

COMPLAINTS POLICY

| | |
|--------------------------------------|--|
| Version: | Version 5 |
| Ratified By: | Clinical Policy Working Group |
| Date Ratified: | 4 th December 2018 |
| Date Policy Comes Into Effect: | June 2019 |
| Author: | Edith Adejobi, Head of Complaints |
| Responsible Director: | Beverley Murphy, Director of Nursing |
| Responsible Committee: | Nursing Executive |
| Responsible Committee Approval Date: | January 2019 |
| Target Audience: | SLaM staff and existing or former service users, carers and/or relatives, visitors or other users of the Trust facilities or those affected by the action, omission or decision of the care Trust. |
| Review Date: | October 2021 |

| | | |
|----------------------------|--------------------------|------------------|
| Equality Impact Assessment | Assessor: Edith Adejobi, | Date: 08/11/2018 |
| HRA Impact Assessment | Assessor: Edith Adejobi, | Date: 08/11/2018 |

This policy document is subject to South London and Maudsley copyright. Unless expressly indicated on the material contrary, it may be reproduced free of charge in any format or medium, provided it is reproduced accurately and not used in a misleading manner or sold for profit. Where this document is republished or copied to others, you must identify the source of the material and acknowledge the copyright status.

Document History

Version Control

| Version No. | Date | Summary of Changes | Major (must go to an exec meeting) or minor changes | Author |
|-------------|------------|---|---|----------------|
| Version 1 | April 2005 | Complaints policy | Major | Mary O'Donovan |
| Version 2 | 08/07/08 | Review of policy in line with national requirements to regularly review and update the Complaints Policy. | Minor | Mary O'Donovan |
| Version 3 | 11/03/10 | Review of policy in line with national requirements to regularly review and update the Complaints Policy. | Minor | Mary O'Donovan |
| Version 4 | 23/06/15 | Review of policy in line with national requirements to regularly review and update the Complaints Policy. | Minor | Edith Adejobi |
| Version 5 | 02/10/18 | Review of current policy to reflect changes in organisational structures and in line with national requirements to regularly review and update the Complaints Policy. | Minor | Edith Adejobi |

Consultation

| Stakeholder/Committee/ Group Consulted | Date | Changes Made as a Result of Consultation |
|--|----------------|--|
| Complaints team, Directorate governance teams, patient information, Adult Safeguarding Lead, Datix Manager | September 2018 | none |
| Service Users/Carers consulted | Date | Changes Made as a Result of Consultation |
| Meeting with inpatient service users | August 2018 | None |

Plan for Dissemination of Policy

| Audience(s) | Dissemination Method | Paper or Electronic | Person Responsible |
|--------------------------|---|---------------------------------------|--|
| Staff | Trust Intranet/SLAM News/Directorate/Borough Governance structures A group email will be sent alerting teams to the policy and instructing them to download for local use. Update within Policy Bulletin | Electronic / hard copy as appropriate | Complaints office Policy Coordinator Communications office |
| Staff | Training related to this policy is available Trust Corporate Induction – Circulation to all staff in communication bulletin; | Training / Face to Face | Complaints office |
| Service users and carers | Website | Electronic / hard copy as appropriate | Complaints office |
| Service users and carers | Family and Carers' committee | Electronic / hard copy as appropriate | Complaints office |
| Commissioners | CQRG | Electronic | Complaints office |

Key changes to policy:

The scheduled 2018 review reflects changes to the Corporate and CAG structures including updated on roles and responsibilities to take into account:

- devolving case managers duties and responsibilities
- changes to central complaints roles

Recording on Datix
Updated appendices

Plan for Implementation of Policy

| Details on Implementation | Person Responsible |
|--|---|
| Through Directorate Governance team meetings, Quality Governance Compliance and Performance meetings – Monthly, Quarterly and annual reports | Complaints office, governance teams, Service and Clinical Directors |

Contents

| | |
|---|----|
| 1. Introduction | 5 |
| 2. Purpose of Policy | 5 |
| 3. Scope of Policy | 5 |
| 4. Roles and Responsibilities | 9 |
| 5. Handling the Complaint | 13 |
| 6. Dealing with Complaints | 16 |
| 7. Reporting and Learning from Complaints | 20 |
| 8. Monitoring Compliance | 22 |
| 9. Associated Documentation | 23 |
| 10. References | 23 |
| 11. Freedom of Information Act 2000 | 23 |
| Appendix 1: Formal Complaints Flowchart | 24 |
| Appendix 2: Procedure for managing unreasonably persistent complainants | 26 |
| Appendix 3: Complaints Risk Assessment Tool | 28 |
| Appendix 4: Equality Impact Assessment | 30 |
| Appendix 5: Human Rights Act Assessment | 36 |

1 Introduction

This policy sets out a framework for the management of complaints within the South London and Maudsley NHS Foundation Trust.

- 1.1 The aim of the policy is to outline the procedure to enable resolution of complaints both formal and informal as quickly as possible either through local resolution by a front-line member of staff or practitioner, through staff who are empowered to deal with complaints as they arise in an open and non-defensive way, or through subsequent investigation and conciliation.
- 1.2 The Trust is committed to responding quickly, openly and sensitively to complainants. The Trust aims to support spirit of candour and a culture of openness and honesty as we seek to resolve concerns, learn lessons from mistakes that may have occurred and improve the quality of services we provide.

2 Purpose of Policy

The policy is designed to ensure that the Trust provides a timely and effective service to resolve complainants' concerns, support complainants and staff throughout the process, deliver a consistent approach across the Trust and have sound systems for learning lessons from complaints. We are committed to respecting the human rights of service users and carers and the principles of fairness, respect, equality, dignity and autonomy will be taken into account when receiving, monitoring and reviewing complaints.

- 2.1 The purpose of the Complaints policy is to ensure that:
 - The complaints procedure will be **accessible** and **well publicised** to service users and complainants
 - The Trust will respond in a **prompt** and **sensitive** way to the complaints it receives
 - The Trust response to complaints will be **open** and **transparent**
 - The complaints procedure will be **supportive** for those who may find it difficult to complain
 - The procedure will be accessible to all regardless of age, disability, sex, ethnicity, belief or sexual orientation
 - The procedure will be **fair** to service users, complainants and staff
 - The lessons learned in complaints resolution will be used to improve services for service users and to inform staff professional development
 - Patients and carers should be able to complain without fear of being discriminated against or adversely impacted as a result of making a complaint

3 Scope of the Policy

This policy is underpinned by the Duty of Candour. This requires staff to be open and honest in their communication with patients, relatives and carers. Being open involves explaining what happened after an event, acknowledging and apologising for mistakes and putting things right.

- 3.1 This policy sets out a framework for the management of complaints in line with best practice and the expectations of the NHS Constitution, the Parliamentary and Health Service Ombudsman and the Care Quality Commission. It fulfils the current

provisions of the Local Authority, Social Services and NHS Complaints Regulations 2009. In line with these requirements the complaints procedure provides for concerns to be dealt with through Local Resolution at Trust level. Any complainant who remains dissatisfied following the conclusion of Local Resolution has the right to request an Independent Review from the Parliamentary and Health Service Ombudsman.

3.2 What may be complained about

The complaints process is designed to allow persons to express a concern about the services they receive from South London and Maudsley NHS Foundation Trust. The NHS Complaints Regulations (2004) state that a complaint may be defined as “*an expression of dissatisfaction about any action, omission or decision of the Trust in connection with the provision of health care or any other services.*”

3.3 Who can complain?

Complaints may be made by people who use, or have used, our services, their relatives or carers, or representatives acting on their behalf and by relatives and carers about issues affecting them with their consent. Complaints may also be raised by persons affected, or likely to be affected, by actions, omissions or decisions of the Trust.

3.3.1 A complaint may be made by a representative acting on behalf of an existing or former service user where that person:

- Is unable by reason of physical or mental incapacity (within the meaning of the Mental Capacity Act 2005) to make the complaint him/herself; or
- Has requested the representative to act on his/her behalf
- Is a child
- Has died
- Has been asked to do so by the patient

3.3.2 If the complainant is not the service user, the consent of the service user, should be requested of the complainant. If a complaint from a carer or relative relates to the care of a service user, care must be taken not to disclose personal health information without the express consent of the service user.

3.3.3 In the case of a child, the representative must be a parent, guardian or other adult who has care of the child. Where the child is in the care of the local authority or a voluntary organisation, the representative must be a person authorised by that body. Children can make a complaint in their own right where it is deemed they have the capacity to do so.

3.3.4 In cases where the service user lacks capacity or has died the Trust's corporate complaints lead must be satisfied that there is either a legal requirement to disclose or that the representative is a relative or other person who, the corporate complaints lead judges, has a sufficient interest in that service user's welfare and is a suitable person to act as a representative. Each case will be judged on its own merit and advice can be given by the Complaints Office. If the representative is considered not to have sufficient interest or to be unsuitable, the corporate complaints lead will notify the complainant in writing to explain the reason for this decision.

