Service Ombudsman).
- ensure complainants are treated courteously and sympathetically

3. SCOPE

This policy is applicable to all staff employed by the Trust (including bank, temporary or short-term contract staff). It covers contact by members of the public that can be as a result of service delivery or through processes such as Freedom of Information, Data Protection, Customer Care or general enquiries.

It is also applicable to contact from representatives of other organisations and independent contracted bodies.

4. DEFINITIONS

A **complaint** is an expression of dissatisfaction about any aspect of the Trust's services requiring a response.

5. DUTIES (RESPONSIBILITIES)

5.1 Board of Directors

The Board of Directors will ensure that robust arrangements are in place to manage and respond to all concerns raised by patients and/or their carers/representatives. They will ensure that appropriate action is taken to continuously improve the quality of care and services provided to deliver customer and user satisfaction.

5.2 Chief Executive

The Chief Executive has overall responsibility for ensuring that an effective system is in place for the management of concerns and complaints. The Chief Executive is responsible for undertaking the role of 'responsible person' as defined in the Regulations namely:

- Ensuring compliance with the arrangements made under the Regulations
- Ensuring that action is taken, if necessary, in the light of the outcome of a complaint
- Responsible for the content of the written responses sent to complainants following formal investigation under the Trust's Complaint Procedure

5.3 Director of Nursing

The Director of Nursing is the lead Director for the complaints and claims service and is responsible for developing and implementing strategies to move from reactive complaints based culture to a proactive customer relations approach.

5.4 Clinical Directors, Medical Services Heads, Matrons, Business Managers and Senior Managers

Clinical Directors, Medical Services Heads, Matrons, Business Managers and all Senior Managers have responsibility for ensuring that investigations are carried out in a timely fashion.

They are also responsible for providing information to the Complaints Co-ordinators to meet the timescales for the response agreed with the complainant and will:

- Ensure their staff comply with the Trust's Complaint Policy and associated Procedures, and provide appropriate support and training to enable staff to deal with complaints at a local level where possible.
- Ensure that Complaints and PALS literature is available and accessible to patients and staff throughout their area of responsibility.
- Inform the Complaints & Claims Manager of all written complaints received.
- Ensure that lessons are learned and appropriate actions are taken as a result of the outcome of complaints.
- Inform the Complaints & Claims Manager of remedial actions taken.
- Ensure that complainants are not discriminated against and that any complaint made does not prejudice the care provided.

5.5 Complaints and Claims Manager

The Complaints and Claims Manager is responsible for managing the complaints process and for co-coordinating and responding to complaints and for:

- Assessing each complaint received and grading according to the matrix ([Appendix 1](#)).
- Assessing the complaint to establish whether it carries any risk or litigation or a potential admission of liability.
- Ensuring an acknowledgement is sent within 3 working days and the complainant is sent a copy of the Trust's Complaints leaflet, which includes contact details for the Ombudsman, ICAS and other information relating to the complaints procedure.
- Ensuring Clinical Directors and General Managers will receive a copy of all complaints relating to their area
- Immediately notifying the appropriate Director, Medical Service Head, Professional Head of Service, Senior Manager or Matron of any complaint involving the professional conduct or competence of medical, nursing, or other professional staff
- Ensuring a record of the handling of each complaint is maintained and entered onto the Trust incident reporting system (Datix).
- Providing guidance and support to staff and the Complaints Co-ordinators for the management of complaints and enquiries

- Checking each response prepared by the Complaints Co-ordinators to ensure it contains sufficient explanation to the complainant, with explanations for any clinical terms.
- Collating information for Independent Review by the Parliamentary & Health Service Ombudsman when requested
- Operational monitoring of the effectiveness of the complaints procedures
- Liaising with Local Authority, PCT and others organisations in the provision of a joint response where the complaint involves more than one provider and for ensuring there is one complete and co-ordinated response to the complainant
- Providing a copy of the complaint file to organisations, eg the Coroner, or Solicitors (for the latter appropriate authorisation would be required)

5.6 Complaint Co-ordinators

The Complaint Co-ordinators are responsible for:

- Investigating complaints
- In conjunction with the Complaints and Claims Manager, ensuring immediate notification to the appropriate Director, Medical Service Head, Professional Head of Service, Senior Manager or Matron of any complaint involving the professional conduct or competence of medical, nursing, or other professional staff
- Co-coordinating a response to a complaint
- Providing the written response for the Chief Executive's consideration and signature
- Ensuring (in conjunction with the complaints and claims manager) that complaints/incidents are placed on the Trust 'red incident matrix'
- Ensuring staff are aware of their special responsibilities towards service users who would have difficulty in making a complaint on their own behalf
- Requesting staff to take any necessary action to protect the patient's interests.

