Surrey and Sussex NHS
Healthcare NHS Trust

Complaints Policy

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Executive summary

Surrey and Sussex Healthcare NHS Trust (SASH) is committed to improving the quality and experience of care. All feedback; positive or negative, from patients, carers and the public is actively solicited by the Trust and viewed as a positive means of enhancing the quality of services through early detection and resolution of problems. Competent handling of complaints contributes to this process.

The purpose of this policy is to ensure an open, fair and accessible process for handling complaints that are received about NHS care provided by SASH. The policy defines complaints and outlines staff roles and responsibilities for ensuring they are acted upon.

Implementation of this policy contributes towards compliance with the following National Health Service Litigation Authority (NHSLA) risk management standards, Standard 3 Criterion 9, Standard 5 Criterions 3, 5, 6 and 7.

Equality statement

This document demonstrates commitment to create a positive culture of respect for all individuals, including staff, patients, their families and carers as well as community partners**.** The intention is, as required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the nine named protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief**,** and marriage and civil partnership. It is also intended to use the Human Rights Act 1998 to promote positive practice and value the diversity of all individuals and communities. This document is available in different languages and formats upon request to the Trust Procedural Documents Coordinator and the Equality and Diversity Lead.

Contents

1. Rationale

1.1. Purpose

The purpose of this policy is to provide an open, fair and accessible process for handling complaints received about NHS care provided by Surrey and Sussex Healthcare NHS Trust (SASH). This policy will principally address the issue of complaints. However it should be noted that the Trust also receives feedback in the form of concerns, comments and compliments. This policy will define each of these feedback methods and outline staff roles and responsibilities for ensuring they are acted upon.

SASH is committed to improving the quality and experience of care given. All feedback positive or negative, from patients, carers and the public is welcomed and actively used to inform service improvement at every level.

This policy and its procedures are written in consideration with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (and follow the guidance entitled 'Listening, responding, improving: A Guide to Better Customer Care' issued by the Department of Health (Reference 11215) to support implementation of the Regulations), the NHS Constitution, and the principles set by the Parliamentary and Health Service Ombudsman (PHSO), who is responsible for investigating NHS complaints which have not been resolved locally.

The policy and procedures are designed to be accessible and allow for people to feedback in a variety of ways including by telephone, in person, in writing and by email. It also aims for a considered and prompt response to be provided in all cases. If making a complaint or raising a concern, patients and carers need to feel confident that it will not result in any reduction or loss in service. Complaints and concerns should be treated positively and, where possible, leave patients and carers feeling satisfied with the way their complaint or concern has been handled and confident that the Trust has learnt from their experience. Information is treated in a confidential manner and complaint records are held separately to medical records.

The Trust acknowledges that staff strive to ensure quality care at all times, however, it accepts that mistakes and misunderstandings can occur despite everyone's best efforts. When they do it is therefore important to reflect quickly on the events that have occurred and improve the services to prevent future problems.

It should be noted that there may be individual cases which are managed according to the need or the circumstances of the complainant. This will include vexatious or habitual complainants.

The procedures that support the implementation of the policy can be found in the Datixweb Complaints User Manual. This includes the process for responding to

concerns and complaints of patients and their relatives and carers. Additional information to assist staff can be found on the Intranet.

1.2. Objectives

This policy aims to deliver a positive outcome for patients or carers who have registered a complaint. In order to achieve a positive outcome SASH will:

- ensure that processes to register complaints are fair and accessible for all
- use information from complaints to improve its services
- ensure that rights to confidentiality and privacy are respected; and
- support staff who may be the subject of a complaint.

SASH will provide each complainant with the opportunity to:

- discuss their complaint and its management with the Complaints Team, including the opportunity to agree the resolution period;
- be informed, as far as is reasonably practicable, on the progress of the investigation whilst it is undertaken;
- have a written response following the investigation; and
- be offered the opportunity to meet with appropriate staff to discuss their complaint.

2. Scope

2.1. Compliance

Implementation of this policy contributes towards compliance with the National Health Service Litigation Authority (NHSLA) risk management standards, Standard 3 Criterion 9, Standard 5 Criterions 3, 5, 6 and 7.

The Surrey & Sussex Healthcare NHS Trust (SASH) Trust Board will ensure that there is an explicit policy and procedure for the handling of complaints. The Board will also ensure that there is appropriate expertise and resources available to enable its responsibilities to be effectively discharged. This responsibility is delegated to the Chief Nurse, who is required to provide the necessary assurances and reports to the Board in accordance with the regulations.

Every individual undertaking work on behalf of the Trust is required to cooperate fully in the handling and investigation of concerns and complaints.

2.2. Accessibility

The complaints process will be well publicised in ways which will reach all patients, carers and visitors. All staff will be made aware of its content and their own

responsibilities. The Trust will ensure that complainants are made aware that advice and support through the complaints process is available from independent complaints advocacy services.

SASH is committed to equal opportunities. No patient or any other person involved in the investigation and resolution of a concern or complaint will receive an unfair treatment on the grounds of age, colour, ethnicity or national origins, religious and political beliefs, gender, marital status, sexual orientation, disability or trade union membership. Complaints and concerns received by the Trust will be monitored in line with equality scheme requirements to ensure it is not disadvantaging anyone.