3.3.5 Anonymous complaints fall outside the scope of the formal procedure. However, where an anonymous complaint raises serious concerns the Corporate complaints lead will refer the matter to the appropriate service director.

3.4 Complaints from Members of Parliament or Councillors

The Trust will co-operate with complaints raised by an MP or a Councillor in compliance with the Data Protection Act. Where an M.P. or Councillor acts on behalf of a constituent who has sought assistance to raise a formal complaint, this will be regarded as a form of consent. Careful judgement will be exercised by the Trust to ensure that the information disclosed meets the test of necessity. Where a constituent contacts an M.P. or Councillor on behalf of a third party to raise a formal complaint, consent will be sought from the service user.

3.5 Complaints from staff

Staff who have complaints about other staff, service users (and/or a service user's relative), Trust services or their own employment should take forward their concerns through the relevant Trust policies and procedures for:

- Grievance
- Bullying and Harassment
- Whistle Blowing

3.5.1 Staff are also able to seek advice in the first instance from their line manager or human resources advisor.

3.6 Complaints which fall outside the NHS Complaints Procedure

- Complaints which have already been investigated in accordance with Trust formal Complaints procedures
- The Complaint arises from an alleged failure to comply with a request for information under the Freedom of Information Act 2000
- The complaint is raised by another NHS Trust, CCG, local authority, independent provider or a commissioner
- The complaint is or has already been investigated by the Healthcare Commission or the Health Service Ombudsman
- The complaint relates to matters that should be dealt with under other proceedings such as grievance, whistle-blowing or bullying and harassment
- A complaint that was raised orally and resolved to the complainant's satisfaction by the next working day

3.7 Relationships with other Trust procedures

Where a complainant raises issues of serious concern, for example a serious failing and/or serious allegations about a member of staff, this will be investigated in conjunction with the relevant Trust procedures including:

- Serious Incidents (SI)
- Safeguarding Children
- Safeguarding Adults
- Disciplinary procedures

3.7.1 If a complaint has been received by the Trust during the course of an investigation under the Serious Incident procedure the latter procedure will take precedent. The complaint should be acknowledged and the complainant kept informed throughout the process with a final response from the SI investigator or relevant operations director explaining the outcome of the investigation when completed, and addressing any outstanding concerns.

3.8 Who to complain to

Complaints about the Trust should be raised directly or can be made direct to the organisation who commissioned the service such as the Clinical Commissioning Group (CCG). When a complaint is received by the CCG they may, following a discussion with the complainant, decide to investigate the matter or ask the Trust to investigate and manage the complaint in accordance with the 2009 regulations.

- 3.8.1 Complainants who are detained under the Mental Health Act may also raise their complaint with the Care Quality Commission (CQC). The CQC can help with complaints about health services received if a patient has:
- been detained
 - is subject to guardianship; or
 - is on a Supervised Community Treatment

3.9 Disciplinary procedures

A complaint can be investigated at the same time as disciplinary proceedings. However, the Trust must keep its complaints procedure separate from its disciplinary procedure.

- 3.9.1 The purpose of the complaints procedure is not to apportion blame amongst staff but to investigate complaints to the satisfaction of the complainant whilst being scrupulously fair to staff and to learn any lessons for improvement in service delivery. However, some complaints will identify information about serious matters which indicates a need for disciplinary investigation.
- 3.9.2 Consideration as to whether disciplinary action is warranted must be subject to a separate process of investigation.
- 3.9.3 Papers that have accumulated during the investigation of the complaint may be passed to the appropriate person who will be considering the need for disciplinary or any other form of investigation.
- 3.9.4 Care must be taken by the Trust in disclosing to the complainant any disciplinary action that has taken place as a result of a complaint, bearing in mind the rights of staff to confidentiality.

3.8 Legal proceedings

It should not necessarily be inferred that a complaint made via a solicitor indicates legal action is being pursued. If consent has been received, a response should be made to the solicitor, as the complainant's representative, in the normal manner.

- 3.8.1 However, where a complaint has been made and legal action is being pursued at the same time, or where police or counter-fraud investigators are involved, the corporate complaints lead must be informed. Discussion should then take place with the relevant authority (legal advisors, Police or Crown Prosecution Service, Trust Claims Manager) to determine whether progressing the complaint might prejudice the outcome of subsequent judicial action. If this is the case, the complaint will be put on hold and the complainant advised of this. If this is not the case the investigation into the complaint will take place.
- 3.8.2 If a complaint reveals a prima facie case of negligence, or if it is thought that there is a likelihood of legal action being taken, the Trust's Claims and Legal Manager will be informed

3.9 Cross boundary (joint) complaints

Where complaints are about the Trust and another health provider or local authority service, we will work co-operatively to ensure complainants are given every opportunity to resolve their concerns and receive a full response.

3.9.1 Where Trust receives a complaint relating to more than one organisation we will contact the complainant for consent to approach the other organisation involved and share a copy the complaint with them. Where the complainant does not want the details to be shared, the corporate complaints lead should advise them on the parts of the complaint the Trust is able to address. Consent must also be sought on sharing personal health details arising from the complaints investigation.

3.9.2 Agreement will be sought about which organisation will take the lead in co-ordinating the complaint and communicating with the complainant. The lead body's complaints manager will co-ordinate the handling of the complaint and where possible coordinates a single response. A joint resolution meeting with the complainant should take place if this helps facilitate an effective outcome. We will work co-operatively to ensure complainants are given every opportunity to resolve their concerns and receive a full response.

3.10 Criminal proceedings

If the subject of the complaint is a matter being referred to the police, this will be discussed with the Corporate complaints lead to consider the best way forward. The complainant will be informed of the decision reached.

3.11 Coroner's cases

The reporting of a death to the Coroner's office does not mean that all investigation into a complaint needs to be suspended. It is important to initiate proper investigations regardless of the Coroner's inquiries and where necessary, to extend these investigations if the Coroner so requests. However, where a complaint relates to the cause of death the Trust will only formally respond in writing after the Coroner has delivered its verdict.

4 Roles and responsibilities

4.1 All Staff

All staff:

- Must comply with the Duty of Candour
- Have a duty to comply with their professional Codes of Conduct
- Have a responsibility to be aware of, and comply with, the Trust's Complaints Policy and Procedure

4.1.2 In following this procedure all staff should ensure that:

- All complainants are listened to and treated with respect and courtesy at all times
- Where possible simple concerns or complaints are resolved at local level, making sure that complainants receive a full explanation with an apology where appropriate
- Letters of complaint, including emails are immediately referred to the Complaints Office

4.2 Role of the Chief Executive

The Chief Executive is accountable for the Trust complaints arrangements. The Chief Executive or a person acting on his/her behalf will sign all formal Trust responses.

4.3 Director of Nursing

- Executive lead for complaints/accountable Board Director for complaints management
- Ensures effective systems are in place for the management of complaints in line with national standards
- Escalates concerns to appropriate parties and the Trust Board

4.4 Head of Complaints

The Head of Complaints is responsible under section 4(1) b of the legislation for managing the procedures for handling and considering complaints in accordance with the arrangements made under these Regulations. The Head of Complaints, with the support of the Complaints Office, will:

- Ensure that there is a co-ordinated, effective system for acknowledging, reporting, investigating and monitoring of complaints
- To ensure that the quality of the response to the complaint is of a high standard for the signature of the Chief Executive
- To provide guidance to staff on all stages of handling a complaint
- Ensure complaint investigations are completed in line with standards required under Duty of Candour (open, honest and with appropriate actions identified)
- Maintain and monitor a status report on all formal complaints
- Support systems for learning from complaints
- Identify any serious or contentious issues of concern
- Coordinate and oversee reports submitted to the Ombudsman to ensure they are clear and factually correct
- Provide regular reports, identifying trends and key issues of concern to enable appropriate remedial action and learning from complaints
- Produce the Complaints Annual Report
- Provide Customer Care and Complaints Handling training to Trust staff

4.5 Service Directors

- Responsible for effective complaints management within their area
- Ensure all complaints received are investigated in accordance with the Duty of Candour and that investigation and responses are provided within agreed time-scales
- Identify individual responsibilities for complaints investigation within the directorate, ensuring that the Investigating Officer has the appropriate seniority and knowledge and is suitably independent of the events that gave rise to the complaint
- Sign off local complaint responses
- Review and approve investigations and draft responses that are signed by the Director of Nursing, before these are sent to the Complaints Office
- Meet with the complainant where direct involvement may help in the investigation and resolution of the complaint
- Agree action plans arising from complaints. Ensure these are implemented and changes in practice take place
- Ensure systems are in place for the regular reporting, monitoring and review of directorate complaints