5.7 PALS Team

The PALS team will provide assistance to patients/relatives/friends and will convey any concerns to the relevant matron/lead nurse/consultant to try to resolve issues raised at ward/department level. If the complaint is not concluded to the satisfaction of the complainant within one working day, it will be investigated formally under the NHS complaints regulations, unless otherwise agreed by the complainant.

5.8 All Staff

Any member of staff who is approached by a patient or their representative with a complaint should endeavour to resolve the matter there and then. If this is not possible, a member of the PALS or complaints team should be contacted for further advice or assistance. If approached by a Complaints Co-ordinator, staff should provide comments or explanations to issues raised by complainants.

All staff will co-operate with investigations as requested and provide information to the Complaints and PALS team in a timely manner. They will also:

- Know how to access the complaints policy and understand their own responsibilities as a member of staff
- Work within the standards and guidelines outlined in the complaint policy and associated procedures
- Inform their line manager of any complaints received, assuring patients and their representatives that any complaint made will not prejudice the treatment and care they receive
- Review their practice as a result of any complaint or concern raised or received.

6. COMPLAINTS PROCESS

6.1 General Principles

It is important that the correct procedures are followed and that the contents of this document are brought to the attention of all staff who are likely to receive complaints and service users who wish to express their dissatisfaction. Complaints will be viewed in a positive way by using them to identify what service improvements should occur and to ensure the organisation learns from experiences. Health Service Providers have a responsibility to do all that is possible to reduce the need for complaints by service users.

The Trust will act in accordance with the legal directions of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. The regulations consist of a two stage complaints process, the first stage being a complaint made directly to the Trust, or its commissioning body, the second stage being the Parliamentary & Health Service Ombudsman.

The Complaints and Claims Manager is the officer responsible for administrative co-ordination, and for ensuring that complaints are actioned in line with the guidance. He/she will investigate and respond to complaints directed to the Chief Executive or other members of staff.

Good complaints handling by public bodies means:

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement

6.2 Proactive Complaints Management

Staff members will aim to resolve complaints quickly and on the spot, wherever possible. This may be through an immediate informal response by a front-line member of staff or practitioner, or through subsequent investigation. Staff will also inform service users of the PALS service and contact them on behalf of service users, if requested. The complaints procedure will be widely advertised throughout the Trust, with leaflets available within departments, and further supplies available from the Complaints and Claims Manager.

The following principles are to be applied in any communication with the complainant:

- Listen to the concerns being expressed
- Be open, fair, flexible and conciliatory
- Be courteous and sympathetic
- Be apologetic where appropriate; an apology is not an admission of liability
- Be prompt and follow the established time limits for acknowledgement (3 working days) and reply (within 6 months or on a date agreed with the complainant).

6.3 Managing Complaints Received

6.3.1 Written Complaints

Written complaints may be received by the Chief Executive, Complaints and Claims Manager, Complaints Co-ordinator or any member of staff working within the Trust. All written complaints should be forwarded to the Complaints and Claims Manager, in the first instance, to be registered and formally acknowledged (within 3 working days). This will not delay the commencement of the investigation.

6.3.2 Verbal Complaints

Verbal complaints are viewed as seriously as written complaints. Any member of staff who is approached by a patient or their representative with a complaint will endeavour to resolve the issues at the time. Any verbal complaint which cannot be resolved to the complainant's satisfaction within one working day should be forwarded to the complaints and claims department to register and acknowledge.

It may be appropriate for the entire process of local resolution to be conducted verbally, without any written communication. However, where the complainant indicates that they are not satisfied with the verbal response, or where the person dealing with the complaint considers that the complainant may wish to take the matter further, it is recommended that the matter be concluded with a letter to the complainant. Any such letters will be signed by the Chief Executive (or a Director or Deputy Director) in her absence.

6.3.3 Complaints via Email

Complaints received via email will be viewed as seriously as written complaints and processed in the same manner. Any acknowledgement or response letters should be sent by post. Signed consent may still be obtained from the patient before responding to patient specific issues and steps should be taken to maintain patient confidentiality if this medium is used to make a complaint.