2.3. Exclusions to the Complaints Policy

This policy outlines how complaints can be registered by patients or their representatives. SASH staff may seek advice from the Complaints Manager about how to address or process complaints. The following issues do not fall within this policy's remit:

- a complaint received from a local authority, another NHS body, primary care provider or independent provider
- a complaint by an employee of a local authority or NHS body about any matter relating to that employment
- a complain that is made verbally and resolved to the individual's satisfaction no later than the next working day after which the complaint was made.
- A complaint, the subject of which, is the same as that of a complaint that has previously been made and resolved in accordance with the above statement
- a complaint the subject matter of which has previously been investigated under any of the complaints regulations
- a complaint the subject matter of which is being or has been investigated by a Health Service Commissioner under the 1993 Act
- a complaint arising out of the alleged failure by the Trust to comply with a request for information under the Freedom of Information Act 2000
- a complaint which relates to any scheme established under section 10 and/or section 24 of the Superannuation Act 1972

Where the Trust judges that a complaint falls into one or more of the above categories, it will not manage the issue as a formal complaint and must, as soon as reasonably practicable, notify the individual in writing of its decision and the reasons for this decision.

3. Definitions

3.1. Complaint

A complaint is an expression of dissatisfaction received from a patient, their representative or visitor about any aspect of SASH service. Complaints require a formal response from Trust. The complainant will be asked their preferred method of feedback; this is often a written response from the Chief Executive or nominated deputy.

3.2. Concern

Concerns are defined as issues which may require further enquiry, advice or information in order to resolve them. These are best dealt with by the Patient Advice and Liaison Service (PALS) and/or the service in which the concern originated. When a concern is raised which cannot be satisfactorily resolved without an investigation, then it is to be processed as a complaint.

Concern or complaint?

- A concern is a perceived difficulty which needs to be resolved. It is normally an ongoing or current concern regarding someone's care. It has the potential to be resolved to the enquirer's satisfaction. This should be directed to the PALS office.
- A complaint is a problem which has not been resolved, or which concerns past treatment or care. A complaint will require an investigation and a formal response. This should be referred to the Complaints Department.
- A complaint is formal process, the PALS route is not.
- A complaint will require time to undertake an investigation and is often complex, the PALS route is generally a quick resolution.
- A complaint is not advisory, the PALS route can be.

3.3. Comment

Comments are made either verbally or in writing to any staff member of the Trust. They can be statements expressing a personal opinion or attitude, or can be a judgemental commentary. There is no expectation from the person making the comment that action is required.

3.4. Compliment

A compliment is an unsolicited expression of gratitude as a result of services provided to a patient, their representative or member of the public.

4. Process for the management of complaints

4.1. Who can make a complaint

A complaint can be made by a patient. A complaint can also be made by a patient's relative or carer, or representative in the following circumstances:

- If the patient or carer has granted consent for the representative to act on their behalf
- When the patient concerned has died
- If the patient concerned is under the age of 18
- If the patient is unable to make a complaint due to physical incapacity of lack of capacity within the terms of the Mental Capacity Act 2005.

In the case of a patient who has died or who lacks capacity, the representative must be a relative or other person who, in the opinion of the Complaints Department, has, or has had sufficient interest in his or her welfare or is suitable to act as a representative.

In the case of a child the representative must be a parent, guardian or other adult person who has care of the child, or who has the consent of such a person. Where the child is in the care of a local authority or voluntary organisation the representative must be a person authorised by the local authority or voluntary organisation.

To ensure the Trust maintains confidentiality and abides by the Data Protection Act, where consent is to be obtained, the Complaints Department will send forms to the individual to obtain authorisation from the patient. If authorisation has not been received by the time the response is ready, a reminder will be sent to the individual by the Complaints Department restating why it is required and asking for it to be returned. If it is not returned the response will be reviewed, and if necessary abridged, to ensure that the response does not breach patient confidentiality.

Any complaints made by solicitors on a patient's behalf, whether written or oral, must be referred to the Complaints Department, who will take a view on whether the complaints procedure is appropriate or whether the complaint constitutes a claim for negligence. Negligence claims are referred to the Trust Legal Department.

4.2. First line resolution

It is a Trust priority that concerns are resolved as quickly and as efficiently as possible. In the first instance, and in most cases, a frontline member of staff or the departmental manager will do this through an immediate informal response. This is in order to resolve the concern at the point of contact with the service where

possible. If resolution has not been achieved at the point of contact, individuals may wish to contact the Patient Advice and Liaison Service (PALS), who are able to support individuals to resolve a concern informally within an agreed timescale. It is the role of PALS to:

- provide assistance to individuals in the resolution of issues and concerns raised by services users through negotiation and liaison with Trust staff
- signpost individuals to other sources of support such as other local NHS staff or health related organisations
- put patients in touch with appropriate independent advice and advocacy support from local and national sources

4.3. Next steps – formal complaint

When raising a concern the individual must always be informed of the next appropriate step in the procedure if he or she remains dissatisfied, and of the assistance that is available to them. Literature is available and displayed for their use, and that of the general public, throughout the Trust to assist them in this process. This literature and information can also be obtained from the Trust's Complaints Department and PALS. Patients have a right to raise a concern or complaint and the fact that a patient or their advocate has made a complaint will not affect the patient's care.

4.4. Procedure to follow

The Trust will provide a flexible and responsive complaints system which focuses on the specific needs of the individual and seeks to reach a speedy resolution that satisfies the best interests of the individual.

The Complaints Administrator will log the complaint on Datixweb attaching all the relevant documentation. The complaint will be acknowledged verbally or in writing within three working days of receipt. Each complainant will be contacted by the Complaints Team to agree the scope of the investigation, the format of the response – letter, e-mail, telephone call or meeting, and the timescale for the response.

The complaint is then passed to the relevant Division who will oversee the complaint investigation and ensure that a comprehensive response to the individual is produced on behalf of the Chief Executive which will include any actions and outcomes which are to be made. The response must:

- Be made within the agreed timescale;
- Answer every point raised, preferably in the same order as cited in the complaint;

- Identify and/or explain discrepancies or deviations from what should have been provided, what was actually provided and confirm the impact on the patient's experience because of the difference;

- Incorporate what changes will be made, where relevant, and how this will be undertaken to reduce the potential for a recurrence;

- Where appropriate include an offer of a meeting with relevant staff.