4.6 Medical/Clinical Directors/Professional Leads; Deputy Directors and General/Service Managers

- May take on devolved responsibility for ensuring complaints are properly investigated and appropriate actions taken
- Meet with the complainant where direct involvement may help in the investigation and resolution of the complaint
- Support systems and processes for handling and learning from complaints:
- Review reports received from investigating officers
- Have oversight of the timeliness and quality of complaints investigations
- Ensure that actions arising from complaints are implemented
- Ensure that lessons are learned locally and improvements made
- May commission local investigations arising from complaint trends
- Report to Directorate governance committees on progress against agreed actions arising from complaints

4.7 Investigating Officers

- The Investigating Officer will be appointed by the Service Director and will be a senior manager or clinician at Band 7 or above, for example Service Managers, Modern Matrons, Team Managers. Serious or Executive level complaints will be led by a Service Manager and/or Clinical Director/Service Director.
- The Investigating Officer will:
- Ensure the complaint is investigated thoroughly and fairly to establish the facts of the case
- Make early contact with the complainant to clarify issues, identify outcomes sought and, where appropriate, facilitate a resolution to the complaint
- Discuss expectations with the complainant
- Ensure safeguarding referrals have been made if necessary
- Ensure allegations against staff are appropriately addressed
- Obtain copies of witness statements
- Ensure appropriate medical/professional advice is provided where required
- Review clinical records and any other documentation relevant to the complaint
- Inform/discuss with the complainant any delays
- Inform the Complaints Office, and complainant, of any delay in completing the investigation, stating the reasons and giving a revised completion date
- Provide a detailed comprehensive report, addressing all the issues raised in the complaint, with an action plan for all upheld/partially upheld issues and draft a response letter

4.8 Team/Ward Managers

Ensure all staff are aware and comply with:

- The Duty of Candour
- Their professional Codes of Conduct
- Trust Complaints Policy and Procedure

- 4.8.1 Team/Ward Managers must also ensure that all service users and carers have access to the complaints publicity (leaflets/posters) and forms; and make every reasonable attempt to resolve concerns locally. Where this is not successful, provide support to escalate to the Complaints Office

4.9 Governance team / Complaints Office

Governance teams will work within their designated operations directorate to help improve complaints investigations and support embedding learning from complaints. They will liaise with the investigating officers, monitoring timescales for complaint investigations, completeness of responses and implementation of action plans.

4.9.1 Governance teams / Complaints Office will:

- Process the complaint when received, identifying the issues that require investigation
- Provide advice and support to the investigation process
- Review the response from the directorate to ensure it is comprehensive, adequately addresses all concerns raised, and includes an action plan
- Attend Directorate meetings. Provide regular reports, identifying trends and key issues of concern to enable appropriate remedial action and learning from complaints

4.10 Patient Advice and Liaison Service (PALS) and informal complaints

Service Users, families and carers may contact PALS directly to resolve concerns or may be referred by staff. PALS is not independent but as part of a corporate directorate is managed separately from clinical services.

4.10.1 PALS can:

- Provide information about SLaM services and the choices available to service users, their family, visitors and carers
- Receive comments, compliments or concerns about the services provided by the Trust
- Help to resolve, as quickly as possible, any problems or issues highlighted about services
- Provide information about the formal complaints process and independent advocacy services, where necessary

4.10.2 PALS can liaise between dissatisfied clients and teams, including working across teams – for instance, discussing an issue with both an in-patient and community team – and involving more senior clinicians or managers as required. PALS can also support enquirers by signposting them to the appropriate service to resolve issues relating to other aspects of the NHS, such as acute hospitals or primary care.

4.10.3 PALS role is to allow enquirers time to explore their issues, provide background information on Trust policies and practices and to help express these to the people who may be able to resolve the issues. PALS may be able to attend meetings with concerned individuals but is primarily an email and telephone-based service.

4.10.4 PALS should be offered to service users who may raise multiple issues which require clarification or if they are unwilling to share their concerns with staff on the ground. PALS should not be used to deter people from discussing their concerns directly where they are able to do so. PALS can also assist in making formal complaints where this is the preferred option.

4.10.5 PALS is not an advocacy service and where independent advocacy is available, and appropriate, this should be offered.

4.11 Human Resources (HR)

The role of HR is to provide advice, guidance and support to investigators where associated HR policies may apply to an investigation and to members of staff when allegations are made about them to enable them to participate in the investigation.

5. Handling the complaint

5.1 Time limit on initiating complaints

A complaint should be made as soon as possible after the event, or within twelve months of the date of discovering the problem. The time limit should be used with discretion and take into account the practicality of carrying out an investigation into the facts of the complainant

5.2 Patient Confidentiality

All information disclosed about a complainant must be 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.

5.2.1 Complaints records must be kept separately from health records. Such records must be treated with the same degree of confidentiality as health records and are open to disclosure in legal proceedings.

5.3 Consent to disclose personal confidential information

Consent to access personal information for the purpose of investigating a complaint is implied when the complaint is raised by the patient.

5.3.1 Where a complaint is received from someone acting on behalf of a patient, the Trust will only instigate a full investigation once written consent is received from the patient. If consent is not received within a set timeframe, it will be presumed that consent has been refused.

5.3.2 Where a complaint is made by a carer or relative about issues that affect them in their role as carer or relative, consent is not required, although detailed clinical information may not be shared.

5.4 Third party confidentiality

Particular care must be taken where the service user's records contain information provided in confidence by or about a third party who is not a Trust employee. Only information which is relevant to the complaint should be considered for disclosure and then only to those within the NHS who in connection with the complaint have a demonstrable need to know. It must not be disclosed to the service user unless the person providing the information has given express consent to the disclosure.

5.4.1 Disclosure of information provided by a third party outside the Trust also requires the express consent of the third party. If the third party objects then it can only be disclosed when there is an overriding public interest in doing so.

5.4.2 Further guidance on information sharing within the legal and ethical framework can be found in the information governance policies on the Trust's intranet or the information governance office.

5.5 Capacity

Where a service user lacks capacity and someone with Lasting Power of Attorney (LPoA) has been appointed to act on their behalf, then the LPoA should be consulted – as long as the LPoA specifically states that they have the authority to consent on behalf of the patient.

- 5.5.1 Where a service user lacks capacity and has no-one to support them then a referral should be made to the relevant Independent Mental Capacity Advocacy Service (IMCA).

5.6 Support for complainants

Information on how to raise a concern through PALS or make a complaint will be readily available to patients, service users, relatives and carers. Leaflets and posters will be displayed on all Trust unit sites. A member of staff in each area will be responsible for ensuring leaflets are available. Information on how to complain will also be published on the Trust's website. At the outset of each complaint information will be given on available independent complaints advocacy services.

- 5.6.1 Complainants should be given access to translation services and language and sign interpreters when needed. Responses will be translated if required. Service users who are detained under the Mental Health Act should be also be informed about the availability of the Independent Mental Health Advocate (IMHA) and of their right to raise concerns with the Care Quality Commission.

5.7 Ensuring service users or carers are not discriminated against as a result making a complaint

Complaints records will be kept separately from clinical records. Regular surveys will be conducted to ensure that service users, relatives and their carers are not treated differently as a result of raising a complaint. The Trust will investigate where such concerns are identified.

5.8 Support for staff

An effective complaints procedure needs the confidence of Trust staff employed by the Trust that investigations are fair and objective. It is also important that the Trust has a clear policy and procedure for managing unreasonably persistent complainants. This includes provision for protecting staff from complainants who abuse or harass staff.

- 5.8.1 A member of staff who is the subject of a complaint will be given details of the complaint relating to them by the Investigating Officer. They will be given the opportunity to respond to the complaint and must be given access to, or copies of, any records they have made in connection with the incident referred to in the complaint. The Investigating Officer should feedback the outcomes of the investigation together with any recommendations to all staff/service areas directly involved with the complaint.
- 5.8.2 Staff are entitled to support during this process and should be told of this by the 5. Investigating Officer. Support can be from the line manager or other agreed supervisor and from the relevant HR manager. This support should include advice, assistance, where appropriate, referral to Employee Assistance Programme and support to introduce changes to practice if necessary.

5.8.3 The Head of Complaints in conjunction with the Learning and Development Department will facilitate training for staff responsible for investigating complaints. All new members of staff will be given information about the complaints policy and procedure as part of their mandatory induction.

5.8.4 Staff can also access advice about the complaints procedure from the Head of Complaints and the governance teams.

5.8.5 The outcomes and any recommendations relating to a particular complaint should be fed back to all staff/service areas concerned via the relevant investigator and clinical governance structures.

5.9 Publicity

The Trust will ensure that all users of its services will have access to information on its complaints policy and procedures including posters displayed generally throughout the Trust's premises and information leaflets. Translated, audio and other appropriate formats for client groups such as children will be made available on request.

5.10 Dealing with media interest

On occasion people will contact the press with their complaint. Any media interest in a complaint must not be dealt with directly but immediately referred to the Head of Communications and the relevant Service Director.