The Complaints Co-ordinators must ensure the email is bona fide by contacting the complainant, or the patient, to seek authorisation to investigate the complaint and release confidential information.

6.3.4 Complaints via a Third Party

There are many occasions where a complaint is made indirectly through a third party (e.g. Member of Parliament, parent or sibling). The process and investigation will normally follow the same procedure as a complaint which is made directly by a patient.

However, in all cases, when a letter of complaint is received by a third party, the complaints and claim team will acknowledge the letter and request the patient's consent to release their confidential medical information.

Exceptions will include requests from a parent of a patient under the age of 16 (if a child is considered capable of understanding the implications of their decisions then their wishes should be followed) and complainants who have guardianship or power of attorney which has been registered with the court of protection.

In all cases the status of the complainant should be confirmed and each request will be considered on a case by case basis. If it is evident from the complaint that the patient is unable to consent to the investigation, the Complaints and Claims Manager will decide whether to proceed, following discussion with the complainant.

When a complaint is received relating to a deceased patient, the consent of the next of kin will be obtained.

Occasionally, a complaint will be received where the complainant has no apparent connection with the patient concerned. In such cases, before any investigation commences, the following points will be clarified:

- Does the patient know a complaint has been made on his/her behalf?
- Has the patient authorised the complainant to make enquiries or can an acceptable connection be established?

Letters received from solicitors raising a complaint on behalf of an individual must be dealt with in the same way as all other complaints unless it is explicit that legal action is intended, in which case the matter will be dealt with as a Claim against the Trust and will be referred to the NHS Litigation Authority.

If consent is not given, the Complaints and Claims Manager will not proceed with an investigation and no response will be provided.

6.3.5 Complaints about a Continuing Care Decision/Step Down Decision

A patient who has had their case considered by a continuing care review panel does not affect their rights under the NHS complaints procedure. They can complain about the original decision on discharge, or the continuing care review process, through the NHS complaints procedure and all such incidences are forwarded to the PCT by a member of the complaints or PALS team.

6.3.6 Complaint Involving a Specific Member of Staff

A complaint involving a specific member of staff will be referred to the appropriate medical service head/matron/head of department, who may decide to contact a member of the human resources directorate to request support. Any such complaints are recorded on the complaints database by the complaints/PALS team.

6.3.7 Complaints Concerning a Possible Criminal Offence, Alleged Physical Abuse of Service Users or an Adverse Incident Involving Harm to a Patient

- a. A possible criminal offence
- b. The alleged physical abuse of service users
- c. A serious untoward incident involving harm to a patient or
- d. A matter which should be referred to one of the professional regulatory bodies

Where a complaint concerns any of the above, the Complaints and Claims Manager and/or PALS Manager will inform the appropriate Director, Medical Service Head, Business Manager, Matron and Head of Department immediately (verbally if possible) or by email.

This notification may be made at any point during any stage of the complaints procedure by the Complaint and Claims Manager/PALS team/or investigating officer. The Trust's policies on incident reporting/investigation or the management of adult abuse/child protection will be followed, where appropriate.

For possible criminal offences, the Complaints and Claims Manager will also refer the matter to the Chief Executive or a Director in her absence, when consideration will be given to involving the police.

The Complaints and Claims Manager will inform the Director of Finance of any possible financial offence and the local counter fraud specialist and/or local security management specialist may also be notified.

6.3.8 Complaints Involving Litigation or Requiring Legal Advice

Legal advice on particular aspects of a complaint may be sought if there is the possibility of litigation ensuing. Where a complaint is already a case of possible litigation and particularly where the approach is made by solicitors acting on behalf of a patient, the matter will be referred immediately to the Complaints and Claims Manager (if not already notified). Authorisation from the patient will still be required and will be requested if not already provided.

A letter acknowledging receipt of the complaint will be sent to the solicitor. The complaints coordinator will initiate enquiries immediately but any correspondence with the complainant will be agreed with the complaints and claims manager who will seek legal advice from Trust solicitors if necessary.

6.3.9 Correspondence from the Press

If correspondence is received from the press, the communications manager will be informed immediately and any relevant supporting information required will be provided by the complaints and claims or PALS team.

6.3.10 Freedom of Information Act

The complaints procedure cannot deal with complaints about non-disclosure under the Freedom of Information Act. These are subject to appeal to the Information Commissioner. Relevant information should be sought from the Trust's Information Governance Manager.