Openness and honesty is paramount. The response should be drafted in plain, straightforward language avoiding medical or technical terminology unless this is specifically requested or is essential. If it has to be used an explanation in lay terms should also be given. On occasions, following discussion with the relevant parties, the option of obtaining independent professional advice may also be offered to assist in the local resolution process.

Any written element to the response can, if requested, be translated, transcribed and/or otherwise formatted in an alternative format to meet the needs of the individual.

It is essential that Divisions monitor the timeliness of the investigation process in order to monitor their response times.

Where complaints involve a number of Divisions the Complaints Manager will propose the appropriate Division to coordinate a response. It will be the responsibility of that Division to obtain the relevant information from other Divisions within the given time period. This also applies where external agencies are involved. The maximum response time for these complaints can be adjusted to account for the additional complexity.

4.5. Timescales for complaints

All complaints must be acknowledged within three working days. The 2009 government regulations allow the Trust to negotiate a timescale for the completed response with the individual. SASH will endeavour to respond to most complaints within 25 working days unless there are reasonable circumstances which may delay the investigation for example:

- Where the complaint is particularly complex or requires input from other organisations for example the ambulance service, GP practice or other hospitals.

- Where the notes required are with the coroner, off site or unavailable for other reasons out of the investigator's control.

- Where key members of staff are on leave or have left the Trust and will need to be contacted for a statement.

- If disciplinary proceedings are taking place.

- When safeguarding or other investigations are taking place.
- Where the timeliness of a response may be deemed insensitive or inappropriate e.g. over Christmas period or a significant anniversary.

In such cases the Division will inform the complainants and agree revised timeframes. Datixweb will be updated accordingly.

4.6. Upholding complaints

The Trust is required to review each complaint and decide whether the complaint is upheld, not upheld or partially upheld. This is a Divisional decision using the following guidance adopted by the Ombudsman in their adjudications:

- If a complaint is received which relates to one specific issue, and substantive evidence is found to support the allegation made, the complaint is recorded as 'upheld'
- If a complaint is made regarding more than one issue, and one or more of these issues are upheld, the complaint is recorded as 'partially upheld'
- Where there is no evidence to support any allegations made, the complaint is recorded as 'not upheld'

This information is submitted annually as part of the KO41 data collection process to the Health and Social Care Information Centre on written complaints.

4.7. Grading of complaints

On resolution all complaints and concerns will be graded according to the Case Grading Table at appendix 1.

4.8. Time limit for making a complaint

Normally a complaint should be made within twelve months from the incident that caused the problem or within twelve months of the date of discovery of the problem, although the Complaints Department, following discussion with the relevant Directorate, has discretion to extend these time limits using the following criteria:

- The individual had good reasons for not making the complaint within that period;
- Notwithstanding the time elapsed it is still possible to investigate the complaint effectively and efficiently;
- There is a possibility the treatment provided could become the subject of a legal claim for which longer timescales are applicable.

4.9. Training and support

Being implicated in a complaint can be distressing to the member/s of staff concerned. Therefore line managers have a duty to support staff in those circumstances. Staff can also approach the Complaints Manager for advice on the process and additional support. “Guidance for Investigating and Responding to a Complaint, Concern and/or Feedback” can be found at appendix 2. Members of staff who are the subject of a complaint must have the opportunity to see the relevant information contained with the complaint and in the final response letter.

The Trust will provide awareness training in the complaints procedure and associated communication skills on request. It will be the responsibility of managers to ensure that new staff are aware of this policy and that existing staff are assessed regularly with a view to updating their knowledge and skills.

4.10. Serious Incidents

If a complaint or concern is also a serious incident there would normally be no need to produce two separate reports, the root cause analysis used should cover all aspects of the investigation. However, if the complaint or concern identifies other issues unrelated to the incident then this will need to be answered separately. In such instances the Patient Safety and Risk Lead will agree the boundaries of the investigation to ensure it is comprehensive and answers all aspects of both the complaint and the incident.

4.11. Being Open and Duty of Candour

The importance of being open when we communicate with patients and relatives following any incident was emphasised in the document ‘Making Amends’ published be the Department of Health in 2003 and the NPSA document ‘Saying Sorry When Things Go Wrong – Being Open’ (2009). Surrey & Sussex Healthcare NHS Trust (SASH) is therefore committed to ensuring that this philosophy is underpinned in any replies provided to complainants in response to a complaint. In addition, it is the commitment of SASH to be proactive in contacting the patient and/or relative to provide an explanation of any remedial action that has or will be taken to reduce the risks of similar incidents occurring in the future in accordance with our contractual Duty of Candour.

4.12. Principles for Remedy

It is the aim of SASH to investigate complaints with transparency and learn from the experiences of patients and relatives when they have received an unsatisfactory service.

The Trust’s process of managing complaints is consistent with the *Principles of Good Administration, Principles of Good Complaint Handling* and *Principles for Remedy*, published by the Parliamentary and Health Service Ombudsman, which the Department of Health fully endorses. These documents are available from the Ombudsman’s website: (www.ombudsman.org.uk)

4.13. The provision of redress and ex-gratia payments

Remedying injustice or hardship is a key feature of the Ombudsman's Principles for Remedy suggesting that where there has been maladministration or poor service the Trust should restore the complainant to the position they would have been in had the maladministration or poor service not occurred.

Non-financial remedies that may be provided under the Complaints Policy include:

- Written explanation or apology
- Invitation to meet
- Reassurance that the Trust's services have been reviewed to identify opportunities to improve.