5.11 Services commissioned by South London and Maudsley NHS Foundation Trust

Complaints about services from independent providers commissioned by the Trust should be directed to that organisation to be managed through the Local Authority Social Services and National Health Service Complaints (England) regulations 2009. Summary reports of complaints received, with outcomes should be received by the commissioning service and lead manager, and reviewed as part of contract management processes.

5.12 Freedom of Information Act 2000/Data Protection Act 2018/General Data Protection Regulation (GDPR).

Complaints about non-disclosure of information which may be requested will be dealt with separately from this policy. Such requests should be considered under the Freedom of Information Act 2000, Data Protection Act 2018 and General Data Protection Regulation (GDPR).

5.12.1 If a complaint is partly about information that has been refused and provided the Chief Executive has already been given the opportunity first to review the circumstances, complainants should be informed of their right to pursue this aspect separately with the Information Commissioner, without waiting for the outcome of the NHS investigation into the rest of the complaint.

5.13 Financial redress

Where SLaM's investigation identifies failings which may warrant redress, the Trust has discretion to provide financial compensation for direct or indirect financial loss or distress caused. Any such financial redress is at the discretion of the Chief Executive or Director of Nursing.

5.14 Unreasonably persistent complainants

Occasionally, despite a full and thorough investigation and response, complainants will remain dissatisfied and persist with their complaint. Guidance for handling such situations has been developed to protect both staff and complainant. This is attached as **(appendix 2)**.

6 Dealing with complaints

The Trust is committed to responding to complaints quickly and sensitively. The majority of complaints will be resolved through local resolution.

6.1 The primary objective of Local Resolution is to provide the fullest possible opportunity for investigation, fact-finding and resolution of the complaint, as quickly as possible, with the aim of satisfying the complainant whilst being fair to staff. See **(appendix 1)** for a flowchart representation of the Local Resolution Process.

6.2 The Trust will promote active approaches to resolving complaints locally, sensitively and rapidly, alongside the formal complaints investigation.

6.3 Informal complaints / concerns

Those who use our services have an absolute right to use the formal complaints process about any aspect of our work. Nevertheless, there may be opportunities to resolve issues less formally, which should be explored where possible with a view to responding to concerns as they arise and resolving these immediately.

6.3.1 Those raising issues should be encouraged to speak openly about their concerns and reassured that what their feedback will be treated with appropriate confidence and will not affect their care and treatment. Any comments or expressions of dissatisfaction should be listened to sympathetically. It should always be the aim of staff to resolve concerns promptly so that the experience of patients and service users is not diminished. Staff who are unable to resolve the matter themselves should refer them to the most senior member of staff on duty. This is the most appropriate route for concerns and issues that do not indicate serious misconduct/negligence or raise concerns in relation to safeguarding children or vulnerable adults.

6.3.2 Informal complaints can be raised through the weekly community meetings held on inpatient wards and community teams. These are minuted and appropriate actions taken to resolve the concern locally should also be documented at an appropriate subsequent meeting.

6.3.3 Where staff are unable to resolve the complaint or the complainant wishes it to be dealt with in a more formal manner, or where risk is identified, then the concerns should be referred to the Complaints or PALS Offices.

6.3.4 Where a complainant does not wish to discuss the concerns with someone directly involved with their care, they should be encouraged to contact PALS or an independent advocate and advised assisted to contact the service if necessary. Staff must support service users who wish to make a formal complaint by advising of the PALS service and the appropriate independent complaints advocacy service.

6.4 Formal complaints

The National formal complaints process has two stages:

6.4.1 Stage One: Formal Complaints – Trust Local Resolution

Local resolution is an opportunity for the Trust to investigate and seek the resolution of the complainant's concerns, offering a thorough explanation as quickly as is sensible in the circumstances, aiming to learn lessons wherever possible, whilst being fair to staff. This stage of the procedure is the responsibility of the Trust and should routinely be completed within the timescale agreed with the complainant. Depending on the level of seriousness, this can be signed off at Directorate level or by the Director of Nursing.

6.4.2 Stage Two: The Parliamentary and Health Service Ombudsman – Independent Review

Complainants who remain dissatisfied with the outcome of the Trust's investigation can approach the Parliamentary and Health Service Ombudsman. The Ombudsman's office, which is independent of the NHS, would normally expect a complainant to have exhausted the first stage of the NHS complaints procedure before they consider a complaint.

6.5 Trust Level Resolution

A formal complaint may be made orally, in writing or electronically. Where a complaint is made verbally to the relevant service, PALS or the Complaints Office, the recipient of the complaint must record this in writing and forward to the Complaints Office - a copy must be given / sent to the complainant. Any complaint received in writing by local services must be forwarded to the Complaints Office for recording and processing.

6.5.1 The Complaints Office will acknowledge the complaint within 3 working days after the day the complaint is received and the expected timescale for response. Complainants will also be informed of their right to seek help and advice from an independent complaints advocacy service. Where the complaint relates to the care and treatment of a third party who has capacity, the Complaints Office will seek consent.

6.5.2 The complaint will be triaged using the risk assessment tool (**appendix 3**) by the Complaints office and the nominated investigator to ensure the handling of the complaint and investigation is proportionate to the severity of the complaint and any related risks.

6.5.3 A copy of the complaint letter will be sent to the Service and Clinical Directors, asking for an investigation to be conducted. The investigator will be asked to review and complete the investigation checklist on Datix when completing the final investigation report. The investigation plan, checklist, response and action plan templates are available to investigators on Datix to ensure a consistent approach across the Trust.

6.6 Investigation

The Trust aims to provide a response to complaints within 25 working days, or a timescale agreed with the complainant. If the response is to miss the timescale agreed with the complainant, it is the investigator / Directorate's responsibility to contact the complainant to explain the reasons and agree a revised date.

6.7 Local Resolution meetings

In many instances meetings with the complainant are the best way to resolve the concerns raised. The investigating officer should consider who may be best placed to meet the complainant e.g. someone from the care team or someone external to the team. Notes of any meeting should be agreed with the complainant and sent to all those present. Any actions should be followed up and relayed to the complainant in writing. If the complainant is satisfied with the outcome of the meeting, it is possible to close the complaint at this stage unless the complainant believes further investigation is required. Complainants must be informed of their right to take their complaint further through the Trust's formal complaints procedure and receive a formal written response. The correspondence, together with the outcome should be entered onto Datix.

6.8 Formal investigations

The investigating officer will be supported to gather sufficient clinical, factual and other information to determine what happened and to identify any appropriate action needed to resolve the concerns and address any learning. The response should address all the issues in the complaint and also include additional points agreed during the telephone conversation or meeting with the complainant.

- 6.8.1 There are occasions when an arms-length investigation, (an investigation conducted or overseen by a senior manager who is independent of the service area being complained about) is appropriate and should always be considered where
- there is an allegation or suspicion of abuse by staff and/or serious neglect
 - The complaint raises substantive issues of professional misconduct
 - A safeguarding investigation has also been requested

- 6.8.2 Where there are complaints against senior managers or clinicians these will be overseen by the Service/Clinical Directors; complaints about Board members will be overseen by the Chief Executive and complaints against the Chief Executive will be overseen by the Chair of the Trust.

6.9 Complaint Plan

As part of the local resolution process, and alongside the investigation, the investigator should contact the complainant and any representative to offer a meeting or discussion to clarify the issues involved and the outcome sought. A range of options may be offered to the complainant to resolve the complaint including:

- A facilitated meeting with the staff involved in the complaint
- A meeting with managers
- A second opinion
- A change of worker

- 6.9.1 Any agreed actions must be reasonable and proportionate to the issue/s being complained about. Details of any additional issues or changes to the original complaint or the investigation process should be recorded on the complaints plan on the Datix complaints record.

- 6.9.2 A further meeting should always be offered to the complainant, if appropriate, in the response letter.

- 6.9.3 The complaint 'plan' discussion or meeting may resolve some or all of the concerns to the complainant's satisfaction. Notes of the meeting/discussion, including any

agreements made, should be incorporated into the investigation report and response letter.

- 6.9.4 The time-scale for investigation and response should be discussed and agreed with complainant. The normal time-scale for responding to a complaint is 25 working days. In complex cases this may be extended, with the agreement of the complainant. If direct contact with the complainant is not successful, a formal investigation will be conducted, based on the received complaint.

The investigation must be conducted in accordance with the Trust's Investigation Policy.

6.10 Investigation outcome

The Investigating Officer will provide a detailed overview addressing all the issues raised in the complaint. This will include:

- An explanation of how the investigation was conducted
- A chronology of events
- Findings (from the evidence) – what happened, why it happened, how it happened
- Actions taken and/or planned
- Conclusions reached, including the outcome of the complaint (not upheld, upheld, partially upheld, indeterminate)
- An apology where appropriate

- 6.10.1 The report should contain a description of the investigation, referencing any interviews, statements, national guidance or good practice and local policies. Each issue should be identified as upheld or not upheld with the supporting evidence to justify the conclusions. Where an issue complained about is upheld, specific reference should be made to action taken to make improvements and minimise risk of reoccurrence. The complaints checklists should be completed on Datix by the investigating officer and the senior directorate manager overseeing the investigation.