6.3.11 Staff Grievances

Staff grievances will not be reported through the complaints procedure but will be dealt with through the Trust's Grievance Procedure. Further advice can be obtained from the Human Resources Directorate.

7. LISTENING & RESPONDING TO CONCERNS & COMPLAINTS FROM PATIENTS, RELATIVES OR CARERS

7.1 Assistance with Complaints

Complainants who need assistance to make a complaint can be sent a copy of the Trust's complaints leaflet, which contains all necessary information (including contact details for ICAS advocates, who can make the complaint on their behalf). A copy of this leaflet is also included with the letter of acknowledgement, sent within three working days of receipt of a complaint.

7.2 Timescales for Dealing with Complaints

A complaint should normally be made within **12 months** from the date of the incident that caused the problem, or the date on which the matter which is the subject of the complaint, came to the notice of the complainant.

The Trust has discretion to extend this time limit where it would be unreasonable in the circumstances of a particular case for the complaint to have been made earlier and where it is still possible to investigate effectively and fairly.

The Complaints and Claims Manager will maintain a database in which each complaint is recorded and given a unique number. This number will serve as a future identifier for all future contact and correspondence. The database will be maintained to provide statistical returns to the Department of Health and data for quality monitoring.

A complaint will be acknowledged within three working days of receipt. The acknowledgement letter will confirm the likely response date (the aim is 25-30 working days) and a copy of the Trust's complaints information leaflet will be included with the acknowledgement. Where this is not possible, a new timescale will be agreed and confirmed with the complainant and, if possible, giving an explanation for the delay and an indication when the response is likely to be available.

If the complaint is a serious one, after discussion with relevant senior staff involved in the complaint, the complainant may be offered a meeting with staff to discuss concerns.

A 'hold letter' is sent to the complainant after 25 days if there is likely to be a delay in responding to the complaint.

A copy of the acknowledgement letter will be retained within the unique complaint file which will contain the details of the complaint and the unique complaint number generated from the complaints database.

A memorandum will then be generated, together with an issues form, and forwarded to appropriate members of staff requesting information to enable complaints co-ordinator to provide a written response from the chief executive.

Copies of complaints correspondence will **not** be held on the patient's health records and staff will be reminded of this when notified of the complaint.

7.3 Investigating a Complaint

Investigations will be independent and the complaints coordinator will have the relevant skills to undertake the task of investigating and responding to the complaint. All complaints/concerns received will be categorised according to the risk matrix ([Appendix 1](#)) by the Complaints and Claims Manager upon receipt of the complaint.

Extreme (major patient safety issues) and high (a number of major/complex patient safety issues) will be reported to the Patient Safety Group.

When a complaint involves a serious clinical incident, the investigation will take the form of a Root Cause Analysis (RCA) – see the Trust's Incident Reporting Policy for details.

The complaint/incident will be placed on the Trust 'red incident matrix' by the complaints and claims manager or the Complaints Co-ordinator, to ensure the investigation and any action plan is monitored by the Patient Safety Group which also takes responsibility for ensuring that issues of Trust-wide significance will be disseminated, as necessary, together with any lessons learned.

Clinical Directors and General Managers will receive a copy of all complaints relating to their area and will be responsible for ensuring an investigation is undertaken and all appropriate action taken to resolve issue(s) to avoid a recurrence. It is desirable that the complaint is dealt with as close to the point of delivery as possible to ensure a prompt reply and for appropriate remedial action to be taken.

If a complaint involves a locum member of staff who is no longer working for the Trust, attempts will be made to obtain a report from the staff member, via the agency from which they have been employed.

If this is not possible, an investigation will be undertaken by the consultant nominated by the relevant medical service head, obtaining as many details as possible, to enable a response/explanation to be provided to the complainant.

Where a complaint involves the professional conduct or competence of medical, nursing or other professional staff, the appropriate Director, Medical Service Head, Professional Head of Service, Senior Manager or Matron will be immediately notified by the Complaints and Claims Manager or Complaints Co-ordinator. Their advice will be sought before the reply is sent and they will agree the content of the response. The Complaints and Claims Manager will also immediately notify the Trust's Medical Director/Deputy Medical Director or Director of Nursing of any complaint involving Professional Medical conduct or competence.

Complaints Co-ordinators will ensure staff are aware of their special responsibilities towards service users who would have difficulty in making a complaint on their own behalf. They will also ask staff to take any necessary action to protect the patient's interests.