Financial redress will not be appropriate in every case but the Trust will consider proportionate remedies for those complainants who have incurred additional expenses as a result of poor service or maladministration. This does not include a request for compensation involving allegations of clinical negligence or personal injury where a claim is indicated. Legal claims are managed by our Legal Services Department.

4.14. NHS Complaints advocacy

NHS complaints advocacy has a statutory role in helping complainants at each stage of the process. The service is independent of the NHS, free and confidential. The purpose of the service is to:

- advise people how to complain;
- support people through the formal complaints process;
- provide information on who to complain to;
- provide support when drafting complaints correspondence;
- provide representation or support at complaints meetings.

NHS complaints advocacy will be particularly helpful when the person making the complaint is in need of extra support.

Under the Mental Capacity Act 2005, the Independent Mental Capacity Advocacy Service (IMCA) undertakes a role of advocate for patients who lack mental capacity. Complainants may also receive support from other specialist advocacy services or from the local Citizens Advice Bureau (CAB).

Complainants can also obtain information about the complaint process from NHS website at www.nhs.uk/choiceintheNHS/rightsandpledges/complaints.

All staff who are responsible for the management of complaints should be aware of the local advocacy services available and ensure that complainants are directed to these services when a need for support has been identified, or is requested.

4.15. Habitual or unreasonable complainants

A small minority of people will take up a disproportionate amount of staff time and resources dealing with an individual's perceived problem even when explanations have been given and all reasonable attempts have been made to resolve their concerns. These cases can cause undue stress to staff and staff members are advised to refer to appendix 3 which offers guidance on the handling of habitual and/or unreasonable (vexatious) complainants.

4.16. Reopening complaints

Once the individual has received the Trust's response to a complaint further or outstanding issues should be raised within a reasonable time – a guideline is twelve months from receipt of the response, though it very much depends on individual circumstances. In such cases, the complaint file is reopened and further investigation will take place to ensure that the Trust has addressed all of the issues raised and a further response is sent to the individual with the findings. In some cases a second opinion or clinical advice will be sought. The Trust will endeavour to resolve re-opened complaints through local resolution, however, once it is considered by the Trust this is completed the individual is advised of their right to refer their case to the PHSO.

4.17. Parliamentary and Health Service Ombudsman (PHSO)

If an individual remains dissatisfied with the response provided by the Trust, they have the right to refer their complaint to the PHSO, which is the second stage of the NHS Complaints Procedure. The remit of the PHSO is to assess complaint cases where local resolution has been unsuccessful and if they are satisfied that local resolution is completed they will review the complaint and decide whether or not they will undertake their own investigation.

Following a PHSO investigation a report on the findings will be sent to the Trust. If the complaint is upheld recommendations will be made to the Trust which may include changes in practice, service and financial redress. The Chief Executive will respond on behalf of the Trust to confirm the action the Trust will take as a result of the PHSO recommendations.

4.18. Diversity monitoring

The Trust is required to collect ethnicity information for monitoring and evaluating the service it provides. Provision of this information by complainants is optional.

4.19. Retention of complaints files

4.19.1. Divisional teams should ensure that in all cases, complaint correspondence which contains patient identifiable and confidential

information should be stored in a secure cabinet which is locked and that information and files are only shared in the groups/directorates on a need to know basis.

4.19.2. Requests for copies of files by individuals must be made in writing to the Data Protection Officer, clearly stating the reason for the request.

4.19.3. Complaints files are disclosable should a legal claim be made to the Trust following the outcome of a complaint.

4.19.4. Complaint files will be shared with the PHSO on request.

4.19.5. Complaint files will be kept for 8 years from completion of action before being destroyed in accordance with the Trusts Retention of Records Policy.

4.20. Monitoring the complaints process

The formal complaints process will be audited, including surveying samples of users in order to continually review and improve the experience of people undergoing the complaints process.

4.21. Shared learning

4.21.1. Lessons learnt are discussed at Divisional Governance Meetings and are cascaded to all frontline teams through the Divisional structure. Divisional Risk and Governance Newsletters support this process.

4.21.2. The Division will report key lessons learnt and actions taken as a consequence at the Patient Experience Committee for cross divisional learning.

4.21.3. Any lessons learnt from complaints which relate to patient safety will be escalated to the Patient Safety sub-committee by the Complaints Manager.

5. Process for the management of concerns

When a concern is raised all members of staff should endeavour to resolve the matter at the time, with support from their line manager if required. If a solution cannot be found and where the patient, or representative, does not wish to make a complaint, they may wish to seek support from the PALS.

PALS will aim to resolve the concern within 2 working days. If the enquirer is not satisfied with the outcome they will be given information on how to make a formal complaint.

6. Process for the management of comments

Comments are recorded on Datixweb. They are reviewed and used to inform the patient experience strategy at Divisional and Trust level.

7. Process for the management of compliments

This is unsolicited positive feedback received either in writing (often in the form of a thank you card) or verbally about SASH services. Compliments include expressions of praise, admiration, or congratulation.

It is important that compliments are recorded in Datixweb so that a full and complete picture of how SASH services are viewed is included in reports to the Patient Experience sub-committee and ultimately the Trust Board.

Compliments received within a service should be collated and uploaded onto Datixweb. Compliments should only be counted once i.e. a thank you card and a box of chocolates would count as a single compliment.

8. Responsibilities

8.1. The **Chief Executive** is the Board member with overall responsibility for complaints handling issues and either they or their nominated deputy(ies) will sign formal responses to complainants.

8.2. The **Chief Nurse** is responsible for ensuring that detailed procedures are developed, agreed and implemented throughout the Trust and are monitored as appropriate. The Chief Nurse will ensure that the central database (Datixweb) of complaints is maintained and that performance is monitored and reports made to the Trust Board and others as required.