6.11 Action Plans

A SMART approach to when planning actions arising from complaints is essential. Actions should be Specific, Measurable, Achievable, Relevant and Time-bound.

- All actions must be logged on Datix
- Each recommendation must have a clearly defined action
- A responsible person designated as the lead for each action
- Dates for proposed completion of actions
- Evidence to confirm completion of each action

- 6.11.1 The investigation, draft letter of response and accompanying action plan should be completed for review and sign off within **22 working days** of receipt of the complaint. The approved response and supporting documentation should be uploaded onto Datix once the investigation is completed. If this is not possible the Complaints Office must be advised of the reasons. The Investigating Officer will then inform the complainant of the delay and provide regular updates on the investigation.

6.12 Response to the complainant

The Directorate governance lead will finalise the response for approval by the Director of Nursing or Directorate senior manager. The written response will include information on how the complainant progress the complaint if dissatisfied with the

Trust's reply. The signed final response will be uploaded onto Datix and the complaint considered closed unless there is further contact from the complainant.

6.12.1 Where the complainant is unhappy with the written response the Trust may, where appropriate, consider:

- Further investigation be carried out by another manager not connected with the initial investigation into the complaint
- Obtaining an independent opinion
- Arranging mediation
- Arranging a meeting with senior managers. A meeting with the Service Director and/or Clinical Director may be arranged where this is judged helpful in resolving the complaint

6.12.2 Reopened directorate level complaints will be reviewed and signed off at an executive level.

6.12.3 On conclusion of Local Resolution, if the complainant remains dissatisfied the Trust will advise the complainant of the right to request an Independent Review of their complaint by the Parliamentary Health Service Ombudsman and that such a request should be made as soon as possible at the end of local resolution. Local resolution will normally be exhausted when a complainant is dissatisfied with the response of the Trust following the initial investigation, the outcome of a meeting subsequent to the Trust response and the provision of information in response to reasonable requests for clarification of the issues involved in a complaint.

6.13 Stage Two: Independent Review

Complainants who are dissatisfied with the Trust's response at the Local Resolution stage may ask the Parliamentary and Health Service Ombudsman (PHSO) for an independent review of their complaint. The Parliamentary and Health Service Ombudsman is an independent body established to promote improvements. (Contact details may be found on the Trust's website and complaints leaflet). The Complainant will be encouraged to contact the Ombudsman's office close to the events in question.

6.13.1 The Ombudsman's Office will review the complaint and where appropriate refer back to the Trust for further action. Following receipt of the Ombudsman's report the Trust will write to the complainant informing them of any action that is being taken as a result of the review.

6.13.2 The relevant Service Director will be responsible for action planning any recommendations.

6.13.3 The Directorate governance meetings and the Quality Committee will receive reports on all complaints that have been referred for Independent Review to the Ombudsman.

7 Reporting and learning from complaints

The Trust is committed to being open and honest when reviewing concerns and complaints and will seek to learn from all service user feedback. Information from complaints is an integral part of the Trust's governance, contract monitoring and performance management processes and provides critical intelligence about services.

7.1 Reporting and oversight of complaints

The Head of Complaints will ensure that those responsible for the management and oversight of complaints have access to reports detailing:

- Details of complaints received
- Due and overdue investigations
- Numbers and type of complaints received
- Outcomes of investigations
- Themes and hotspots
- Actions taken and lessons learned
- Action implementation delays
- Complaints referred to the Ombudsman and subsequent outcome
- Any serious or contentious issues of concern

7.1.1 An annual report will be provided to the Quality Committee and made publicly available via the Trust website.

7.2 Learning from Complaints

The complaints process aims to ensure that learning from feedback is used improve the quality of services provided by the Trust. The timely and appropriate dissemination of learning from complaints is essential to ensuring participation in the learning process and improved care.

7.2.1 The Quality Committee is the Trust committee responsible for providing an overview of complaints and ensuring local lessons are applied trust-wide as required. Significant issues of concern will be added to the central complaints or relevant directorate Risk Register. The Service Director is responsible for ensuring all action plans arising from complaints are implemented. Directorate governance officers will have systems in place to review complaints, ensure that lessons are learned and appropriate action taken to prevent re-occurrence. Progress on local action plans will be monitored by Directorate governance committees, on an exception basis, and lessons learned from upheld complaints disseminated and discussed with service teams. Service directorates should implement systems to check that actions are sustained, for example periodic spot checks or audits.

7.3 Compliments and General Feedback

In order to receive a balanced picture of how the Trust's services are received, compliments received will also be recorded and reviewed. All compliments should be sent to the complaints office where they will be entered onto the compliments register. Compliments will form part of the regular complaints reports.

8 Monitoring Compliance

| What will be monitored i.e. measurable policy objective | Method of Monitoring | Frequency | Responsible person | Reported to | Addressing shortfalls |
|--|---|--|--|--|---|
| Complaints handling arrangements | Reports produced identifying : Number of complaints by service directorate Breakdown of complaints Outcome of independent review by Ombudsman | Monthly, quarterly and Annual reports | Head of Complaints | Trust Quality Committee Directorate Governance meetings Board of Governors, Commissioners | Action plans developed by Directorate Governance meetings |
| Lessons learnt from complaints are identified and shared Actions plans are implemented and followed up | Reports produced identifying : Issues raised Themes and trends Numbers upheld, partially upheld, not upheld Progress against action plans Annual report published on Trust website Review of Quality Committee and Directorate Governance minutes | Monthly, quarterly and Annual reports | Head of Complaints Service Directors | Trust Quality Committee Directorate Governance meetings Board of Governors, Commissioners | Action plans developed by Directorate Governance meetings, progress reported to Trust Quality Committee |
| Process for ensuring that patients, their relatives and carers are not treated differently as a result of raising a concern/complaint. Process by which the organisation aims to improve as a result of concerns/complaints being raised. | Audit Satisfaction Survey to ensure service users, relatives and carers are not treated differently as a result of raising complaints and concerns | The quarter after each complaint is closed | Head of Complaints Complaints Administrator | Trust Quality Committee Directorate Governance meetings | Report to Trust Quality Committee and Directorate Governance meetings about identified issues of concern |

9 Associated Documentation

- Claims & Litigation Policy
- Investigations Policy
- Learning Lessons from Incidents, Complaints and Claims Policy
- Aggregation of Incidents, Complaints and Claims Policy
- Supporting Staff
- Being Open / Duty Candour
- HR policies, including: *Grievance - Individual Grievance Policy and Procedure*
- Bullying and Harassment - Harassment and bullying at work policy, Whistle Blowing - Whistleblowing Policy