7.4 Response

Wherever practical, the response letter will be agreed with those involved before the reply is signed by the Chief Executive. Where it is clear that there has been a mistake or failure in procedures, this will be clearly stated and an appropriate apology given, except where this could constitute an admission of legal liability. In this case, the matter will be referred for legal advice. The Complaints and Claims Manager will contact the Trust's solicitors and agree a course of action. The complaints coordinator will forward the draft responses to the Complaints and Claims Manager before they are sent to the Chief Executive for signing.

The final response will confirm that local resolution is complete and will invite the complainant to notify the complaints department if they have any outstanding concerns.

7.5 Dissatisfied Complainant

Complainants who remain dissatisfied with the response to their complaint will be asked to confirm which issues require further investigation. A further response following will be provided and a meeting may be offered if it is thought this would help to resolve concerns.

The Trust's complaints leaflet advises complainants of the second stage in the complaints process, which is an independent review by the Parliamentary & Health Service Ombudsman (see 10.5).

7.6 Independent Review - Parliamentary & Health Service Ombudsman

If a complainant remains dissatisfied following local resolution they have the right to request an independent review of their complaint from the Parliamentary & Health Service Ombudsman. The Ombudsman's contact details are included in the complaints leaflet sent to complainants when their complaint is acknowledged.

7.7 Complaints Leaflet

The Trust's complaints leaflet explains the role of the Parliamentary & Health Service Ombudsman and a copy is provided with the complaint acknowledgement letter sent from the Complaints Department within 3 working days of receipt of the complaint.

The Parliamentary & Health Service Ombudsman has overarching control of the NHS Complaints Procedure.

A complainant may contact the Parliamentary & Health Service Ombudsman's office at any point. However, it must be noted that they are not likely to become involved until the local resolution process has concluded and will usually contact the complaints team to establish whether everything possible has been done locally to resolve the complaint.

Staff must be aware that, should the matter proceed to litigation, all the complaints documentation is subject to disclosure.

7.8 Meetings

The Complaints Co-ordinator will contact the complainant to agree a plan for the complaint investigation; this may include the offer of a local resolution meeting. The Complaints Co-ordinator will arrange the meeting and consult with all professionals involved to determine how it will be structured.

The Complaints Co-ordinator will conduct the meeting and ensure that notes are taken or a recording of the meeting (with the permission of the complainant) is made. Two members of Trust staff should normally attend any meeting and the complainant will be offered the opportunity to be accompanied.

A copy of the recorded disc will be sent to the complainant, together with a summary of the response to issues raised.

7.9 Patient Confidentiality

Care must be taken at all times throughout the complaints procedure to ensure that any information disclosed about the patient is confined to that which is relevant to the investigation of the complaint and only disclosed to those people who have a demonstrable need to know it for the purpose of the complaint. The consent of the patient to release confidential information will be sought when a complaint is made by a third party acting on their behalf.

8. HANDLING JOINT COMPLAINTS

The new two-step (local and national) process responding to complaints involving other authorities applies to:

- All NHS bodies (including PCTs and SHAs)
- All statutory providers of NHS care (including Foundation Trusts and Primary care providers)
- Voluntary and independent sector organisations who provide services under contract to the NHS
- Local authorities that provide adult social services

To ensure there is a coordinated handling of complaints all bodies will work together to resolve the complaint and agreement will be reached on who will take the lead in handling the complaint and communicating with the complainant, as well as co-operating fully with each other throughout the course of the complaint investigation and resolution.

The Complaints and Claims Manager will act as the liaison and conduit for any multi-organisational complaints.

8.1 Investigating a Joint Complaint

Where a complaint is received that involves other bodies, eg the local authority, another Trust, or a GP, the complainant will be contacted and asked how they wish the complaint to be investigated, that is (a) as a joint response, or (b) separate complaints with responses provided by each organization. Their authorisation will be sought to forward a copy of the complaint to the relevant body.

If the complainant wishes to have a joint response, the organisations will agree which body will take the lead in the investigation. Each organisation will investigate the complaint relating to their service and will provide comments to the lead investigator, who will collate all responses and draft a response letter. This will be sent to all organisations for agreement before the Chief Executive (or senior person in the organisation) signs the formal response.

A copy of the final, signed, response is then sent to all organisations involved in the complaint.