8.3. The **Divisional Chief Nurses** have delegated responsibility on behalf of the Trust, for complaints investigations and timely responses. They will oversee the management of the complaints process within their division.

The Divisional Chief Nurses are responsible for ensuring that a divisional post/s is created with responsibility for the day to day management of the complaints process within their Division. This post will manage and support the Division's part of the complaints handling process in liaison with others concerned, e.g. the identified investigating manager/clinician. The post will ensure that an appropriate investigation into each complaint is conducted and will support the production of the complaint response. The format of the response may vary depending on the preference of the complainant. In most cases it is anticipated that it will be written, using the Trust standard response template. However, complainants may request a phone call or a meeting which this post will arrange. This post is responsible for ensuring that all files relating to each complaint are uploaded onto Datixweb.

The Divisional Chief Nurse will provide support where required. The Divisional Chief nurses will ensure that the Division has a mechanism by which actions arising from a complaint or concern are implemented and the outcome is fed back to the staff

involved. They will ensure that trends and themes are reported to the Patient Experience sub-committee and Divisional Governance Meeting.

8.4. The **Complaints Manager** is responsible for overseeing the handling of complaints. Duties include:

- maintaining an accurate log of all complaints received;
- reading all written complaints and summary transcripts of verbal complaints in order to liaise with the relevant Division;
- making contact with complainants to discuss the complaint:
  - to assure the complainant that their complaint will be investigated
  - to agree the scope of the investigation, to ensure that the response will answer the complainant's issues
  - to agree the format of the response – letter, e-mail, telephone call or meeting, and the timescale for the response.
- liaising with external organisations where a joint complaint has been received;
- aggregating the complaints data for ad hoc reports;
- providing quarterly reports of data, quantitative and qualitative analysis for the Trust Board via the Patient Experience Committee and onward to the Safety and Quality Committee of the Board;
- supporting individuals and staff during the processing of concerns and complaints;
- leading the process of ensuring that there is both local and organisational learning from complaints; communicating this information with services and demonstrating improvements in service delivery, sharing lessons learnt from complaints;
- regularly review the complaints process and policy to ensure it is fit for purpose;
- the escalation to the Patient Safety & Risk Lead of any adverse incidents identified by feedback received as part of the complaints process.

8.5. The **Complaints Administrator** will process complaint information daily from written correspondence, telephone calls and feedback logged by staff and complainants directly onto Datixweb. The administrator will acknowledge all formal complaints within three working days of receipt into the Trust.

8.6. Some investigations may warrant the allocation of an **Investigator** who will be responsible for co-ordinating the investigation process, ensuring the issues and concerns raised are addressed, and for producing a written response. They will provide updates on any investigations as and when required. They will ensure that there is a written record of all communication between individuals, staff (including interviewees and witnesses) identifying date, time and method of communication. They will store all working files pertaining to the investigation securely and are responsible for ensuring that the Divisional Complaints post is provided with all communication relating to the investigation.

8.7. **PALS** is a source of information and feedback for the Trust and act as a catalyst for change and improvement in the provision of services. PALS will resolve and monitor

concerns and proactively assist patient and visitor with advice and information. Where themes or gaps in service become apparent these will be escalated through the Patient Experience sub-committee.

9. Compliance Monitoring arrangements

9.1. Monitoring policy implementation

The effectiveness of the Policy is monitored by performance against national standards for acknowledging and responding (in writing) to complaints and through monitoring of action plans arising from individual complaints by the relevant Management Board (Divisional or Trust). Standards for the resolution of complaints will be set in accordance with the statutory regulations.

9.2. Database maintenance

The Trust's Complaints Department will maintain a database (Datixweb) of all formal complaints. Each complaint will be checked against Cerner to monitor equality schemes.

9.3. Reporting

9.3.1. A quantitative analysis of complaints received and the management of complaints is included on the Trust Patient Experience Dashboard each month. This information combined with a qualitative analysis of complaints will be reported to the relevant Divisional Governance Meeting. These reports and their exceptions will be discussed at the Patient Experience sub-committee.

9.3.2. The Complaints Manager will produce a quarterly assurance report which will detail the control measures in place of the appropriate management of complaints within the Trust. This will be presented to the Patient Experience Committee and the Safety and Quality Committee.

9.3.3. The Complaints Manager will produce an annual report describing the Trust's performance in the management of complaints, comments, concerns and compliments.

9.3.4. The Complaints Manager is responsible for the K041 (A) return on an annual basis. The central return will be compiled from data within Datixweb and returned to the Department of Health.

9.3.5. The **Complaints Review Group (CRG)** is chaired by the Chief Nurse and meets monthly to monitor the quality and timeliness of responses to complainants. This group will ensure that actions plans are robust and that lessons learnt are disseminated across the Trust. The CRG will escalate any concerns to the Patient Experience sub-committee.

9.3.6. The **Patient Experience Committee (PEC)** is chaired by the Chief Nurse. This group will discuss themes and trends and pull together all aspects of

patient feedback received by the Trust. This will include patient surveys, the Patient Opinion website, NHS Choices, Your Care Matters and the Friends and Family results.

9.4. Satisfaction questionnaires

Following the Trust's response, complainants will be invited to complete a satisfaction questionnaire. The responses received will be assessed at regular intervals by the Complaints Manager and the findings will be reported to the Patient Experience Committee.

Re-opened complaints will be evaluated to analyse whether issues were not resolved satisfactorily, or whether new issues/concerns have arisen. Information from this will also inform the quarterly assurance report.

9.5. Approval and ratification

This policy has been ratified as suitable for implementation across the Trust by the Executive Committee for Quality and Risk.