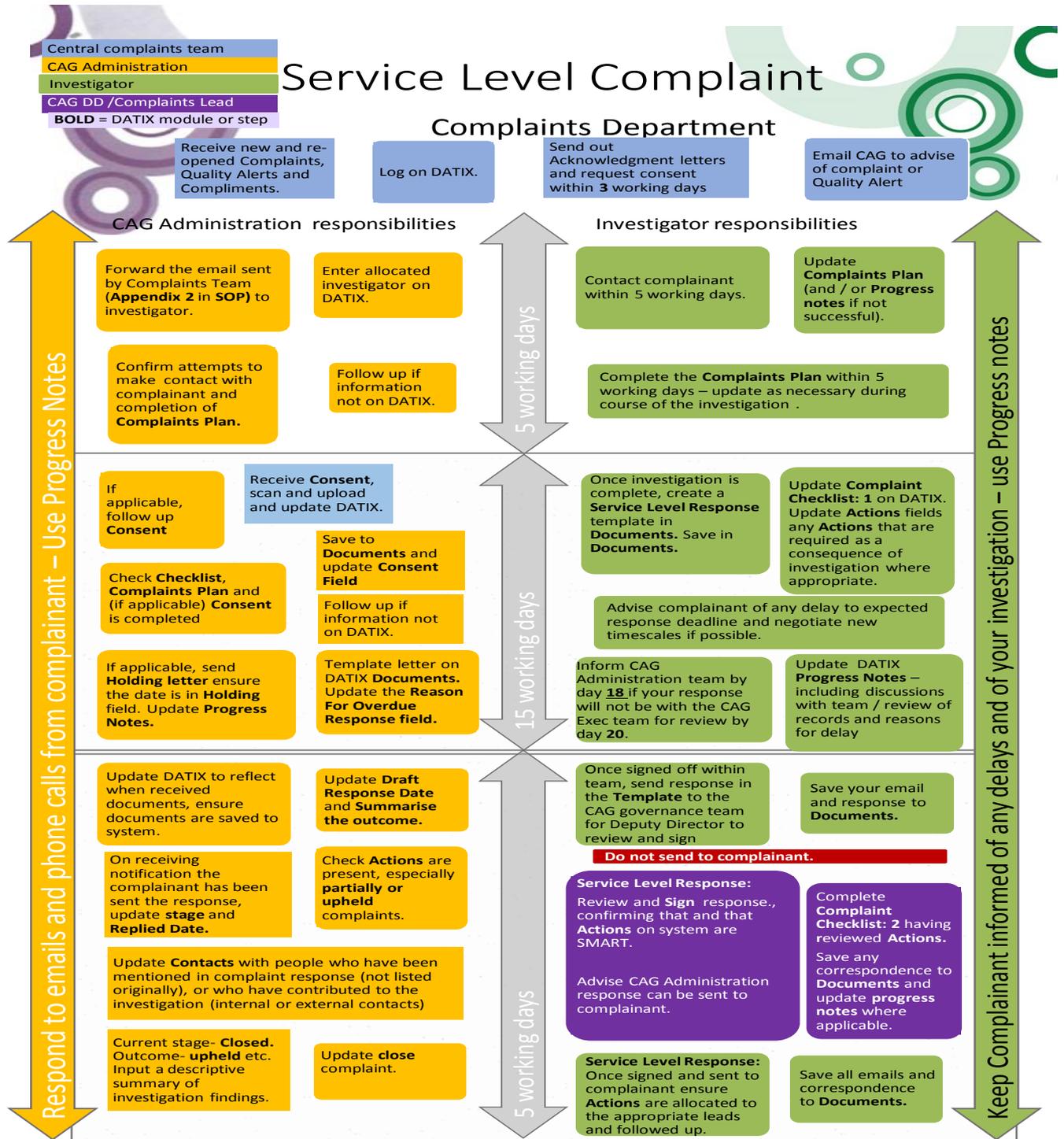
10 References

- The NHS Constitution for England 2009
- The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- National Health Service (Complaints) regulations 2004 (“the Principal Regulations”)
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI no 309)
- Ombudsman’s Principles of Good Complaints Handling and Principles for Remedy; February 2009
- Listening, Responding, Improving: -‘A guide to better customer care’. DH 2009
- Care Quality Commission: Essential Standards of Quality and Safety. 2010
- Implementing a Duty of Candour DH 2011
- Report into the Mid-Staffordshire NHS Foundation Trust Public Inquiry: February 2013
- Good Practice Guidance for NHS Complaints; Patients Association 2013
- A Review of the NHS Hospitals Complaints System: Putting Patients Back in the Picture; Rt Hon Ann Clwyd MP and Professor Tricia Hart
- Putting Patients First; Government Response to the Francis Report. April 2013
- Savile Enquiry - Themes and lessons learnt from NHS investigations into matters relating to Jimmy Savile. 2015
- Local Government Ombudsman’s Report, “Local Partnerships and Citizen Redress”, July 2007

11. Freedom of Information 2000

All Trust policies are public documents. They will be listed on the Trusts FOI document schedule and may be requested by any member of the public under the Freedom of Information Act (2000).

Formal Complaints Flowchart

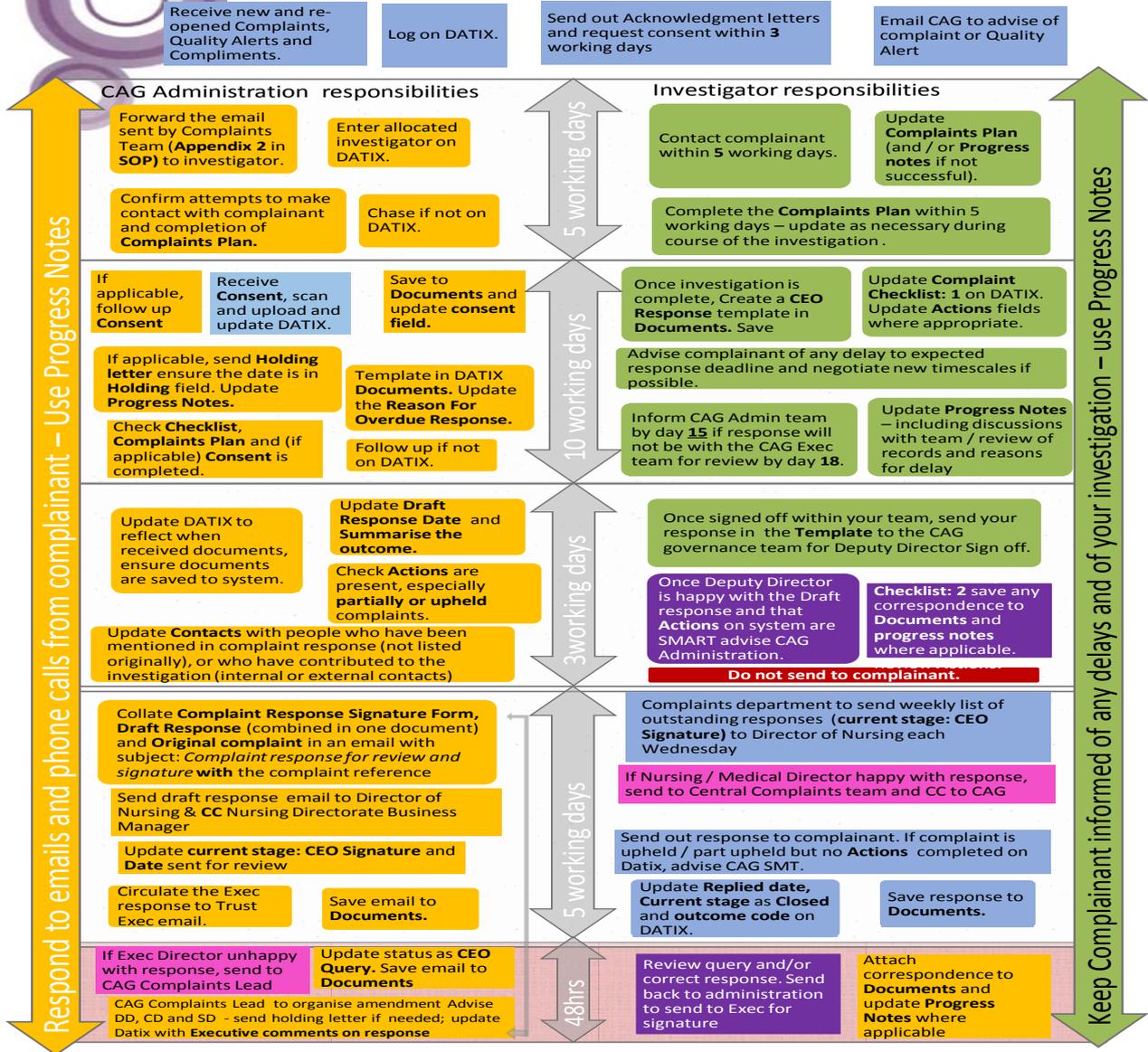


CAG Administration
 Investigator
BOLD = DATIX module or step
 Central Complaints team

Executive Level Complaint

CAG DD /Complaints Lead
 Nursing / Medical Director's Office

Complaints Department



Appendix 2

Procedure for managing unreasonably persistent complainants

1. Introduction

All complaints are dealt with in accordance with the NHS Complaints Procedure. On occasion staff will have contact with a small number of complainants who, because of the nature and/or frequency of their contact with the complaints service, place a significant strain on time and resources and can be demoralising for staff.

The procedure for dealing with complainants who may be defined as unreasonably persistent should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the Trust Complaints Procedure, for example through local resolution and involvement of independent advocacy, if appropriate.

The procedure should only be implemented in relation to a specific complainant following consideration by and authorisation of the Chief Executive.

2. Definition of a habitual or unreasonably persistent complainant

Complainants may be deemed to be habitual or unreasonably persistent where current or previous contact with them shows that they have met two or more (or are in serious breach of one) of the following criteria.

- Persist in pursuing a complaint where the Trust Complaints Procedure has been fully and properly implemented and exhausted.
- Seek to prolong contact by changing the substance of the complaint or continually raising new issues and questions whilst the complaint is being dealt with. (Care must be taken not to disregard new issues which differ significantly from the original complaint. These may need to be addressed as separate complaints).
- Are unwilling to accept documented evidence of treatment given as being factual, e.g. drug records.
- Deny receipt of an adequate response despite evidence of correspondence specifically answering their concerns.
- Do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.
- Do not identify clearly the precise issues which they wish to be investigated despite reasonable efforts to help them do so by Trust staff and, where appropriate, independent advocacy and/or where the concerns identified are not within the remit of the Trust to investigate.
- Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It should be recognised that determining what is trivial can be subjective and careful judgement must be used in applying the criterion.
- Have, in the course of pursuing a registered complaint, had an excessive number of contacts with the Trust placing unreasonable demands on staff. Such contacts may be in person, by telephone, letter, fax or electronically. Discretion must be exercised in deciding how many contacts are required to qualify as excessive, consideration being given to the specific circumstances of each case.
- Are known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.
- Have threatened or used actual physical violence towards staff, their families or associates at any time. This will in itself cause personal contact with the

complainant and/or their representatives to be discontinued and the complaint will thereafter only be pursued through written communication. (All such incidents should be documented in line with the Trust's policy on Violence and Aggression and reported, as appropriate, to police.)