In the event that the complainant wishes each organisation to provide individual response, this is communicated to all bodies involved in the complaint and a response relating solely to their service is provided by each organisation.

9. MAKING IMPROVEMENTS AS A RESULT OF A CONCERN OR COMPLAINT-LEARNING & SHARING LESSONS

The Trust understands that complaints are a meaningful way to understand the concerns of patients and members of the public and encourages all staff to recognise complaints as a learning opportunity.

When a complaint meets the serious incident criteria, the Trust may use root cause analysis methodology when reviewing the complaint. This will be undertaken for all incidents with patients' safety implications and other serious incidents, at the discretion of the Matron, Medical Service Head or Business Managers responsible for the area, to ensure the appropriate approach is taken.

9.1 Monitoring improvements

Where complaints are upheld and actions subsequently required, the Trust will seek to ensure that these actions are addressed.

Matrons, Medical Service Heads, Business Managers or Heads of Department will give the complaints team feedback on any action taken as a result of reported complaints. The Complaints and Claims Manager will then report these findings through the patient experience quarterly reports and the monthly directorate reports.

10. COMPENSATION AND EX-GRATIA PAYMENTS

There may be occasions when, having investigated a complaint, the Complaints and Claims Manager believes there are grounds for making an ex-gratia payment (with no admission of liability). An apology and gesture of goodwill may avoid subsequent litigation and offers the opportunity to deal with certain circumstances in a fair and responsible manner. The Director of Finance will approve all ex-gratia payments, having regard to the Trust's Standing Orders and Standing Financial Instructions.

11. ENSURING PATIENTS, THEIR RELATIVES AND CARERS ARE NOT TREATED DIFFERENTLY AS A RESULT OF RAISING A CONCERN OR COMPLAINT

The Dudley Group NHS Foundation Trust is firmly committed to the principles of equality and diversity in all areas of work. The Trust believes that there is much to learn from diverse cultures and perspectives and that diversity will make the organisation more effective in meeting the needs of all patients. The Trust is committed to developing and maintaining an organisation in which differing ideas, abilities, backgrounds and needs are fostered and valued and where people with diverse backgrounds and experiences are able to participate and contribute.

Staff will treat patients and/or their nominated representatives with dignity and respect when dealing with their complaint. Complainants will be assured that their concerns will not prejudice the treatment and care they receive. The Trust will not discriminate on the grounds of gender, marital status, race, ethnic origin, colour, nationality or national origin, disability, sexuality, religion or age. The Trust will oppose forms of unlawful and unfair discrimination.

12. SUPPORT FOR STAFF

Staff who may be the subject of a complaint can be anxious about the process and their position. It is important that they are kept informed about progress with the investigation by the complaints co-ordinator and that they are offered the opportunity to discuss the matter with a professional colleague. Wherever possible, they should have the opportunity to comment on the accuracy of the draft response to the complainant and they should be shown a copy of the final response to make them aware of its content.

To support healthcare staff involved in complaints, the Trust will:

- Actively promote an open and fair culture that fosters peer support and discourages the attribution of blame.
- Provide for formal/informal debriefing of the clinical team involved in a complaint, where appropriate.
- Through Matrons/Heads of Service, provide immediate and longer term, follow-up opportunities for healthcare staff to discuss their involvement and/or the circumstances leading up to the complaint and what they are going to say to service users/relatives, if required
- Provides advice and support on the management of complaints
- Encourage staff to access the NPSA e-learning toolkit on 'Being Open', which is accessible through the Trust's intranet.
- Provide support for staff experiencing difficulties through the Occupational Health or Chaplaincy Department
- Provide legal support via the Complaints and Claims Manager if allegations of negligence are made
- Provide support when writing statements and appearing as witnesses.

13. ISSUES EXCLUDED FROM THE TRUST'S COMPLAINTS PROCEDURE

13.1 Unreasonable Complaints

The Trust is committed to treating all complainants equitably and recognises that it is the right of every individual to pursue a complaint.

The Trust therefore endeavours to resolve all complaints to the complainant's satisfaction. However, on occasions, staff may consider that a complaint is unreasonable in nature, e.g. the complainant raises the same or similar issues repeatedly, despite having received full responses to all the issues they have raised.

An unreasonable complaint is one that is made abusively, very unreasonably or that involves the harassment of Trust staff. A complaint may be declared unreasonable, and the Trust will not investigate it. This will be communicated in writing to the complainant, who will be informed that the Trust can no longer process the complaint, nor communicate with the complainant unless the unreasonable status is subsequently withdrawn. The letter will be signed by the Chief Executive or a Director.