9.6. Review and revision

9.6.1. This policy will be reviewed in line with the Trust Policy on Management and Development of Procedural Documents; the standard length of time for review is three years.

9.6.2. However, changes within the organisation affecting this process, together with any changes in legislation or the requirements of external regulators/accreditation organisations may prompt the need for revision before the 3 year natural expiry date.

9.7. Dissemination and implementation

The Trust process for dissemination of policies will be followed as described in the Organisation Wide Policy for the Management and Development of Procedural Documents.

This includes posting the policy on the dedicated Policies and Procedures page of the Intranet and a notification to all staff of the new policy on the next available E-Bulletin

9.8. Archiving

The policy will be held in the Trust database, known as the library and archived in line with the arrangements in the Organisation wide Policy for the Management and Development of Procedural Documents. Working copies will be available on request from the Policy Co-ordinator by contacting the dedicated mailbox trustpolicies@sash.nhs.uk.

10. References and associated documents

References:

Organisation	Date of Publication	Title of document
UK Parliament	2009	The Local authority Social Services and National Health Service Complaints (England) Regulations
Department of Health	2009	Guidance: Listening, Responding, Improving – A guide to better customer care
Department of Health	2009	Tackling Concerns Locally
National Audit Office	2008	Feeding Back? Learning from complaints handling in health and social care
PHSO	2009	Principles of Good Complaints Handling
PHSO	2009	Principles for Remedy
UK Parliament	2000	Freedom of Information Act
Health Service Commissioner	1993	under the 1993 Act
UK Parliament	1972	Superannuation Act
UK Parliament	2005	Mental Capacity Act
UK Parliament	1998	Data Protection Act
UK Parliament	2012	Equality Act 2010 Section 149 Public sector equality duty
	2012	NHS Patient Experience Framework (Feb 2012)
National Patient Safety Agency		“Being Open‟ framework
	2015	Duty of Candour Regulations

11. Document Control

Change History				
Version	**Date**	**Author/ Lead**		**Details of change**
1.0	unknown	unknown		unknown
2.0	Jan 2007	Sandra Stirzaker	Complaints Manager	Developed and amended in line with NHS Regulations
2.1	Mar 2007	Sandra Stirzaker	Complaints Manager	Minor amendments following consultation
2.2	Apr 2007	Sandra Stirzaker	Complaints Manager	EqIA completed
2.3	Nov 2007	Linda Parsons and Complaints Manager Sally Hasler	Integrated Risk Lead and Complaints Manager	Amendments post Healthcare Governance Committee
2.4	Nov 2007	Integrated Risk Lead, Linda Parsons and Complaints Manager Sally Hasler	Integrated Risk Lead and Complaints Manager	Further amendments post Healthcare Governance Committee
2.5	Dec 2007	Integrated Risk Lead, Linda Parsons and Complaints Manager Sally Hasler	Integrated Risk Lead and Complaints Manager	Final Draft for circulation
2.6	May 2009	Sharon Gardner-Blatch, and Sandra Stirzaker and Sally Hasler	Head of Integrated Governance and Quality and Complaints Managers	Amendments in line with Complaints regulations 2009
2.7	Jan 2010	Head of Integrated Governance and Quality, Sharon Gardner-Blatch, Complaints Managers, Sandra Stirzaker and Sally Hasler	Head of Integrated Governance and Quality and Complaints Managers	Amendments to reflect approved protocol for managing complaints between organisations.
2.8	Jan 2012	Sharon Gardner-Blatch	Head of Integrated Governance and Quality	Amendments to reflect approved protocol for managing complaints between organisations and national guidance
2.9	June 2015	Katharine Horner	Patient Safety & Risk Lead	Amendments to reflect the move to Datixweb and the 4Cs principle of complaint management

3.0	October 2016	Katharine Horner	Patient Safety & Risk Lead	Amendments to focus purpose of policy on Complaints Management and to reflect changes to processes within the Trust.

Appendix 1 – Case Grading Table

COMPLAINTS – CASE GRADING TABLE				
	Minor	**Moderate**	**Major**	**Extreme**
Attitude of staff / Abuse	Minor effect on care / no abuse	Significant effect on care, loss of trust / minor verbal abuse / non-intentional manual mishandling	Patient frightened, insulted, loss of trust / significant verbal abuse / harmful physical mishandling	Self-discharge or transfer to another hospital, lost trust in organisation / intentional harmful abuse
Admission, discharge, transport	Minor inconvenience to patient / delays	Inconvenience to patients, time off work, travel expenses / significant delays	Severe adverse effects to patients health and well being	Life endangering delays or mismanagement
Appointments / Tests	Some difficulties and inconvenience to patient - readily resolvable	Significant effect on health / delays / time off work, travel expenses	Severe effects to health or well-being / unacceptable delays	Life endangered due to delays / errors
Patient Care and Treatment	Unsatisfactory patient experience readily resolvable / no or minimum harm	Mismanagement of patient care / wrong procedures or not followed / moderate harm or delays	Serious mismanagement of patient care / major harm	Totally unsatisfactory patient experience / life endangered / death
Adverse publicity / reputation	Rumours/Local media short term	Local media long term	National media less than 3 days	National media greater than 3 days / political involvement
Communication / information (written / verbal)	Minor uncertainty or lack of clarity - readily resolvable	No understanding of treatment or differing information / pt feels ignored	Patient feels they have been intentionally mislead	Unacceptable leading to a course of clinical action without consent
Consent to treatment	Hurried consent but generally understood / minor concern but proper procedure followed	Poor quality of consent, patient uncertain of risks / benefits	Very poor quality of consent process, no understanding of risks / benefits	Procedure without consent / patient felt pressurised or that they could not refuse
Openness & Complaints handling	Partially satisfactory - readily resolvable	Complaint not handled / answered properly / significant concerns re openness	Very poor in all aspects / loss of trust / patient feels issues being hidden	Extremely poor / Patient convinced of a “cover up”