- Have harassed or been verbally aggressive or abusive towards staff dealing with their complaint. Staff must recognise however that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this. All incidents of harassment or aggression must be documented and dated in line with the Trust's policy on the Prevention and Management of Violence and Aggression

3. Options for dealing with habitual or unreasonably persistent complainants

When complainants have been identified as habitual unreasonably persistent, in accordance with the above criteria, the Chief Executive will decide what action to take. Any restrictions imposed will be appropriate and proportionate and include the following considerations:

- A written warning will normally be sent to the complainant before any action is taken to restrict access to the Trust's complaints process
- Regardless of the manner in which the complaint is made and pursued, the substance of the complaint will be considered in a fair and impartial manner
- That any new complaint will be considered separately with a view to processing it in accordance with the Trust's Complaints Policy and Procedure

3.1 If it is decided to treat someone as an unreasonably persistent complainant the Trust will write to them and advise:

- Why their behaviour falls into that category
- What action is being taken

3.2 Where the investigation into the complaint is on-going, the Trust should write to the Complainant setting parameters and the lines of communication. If these are contravened consideration may then be given to implementing further action, e.g. further contact restricted to liaison through a third party.

3.3 Where the investigation into the complaint is complete the Complainant should be informed in writing that:-

- The Trust has responded fully to the points referred to and has tried to resolve the complaint and
- There is nothing more that can be added and the correspondence is now at an end.

4. Withdrawing unreasonably persistent complainant status

Once complainants have been determined as unreasonably persistent, there needs to be a mechanism for withdrawing this status if, for example, complainants

- Subsequently demonstrate a more reasonable approach
- Submit a further complaint for which the normal complaints procedures would be appropriate.

The recommendation for withdrawing this status will go to the Chief Executive for approval.

Appendix 3

Complaints Risk Assessment Tool

Complaints are to be triaged to ensure the investigation process and response is proportionate to the both the seriousness of the complaint and the likelihood of recurrence. Service managers should consider whether any immediate remedial action can be identified.

The complaint will be initially risk assessed when received by the Complaints Office. When the complaint is sent to the relevant directorate, the Investigating Officer should review this rating and for significant risk complaints a Root Cause Analysis (RCA) should be considered as part of the investigation process. The risk should then be reviewed again based on the results of the investigation. The following information is based on the Trust wide Risk Evaluation tool and adapted from Department of Health's document - Listening, responding, Improving-'A guide to better customer care' 2009.

Measure of consequences

| MEASURE | DESCRIPTION |
|-------------------------|---|
| 1. Directorate response | Unsatisfactory service or experience not directly related to care. No impact or risk to provision of care OR Unsatisfactory service or experience related to care, usually a single resolvable issue. Minimal impact and relative minimal risk to provision of care or the service. No real risk of litigation |
| 2. Executive response | Service or experience below reasonable expectations in several ways, but not causing lasting problems. Has potential to impact on service provision. Some potential for litigation. |
| 3. Executive response | Significant issues regarding standards, quality of care and safeguarding or denial of rights. Complaints with care quality assurance or risk management issues that may cause lasting problems for the organisation. Possibility of litigation and adverse local publicity. |
| 4. Executive response | Serious issues that may cause long-term damage such as grossly substandard care, professional misconduct or death. Will require immediate high-level investigation. May involve serious safety issues. High probability of litigation and strong possibility of adverse national publicity. |

Measure of Likelihood

| MEASURE | DESCRIPTION |
|-------------------|---|
| 1. Rare | Isolate or one-off. Slight or vague connection to service provision |
| 2. Unlikely | Rare or unusual but may have happened before |
| 3. Impossible | Happens from time to time but not on a regular or frequent basis |
| 4. Likely | Will probably occur several times a year |
| 5. Almost certain | Recurring and frequent, predictable |

Risk Levels

| SERIOUSNESS | LIKELIHOOD | | | | |
|-------------|------------|---------------|---------------|-------------|--------------|
| | 1 Rare | 2 Unlikely | 3 Possible | 4 Likely | 5 Certain |
| 1 Low | 1 | 2 | 3 | 4 | 5 |
| 2 Medium | 2 | 4 | 6 | 8 | 10 |
| 3 High | 3 | 6 | 9 | 12 | 15 |
| 4 Serious | 4 | 8 | 12 | 16 | 20 |

The higher the risk and more serious the complaint the investigation should include Root Cause Analysis techniques. This can be found on the Structured Investigation site:
<http://sites.intranet.slam.nhs.uk/si>

Appendix 4

PART 1: Equality relevance checklist

The following questions can help you to determine whether the policy, function or service development is relevant to equality, discrimination or good relations:

- Does it affect service users, employees or the wider community? Note: relevance depends not just on the number of those affected but on the significance of the impact on them.
- Is it likely to affect people with any of the protected characteristics (see below) differently?
- Is it a major change significantly affecting how functions are delivered?
- Will it have a significant impact on how the organisation operates in terms of equality, discrimination or good relations?
- Does it relate to functions that are important to people with particular protected characteristics or to an area with known inequalities, discrimination or prejudice?

| Name of the policy or service development: Complaints Policy | | | | | | | | |
|---|------------|----------------------|-----------------------|------|---------------------|-----|--------------------|--|
| Is the policy or service development relevant to equality, discrimination or good relations for people with protected characteristics below? | | | | | | | | |
| Please select yes or no for each protected characteristic below | | | | | | | | |
| Age | Disability | Gender re-assignment | Pregnancy & Maternity | Race | Religion and Belief | Sex | Sexual Orientation | Marriage & Civil Partnership <i>(Only if considering employment issues)</i> |
| yes | yes | no | no | no | no | no | no | no |
| If yes to any, please complete Part 2: Equality Impact Assessment If not relevant to any please state why: | | | | | | | | |

Date completed: 12 November 2018

Name of person completing: Edith Adejobi

Service / Department: Complaints – Nursing Directorate

Please send an electronic copy of the completed EIA relevance checklist to:

1. macius.kurowski@slam.nhs.uk
2. Your Operational Directorate/Borough Equality Lead

PART 2: Equality Impact Assessment

1. Name of policy or service development being assessed? Complaints Policy

2. Name of lead person responsible for the policy or service development? Edith Adejobi

3. Describe the policy or service development

This policy sets out the Trust process for responding to complaints or concerns raised by users of the Trust's services, their carers or other relatives. It is in keeping with South London and Maudsley NHS Foundation (SLaM) Trust's 'Five Commitments' which aims to provide high quality, safe services which improve the health, wellbeing and independence of the people we serve.

This policy is aimed at all SLaM staff and may also be of interest to service users wishing to make a complaint.

What is its main aim?

- To ensure staff are aware of the process for managing and responding to concerns and complaints raised by service users or their representatives.

What are its objectives and intended outcomes?

To support staff to listen and learn from feedback from concerns and complaints; promote feedback from complainants on how complaints and concerns have been dealt with and resolved, ensure local and national reporting requirements are met.

What are the main changes being made?

Review of current policy to reflect changes in organisational structures and in line with national requirements to regularly review and update the Complaints Policy.

What is the timetable for its development and implementation? Immediate

4. What evidence have you considered to understand the impact of the policy or service development on people with different protected characteristics?

(Evidence can include demographic, ePJS or PEDIC data, clinical audits, national or local research or surveys, focus groups or consultation with service users, carers, staff or other relevant parties).

- Demographic and other data on the complaints database. This Policy is applicable to all staff employed by the Trust and those working on behalf of SLaM. This assessment demonstrates SLaM's commitment to create a positive culture of respect for all individuals, including staff, patients, their families and carers and has sought to identify, remove or minimise discriminatory practice in the nine named protected characteristics to ensure equal access to the complaints process.

5. Have you explained, consulted or involved people who might be affected by the policy or service development?

(Please let us know who you have spoken to and what developments or action has come out of this)

- The policy refers to best practice national guidance including the Ombudsman's My Expectations document which was subject to public consultation.

6. Does the evidence you have considered suggest that the policy or service development could have a potentially positive or negative impact on equality, discrimination or good relations for people with protected characteristics?