Complaints (or complainants) may be considered unreasonable if they meet one or more of the following criteria. The list is not exhaustive.

- **Unreasonable**, for example pursuing a complaint with the Trust that is the responsibility of another organisation, where the NHS Complaints Procedure has been fully and properly implemented, or has been exhausted.
- **Change the substance** of a complaint or **continually raise new issues** or seek to prolong contact by **continually raising further concerns or questions** upon receipt of a response whilst the complaint is being addressed. (Care must be taken not to discard new issues that are significantly different from the original complaint. These might have to be addressed separately).
- Are **unwilling to accept documented evidence** of treatment given as being factual, or **deny receipt** of an adequate response in spite of correspondence specifically answering their questions.
- **Do not clearly identify the precise issues** they wish investigated, despite reasonable efforts by Trust staff to help them specify their concerns.

Unreasonable complaints are often symptomatic of an illness and the complaints procedure may not be the most appropriate means of dealing with the issues involved.

There may also be occasions when staff may receive telephone calls from complainants where the complainant is abusive and/or uses threatening or bad language. In such cases, the recipient of the call should remain calm and inform the caller that he/she is not prepared to continue the call and will put the phone down unless the caller modifies his language. The staff member should document the phone call.

13.2 Register of Unreasonable Complainants

A register of unreasonable complainants will be maintained by the Complaints and Claims Manager and will be circulated to staff who may be contacted by the complainant, e.g. Chief Executive's secretary.

13.3 Withdrawal of Unreasonable Complainant Status

The Complaints and Claims Manager will conduct an annual review of unreasonable complainants on the register and will remove the unreasonable status if no further communication has been received. However some unreasonable complainants who have complained over a long period of time may be left permanently on the register.

13.4 Additional Exclusions from the Trust's Complaints Procedure

The following issues are excluded from the Complaints Procedure:

- A complaint made by one NHS body against another NHS body.
- A complaint by an employee of a local authority or NHS body about any matter relating to that employment
- A complaint which is made orally and is resolved to the complainant's satisfaction not later than the next working day after the day on which the complaint was made
- A complaint about the same subject matter as a complaint that has previously been made and resolved
- Complaints alleging failure by a public body to comply with a request for information under the Freedom of Information Act 2000.
- Complaints about care solely provided by the independent healthcare sector, which has its own procedures
- A complaint that relates to any scheme established under section 10 of the Superannuation Act 1972 or to the administration of those schemes.
- A complaint that is being or has been investigated by the Parliamentary and Health Service Ombudsman
- A complaint which does not relate to the services provided by the Trust, e.g., a complaint relating to recruitment, interview and selection.

The Complaints and Claims Manager will notify the complainant, and any person subject to a complaint, of any decision not to investigate. The notification will be in writing and will state the reason(s) for the decision. A further letter will be written should the investigation resume.

14. INVESTIGATION WHICH COULD LEAD TO DISCIPLINARY ACTION

Where it is possible a complaint, if found to be justified, may lead to disciplinary action being taken against a member of staff, the complaints and claims manager will involve their relevant senior manager.

The member of staff may be asked to participate in the investigation of the complaint but should be informed of the outcome of the complaint investigation. Staff will be advised of their right to seek the help and advice of a professional association or trade union representative before commenting on the complaint.

In cases of this nature the complaints coordinator remains responsible for investigating the complaint, but the decision on whether disciplinary action is called for is a matter for the line manager or professional head of service, in accordance with normal disciplinary procedure. This must be kept separate from the Trust's complaints procedure so that the latter is only concerned with resolving a complaint, not investigating disciplinary matters.

15. HM CORONER

A copy of the complaint file should be sent to HM Coroner upon request and under the powers of the Coroner, no authorisation is required to release this information.

16. TRAINING/SUPPORT

It is important that all staff receive support and feedback to enable them to deal with complaints in an open, courteous manner whilst at the same time being supported by the organisation they work for. The Trust provides bespoke complaints training, advice and support as identified by Managers via the appraisal process and by request from staff. All Managers will provide support and advice to staff within their areas.

Further information is available in the Trust PALS Operational Policy on Raising Concerns, and The Trust's Complaints leaflet.

17. PROCESS FOR MONITORING COMPLIANCE

[Appendix 2](#) shows the process for monitoring compliance with this policy.