Privacy and dignity / Patient status, discrimination	Non-significant / patient embarrassed - readily resolvable	Significant lack of privacy and dignity; significant part of the patient's complaint	Serious lack of respect for privacy and dignity / clear evidence of discrimination	Unacceptable / Severe adverse effects of discrimination on health and well being
Patient property	Unsatisfactory but readily resolvable, minimum loss	Significant – some loss of property; not properly recorded	Serious – most of property lost , mishandled, not recorded	No records of property, lost property cannot be found
Personal records / Confidentiality	Correct procedure questioned / Unsatisfactory but readily resolvable	Significant errors in records / breach of confidentiality	Serious breaches of trust policy or confidentiality (e.g. via social media)	Trust policy on records breached as well as national legislation
Mortuary & post mortem arrangements	Unsatisfactory but readily resolvable	A significant part of the patient's complaint	Serious effect on bereaved family, loss of dignity of the deceased	Unacceptable – wrong deceased patient / wrong relatives
Hotel services including food	Unsatisfactory but readily resolvable	A significant part of the patient‘s complaint	Very poor	Totally unsatisfactory

Appendix 2: Guidance for Investigating and Responding to a Complaint

These guidelines are intended to assist any individual who has been asked to investigate a complaint or prepare a written statement to support the production of a complaint response.

Investigating

- Each Division will have a member of staff with responsibility for co-ordinating the investigation of the complaint under the Divisional operational procedures in place in line with the Complaints Policy.
- In order to successfully resolve a complaint, a thorough and complete investigation must be taken.
- Read the letter of complaint and the Complaint Response Template at least twice and where appropriate review case notes before deciding who you need to speak to.
- The Complaint Response Template has been produced in conjunction with the complainant and therefore contains the key aspects of the complaint for which they require a response.
- If you are uncertain which aspects of the investigation are your responsibility, ensure that you check this with the Patient Experience Team.
- Unless there is a good reason not to, ensure that staff who are being asked for information see the complaint letter. This will be your request in context and help you in getting as much relevant information as possible.
- Ensure that each response on the template is clear, relevant and answers the complainant's question or addresses the issue they have raised.
- Avoid including information that is not relevant to the issues raised by the complainant.
- Establish all the facts (i.e. what happened, what should have happened and what is the difference between these two things?). If it is not possible to answer all the questions say why.
- Complete all complaint investigation documentation including all relevant evidence.
- Do not be defensive, openness and honest will help to ensure the best outcome for everyone as quickly as possible.

Responding

- Explain to the complainant what happened and why.
- The response should be factual detailing events and any subsequent actions clearly as possible.

- The response must answer the individual points itemised on the complaint response template.
- When referring to other people, state clearly their full names and designations.
- Refer to relevant other documents (e.g. Policies, assessment and procedures etc.)
- Avoid jargon and shorthand. If medical terminology must be used, provide explanations and translations.
- Dates and time should always be referred to in full (e.g. 07:30 hours on Friday 03 January 2015, not 7.30 on 03/01)
- The response must make sense. Present a coherent explanation of events, if this cannot be done then the investigation has not concluded.
- Include details of the investigation outcome; an explanation of planned action must be included. Where appropriate an apology must be given for any identified shortfalls.

Before submitting your investigation findings check that it

- Answers all the questions and explains things in a way that can be easily understood by a non-medical person;
- Provides an appropriate apology;
- Tells the individual how we are going to put things right.

Remember

- Never place copies of complaint investigation documents in a patient's records
- Always respond by the date that has been given to you
- If you need further help or support preparing a response please contact the Complaints Team for advice

Appendix 3: Guidance for the handling of Habitual or Unreasonable Complainants

1. Introduction

These guidelines identify situations where a complainant is considered to be habitual or unreasonable and provide staff with a strategy to handle these situations.

These guidelines must only be used as a last resort and after all reasonable measures have been taken to try to resolve the complaint in accordance with local resolution under the NHS Complaints Procedure.

2. Local Resolution (NHS Complaints Procedure)

Complaints about the services provided by Surrey and Sussex Healthcare NHS Trust are processed in accordance with the local resolution stage of the NHS Complaints Procedure, which is summarised below:

- Acknowledgement letter sent out within 3 days of receipt of the written complaints.
- Acknowledgement may also occur through e-mail and on the telephone.
- Complaints Team will speak to the complainant (where possible) agree the main points to be addressed and the timescale in which a response will be generated. The method of response (principally letter, e-mail, phone call or meeting) will also be agreed.
- Complaints Team forward complaint to Division(s) to undertake an investigation.
- Within the timescales agreed with the complainant the Division will ensure that a response is prepared in the format agreed with the Complainant.
- Complainant is provided information about what to do if they remain dissatisfied with the Trust response.

The Trust responds fully to all complaints and ensures that:

- The Complaints Policy is adhered to.
- Complainants are given the opportunity to exhaust local resolution.
- Complainants are provided with information on further action that can be initiated should they remain dissatisfied e.g. Parliamentary and Health Service Ombudsman.

The above steps ensure that the rights of complainants are safeguarded and that there is a consistent approach to all complaints, reducing the risk of the Trust's handling of the complaint being criticised by external agencies.

3. When Local Resolution Fails

There will be occasions when complainants remain dissatisfied with the response they receive and in such circumstances can request the Parliamentary and Health Service Ombudsman to undertake and independent review of their concerns.