(Please select yes or no for each relevant protected characteristic below)

| | | |
|---|-----------------------------|-----------------------------|
| Age | Positive impact: Yes | Negative impact: Yes |
| <p>Please summarise potential impacts:</p> <p>Negative: Younger / older individuals may have some difficulties using this policy Older patients and service users may be less likely to make a complaint about their care</p> <p>Positive: Advocacy information is routinely provided to complainants at the beginning and end of the process; staff are encouraged to proactively offer available independent support; complaints information can be provided in large font; Easy/Easier read complaints information are also available in the Trust's top ten languages; The Trust welcomes concerns or complaints from children and young people.</p> | | |
| Disability | Positive impact: Yes | Negative impact: Yes |
| <p>Please summarise potential impacts:</p> <p>Negative: Those with a disability may require support or other assistance to make a complaint.</p> <p>Positive: Advocacy information is routinely provided to complainants at the beginning and end of the process; staff are encouraged to proactively offer available independent support; complaints information can be provided in large font; Easy/Easier read complaints information are also available in the Trust's top ten languages outlining how to make a complaint</p> | | |
| Gender re-assignment | Positive impact: No | Negative impact: No |
| <p>Please summarise potential impacts:</p> <p>It is both good practice and compliant with the law to respect a trans person's identity and amend and protect all records accordingly in line with the individual's confirmed gender.</p> <p>The Complaints policy has not identified any negative impacts at this stage of screening; however, the analysis of numbers and nature of complaints from an equalities perspective may provide further insight into the policy's effectiveness.</p> | | |
| Race | Positive impact: No | Negative impact: No |
| <p>Please summarise potential impacts:</p> <p>Positive: Advocacy information is routinely provided to complainants at the beginning and end of the process; leaflets can be provided in large font; Easy/Easier read leaflets are also available in the Trust's top ten languages; Translation and interpretation services are available as required</p> | | |
| Pregnancy & Maternity | Positive impact: No | Negative impact: No |
| <p>Please summarise potential impacts:</p> <p>The Complaints policy has not identified any negative impacts at this stage of screening; however, the analysis of numbers and nature of complaints from an equalities perspective may provide further insight into the policy's effectiveness.</p> | | |
| Religion and Belief | Positive impact: No | Negative impact: No |
| <p>Please summarise potential impacts:</p> <p>The Complaints policy has not identified any negative impacts at this stage of screening; however, the analysis of numbers and nature of complaints from an equalities perspective</p> | | |

| | | |
|--|----------------------------|----------------------------|
| may provide further insight into the policy's effectiveness. | | |
| Sex | Positive impact: No | Negative impact: No |
| Please summarise potential impacts: The Complaints policy has not identified any negative impacts at this stage of screening; however, the analysis of numbers and nature of complaints from an equalities perspective may provide further insight into the policy's effectiveness. | | |
| Sexual Orientation | Positive impact: No | Negative impact: No |
| Please summarise potential impacts: The Complaints policy has not identified any negative impacts at this stage of screening; however, the analysis of numbers and nature of complaints from an equalities perspective may provide further insight into the policy's effectiveness. | | |
| Marriage & Civil Partnership <i>(Only if considering employment issues)</i> | Positive impact: No | Negative impact: No |
| Please summarise potential impacts: The Complaints policy has not identified any negative impacts at this stage of screening; however, the analysis of numbers and nature of complaints from an equalities perspective may provide further insight into the policy's effectiveness. | | |
| Other (e.g. Carers) | Positive impact: | Negative impact: |
| Please summarise potential impacts: The Complaints process aims to be as accessible as possible to all users of the Trust's services by | | |
| <ul style="list-style-type: none"> • Providing literature in alternative formats, forms and languages to meet the needs of individuals' requirements. • Using trained interpreters via Language Line • Providing any training required in order to treat all clients in an appropriate and sympathetic manner • Ensuring that those with physical or mental impairment have equal access to the service • Promoting and facilitating the use of independent complaints advocacy services. | | |

7. Are there changes or practical measures that you can take to mitigate negative impacts or maximise positive impacts you have identified?

YES: *Please detail actions in PART 3: EIA Action Plan*

8. What process has been established to review the effects of the policy or service development on equality, discrimination and good relations once it is implemented?

(This may should include agreeing a review date and process as well as identifying the evidence sources that can allow you to understand the impacts after implementation)

Date completed: 12 November 2018

Name of person completing: Edith Adejobi

Service / Department: Complaints – Nursing Directorate

Please send an electronic copy of the completed EIA relevance checklist to:

1. macius.kurowski@slam.nhs.uk
2. Your Operational Directorate/Borough Equality Lead

PART 3: Equality Impact Assessment Action plan

| Potential impact | Proposed actions | Responsible/ lead person | Timescale | Progress |
|---|--|--|---------------------------------|----------|
| Age: | | | | |
| <p>Younger / older individuals may have some difficulties using this policy</p> <p>Older patients and service users may be less likely to make a complaint about their care</p> | <p>There are a number of ways in which to raise concerns or provide comments, including non-written methods.</p> <p>Availability of complaints publicity in easy read / easier read versions will be proactively promoted</p> <p>The Trust will respond positively to requests for information in alternative formats and proactively highlight these as a possible option, where appropriate.</p> <p>A complaint can be made on a child's behalf, but where a child has competence and it is possible to obtain their written consent this is recommended (in line with The Children Act 1983)</p> <p>Complaints publicity and acknowledgement letters will assure complainants and patients that a complaint will not affect a Service user's care</p> <p>Monitor the numbers of complaints from the older population, benchmark and act if numbers are not comparable</p> | <p>Head of complaints / Governance Teams / complaints office / all staff</p> <p>complaints office</p> <p>Head of complaints / Governance Teams</p> | <p>On-going</p> <p>On-going</p> | |
| Disability | | | | |
| <p>Those with a disability may require support or other assistance to make a complaint.</p> | <p>The Trust will respond positively to requests for information in alternative formats and proactively highlight these as a possible option, where appropriate. These include options such as large font, easy read, Braille, audio tape and alternative languages.</p> <p>Complaints advocacy services also provide these services and they are proactively offered by the complaints office.</p> | <p>Head of complaints / Governance Teams / complaints office / all staff</p> | <p>On-going</p> | |

Date completed: 12 November 2018

Name of person completing: Edith Adejobi

Service / Department: Complaints – Nursing Directorate

Please send an electronic copy of your completed action plan to:

1. macius.kurowski@slam.nhs.uk
2. Your Operational Directorate/Borough Equality Lead

Appendix 5

Human Rights Act Assessment

To be completed and attached to any procedural document when submitted to an appropriate committee for consideration and approval.

If any potential infringements of Human Rights are identified, i.e. by answering Yes to any of the sections below, note them in the Comments box and then refer the documents to SLaM Legal Services for further review.

For advice in completing the Assessment please contact Tony Konzon, Claims and Litigation Manager (Anthony.Konzon@slam.nhs.uk)

| HRA Act 1998 Impact Assessment | Yes/No | If Yes, add relevant comments |
|--|--------|---|
| The Human Rights Act allows for the following relevant rights listed below. Does the policy/guidance NEGATIVELY affect any of these rights? | No | <p>Under various International, European and UK laws, the nine protected characteristics of equalities legislation will apply and everyone can expect to be treated fairly and equally regardless of their:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Age. <input type="checkbox"/> Disability. <input type="checkbox"/> Sex. <input type="checkbox"/> Gender reassignment. <input type="checkbox"/> Marriage and civil partnership. <input type="checkbox"/> Pregnancy and maternity. <input type="checkbox"/> Race. <p>Patients, carers, members of the public and staff members must also have their human rights respected at all times. No aspect of the handling of any complaint must prejudice their human rights.</p> |
| Article 2 – Right to Life (Resuscitation /experimental treatments, care of at risk patients) | No | |
| Article 3 - Freedom from torture, inhumane or degrading treatment or punishment (physical & mental wellbeing - potentially this could apply to some forms of treatment or patient management) | No | |
| Article 5 – Right to Liberty and security of persons i.e. freedom from detention unless justified in law e.g. detained under the Mental Health Act (Safeguarding issues) | No | |

| HRA Act 1998 Impact Assessment | Yes/No | If Yes, add relevant comments |
|---|---------------|--------------------------------------|
| Article 6 – Right to a Fair Trial, public hearing before an independent and impartial tribunal within a reasonable time (Mental Health Act Tribunals/complaints/ grievances) | No | |
| Article 8 – Respect for Private and Family Life, home and correspondence/ all other communications (Right to choose, right to bodily integrity i.e. consent to treatment, Restrictions on visitors, Disclosure issues) | No | |
| Article 9 - Freedom of thought, conscience and religion (Religious and language issues) | No | |
| Article 10 - Freedom of expression and to receive and impart information and ideas without interference. (withholding information) | No | |
| Article 11 - Freedom of assembly and association | No | |
| Article 14 - Freedom from all discrimination | No | |

| | |
|---|-----------------|
| Name of person completing the Initial HRA Assessment: | Edith Adejobi |
| Date: | 8 November 2018 |
| Person in Legal Services completing the further HRA Assessment (if required): | |
| Date | |