18. EQUALITY IMPACT STATEMENT

'The Dudley Group NHS Foundation Trust is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on any grounds'.

This policy has been assessed accordingly.

19. REFERENCES

The Local Authority Social Services & National Health Service Complaints (England) Regulations 2009. SI 2009 no. 309. London: The Stationery Office. Available at:

http://www.legislation.gov.uk/ukxi/2009/309/pdfs/ukxi_20090309_en.pdf

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Department of Health Guide (2009). Listening, responding, improving: a guide to better customer care. London: DH. Available at:

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_095439.pdf [Accessed 9/10/2012]

Freedom of Information Act (2000)

<http://www.legislation.gov.uk/ukpga/2000/36/contents> [Accessed 9/10/2012]

Parliamentary and Health Service Ombudsman. (2009) Principles of good complaint handling. London: PHSO. Available at:

http://www.ombudsman.org.uk/_data/assets/pdf_file/0005/1040/0188-Principles-of-Good-Complaint-Handling-bookletweb.pdf [Accessed 9/10/2012]

Superannuation Act (1972)

<http://www.legislation.gov.uk/ukpga/1972/11/contents> [Accessed 9/10/2012]

RISK ASSESSMENT MATRIX

	LIKELIHOOD				
CONSEQUENCE	1	2	3	4	5
	RARE	UNLIKELY	POSSIBLE	LIKELY	ALMOST CERTAIN
5 CATASTROPHIC	5	10	15	20	25
4 MAJOR	4	8	12	16	20
3 MODERATE	3	6	9	12	15
2 MINOR	2	4	6	8	10
1 NO HARM	1	2	3	4	5

MONITORING THE EFFECTIVENESS OF THIS POLICY- As a minimum the following will be monitored to ensure compliance:

	Lead	Tool	Frequency	Reporting arrangements	Acting on recommendations and Lead(s)	Change in practice and lessons to be shared
<p>Arrangements for handling and considering complaints.</p> <p>Staff who are involved in a complaint will be engaged via their manager.</p>	Complaints & Claims Manager	Production & Implementation of policy & procedure	For every complaint received	Monthly – to each clinical directorate Quarterly - Patient experience report)	All Matrons, Lead Nurses, MSHs and CDs will ensure any action taken is undertaken	All Matrons, Lead Nurses, MSHs and CDs will ensure any action taken is undertaken and this is notified to the complaints department
<p>If a joint complaint is received the relevant matron/MSH or department head will be asked to respond to the complaint relating to their service only.</p> <p>Each organisation involved will agree on the lead and will collate replies to the investigation in a joint letter, which must be agreed by all organisations before it is sent to the complainant.</p>	Complaints & Claims Manager and/or nominated lead	Production & Implementation of policy & procedure	For every joint complaint received	Monthly – to each clinical directorate Quarterly - Patient experience report)	All Matrons, Lead Nurses, MSHs and CDs will ensure any action taken is undertaken	All Matrons, Lead Nurses, MSHs and CDs will ensure any action taken is undertaken and this is notified to the complaints department
<p>Ensuring patients are not treated differently.</p> <p>The Trust's complaints leaflet will be sent to each complainant</p> <p>All staff will be advised that complaints should not be filed in health records and should be aware of the Trust's complaints policy, available on the web site.</p>	Matron/lead nurse/consultant	Equality & Diversity statement	For every complaint received	Monthly – to each clinical directorate Quarterly - Patient experience report)	All Matrons, Lead Nurses, MSHs and CDs will ensure any action taken is undertaken	All Matrons, Lead Nurses, MSHs and CDs will ensure any action taken is undertaken and this is notified to the complaints department

	Lead	Tool	Frequency	Reporting arrangements	Acting on recommendations and Lead(s)	Change in practice and lessons to be shared
<p>It is possible that the number of concerns raised under the new policy will increase. This will be viewed as a positive indicator that the policy is working in practice</p> <p>Any trends which indicate problems in certain areas of work in the Trust will be acted upon.</p>	Matron/lead nurse/consultant /MSH/ CD	Implementation of Policy and procedure	For every complaint received	Monthly – to each clinical directorate Quarterly - Patient experience report)	All Matrons, Lead Nurses, MSHs and CDs will ensure any action taken is undertaken	All Matrons, Lead Nurses, MSHs and CDs will ensure any action taken is undertaken and this is notified to the complaints department