4. Definition of a Habitual or Vexatious Complainant

All Trust staff endeavour to respond with patience and sympathy to the needs of complainants. However, there are times when a complainant will remain dissatisfied with the outcome of local resolution and nothing further can reasonably be done by the Trust to assist or rectify a real or perceived problem. A small number of complainants who remain dissatisfied with the Trust response to their complaint will persist to voice their dissatisfaction verbally or in writing and inevitably absorb a disproportionate amount of NHS time and resources.

It is accepted that a person making a complaint is usually already distressed because of the event/s leading to the complaint itself and therefore may act out of character. The Trust recognises that everyone is unique, some people may find it difficult to communicate, some may be aggressive, have mental health problems, have social or emotional problems, or be lonely or lack support. Staff should be sensitive to these circumstances and make some allowances for types of behaviour that may be unreasonable or out-of-character.

It is difficult to give a definite description of a vexatious complainant. There is no particular feature of vexatious behaviour, and most types of behaviour may be understandable in certain circumstances. However, a person may be indicative of being a habitual or vexatious complainant when they meet one or more of the following criteria:

- Persistent in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted;
- Changing the substance of a complaint or continually raising new issues to seek to prolong contact by continually questioning receipt of a response whilst the complaint is being addressed. Care must be taken not to discard new issues, which are significantly different from the original complaint and may need to be addressed as a separate complaint;
- Unwillingness of the complainant to accept documented evidence of treatment given as being factual, accept that facts can be difficult to verify if a long period of time has elapsed or denial of receipt of an adequate response despite the response specifically answering their questions;
- Identification of the specific issues the complainant wants investigating being unclear despite reasonable efforts by Trust staff and where appropriate, the involvement of advocacy services (e.g. SEAP) to help the complainant identify their concerns and/or where the concerns identified are not within the remit of the Trust to investigate;
- Threatened physical violence or actual violence against staff;

- Harassment, personal abuse or verbal aggression towards staff dealing with the complaint;
- Meetings or face-to-face/telephone conversations tape recorded by the complainant without the prior knowledge or consent of the other parties involved;
- Unreasonable demands/expectations made and failure to accept these may be unreasonable;
- Complete unwillingness by the Complainant to comply with the NHS Complaints Procedure and determination to proceed with their own agenda;
- Complainants who do not fall within any of the above categories may nevertheless be considered to be habitual or vexatious depending on the circumstances and with the discretion of the Trust.

5. How to deal with Habitual or Vexatious Complainants

When a complainant is categorised as habitual and/or vexatious in terms of the above criteria, any action to be taken will be determined by the Complaints Manager. Action should be specifically targeted to try to assist the individual and staff involved. The action that might be taken could be one or more or the following:

- Draw up a signed "agreement" with the complainant which sets out a code of behaviour for the parties involved, if the Trust is to continue to process the complaint. If the agreement is then contravened, other action may be considered;
- Decline contact with the complainant either in person, by telephone, by fax, by letter, by e-mail or any combination of these, provided that one form of contact is maintained, alternatively restrict contact to a third party;
- Notify the complainant in writing that the Chief Executive (or Deputy) has responded fully to the points raised and has tried to resolve the complaint; and that there is nothing to add and continuing contact on the matter would serve no real purpose. The complainant should also be notified that the correspondence is at an end and that further correspondence will be acknowledged but not answered;
- Inform the complainant that in extreme circumstances the Trust reserves the right to pass unreasonable or vexatious complaints to its solicitors; and/or
- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance.

The Chief Executive (or Deputy) will implement the agreed action and will notify the complainant in writing of the reasons why they have been classified as habitual and/or vexatious, and of the action to be taken.

6. Withdrawing Habitual or Vexatious Status

Having deemed a complainant habitual and/or vexatious, this status may be withdrawn by the Chief Executive (or Deputy). This should be exercised with discretion where, for example, the complainant demonstrates a more reasonable approach or if they later submit a further, new complaint for which the normal complaints procedure would appear to be appropriate. If following discussion with the Chief Executive approval is granted for withdrawal of the status, normal contact with the complainant and the NHS Complaints procedure can be resumed. A letter from the Chief Executive (or Deputy) will be sent to the complainant informing them that the normal procedure has resumed and their habitual or vexatious status has been withdrawn.

Appendix 4
Equality Analysis (EqA)

By completing this document in full you will have gathered evidence to ensure, documentation, service design, delivery and organisational decisions have due regard for the Equality Act 2010. This will also provide evidence to support the Public Sector Equality Duty.

Name of the policy / function / service development being assessed	Complaints Policy
Date last reviewed or created & version number	August 2015 – 2.9
Briefly describe its aims and objectives:	The purpose of this policy is to provide an open, fair and accessible process for handling complaints received about NHS care provided by Surrey and Sussex Healthcare NHS Trust (SASH). The policy defines the complaints process and outlines staff roles and responsibilities for ensuring they are acted upon.
Directorate lead	Fiona Allsop
Target audience (including staff or patients affected)	This policy applies to all individuals employed by the Trust including contractors, volunteers, students, locum and agency staff and staff employed on honorary contracts.

Screening completed by (please include everyone's name)	**Organisation**	**Date**
Katharine Horner	SASH	9/6/15

Equality Group ***(Or protected characteristic):***	**What evidence has been used for this assessment?**	**What engagement and consultation has been used**	**Identify positive and negative impacts**	**How are you going to address issues identified?**	**Lead and Timeframe**
Age	n/a				
Disability	n/a				
Gender reassignment	n/a				
Marriage & Civil partnership	n/a				
Pregnancy & maternity	n/a				

Race	n/a				
Religion & Belief	n/a				
Sex	n/a				
Sexual orientation	n/a				
Carers	n/a				