with you, for you

NHS
Gloucestershire Health and Care
NHS Foundation Trust

CLINICAL GOVERNANCE POLICY
Managing Feedback from Patients and Carers (Including Complaints)

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Policy Number	CGP010
Version:	V2
Purpose:	The main aim of this policy is to ensure a robust process is in place for processing feedback from patients and carers as quickly, sensitively and supportively as possible. The Trust's approach is to manage matters locally, wherever possible, with the aim of providing a resolution and/or reassurance that patients and carers views have been heard.
Consultation:	Clinical Policy Group (including Service Directors, Executive Directors) Complainants, PCET, PHSO
Approved by:	Clinical Policy Group
Date approved:	20/08/2024
Author:	Kate Bowden (Head of Patient and Carer Experience) Hannah Williams (Deputy Director of Nursing, Therapies and Quality)
Date issued:	03/09/2024
Review date:	01/09/2027
Audience:	All Trust employees, patients and carers
Dissemination:	The policy will be published on both external and internal GHC web pages and this update will be listed on the Clinical Policy update bulletin
Impact Assessments:	This Policy has been subjected to an Equality Impact Assessment. This concluded that this policy will not create any adverse effect or discrimination on any individual or particular group and will not negatively impact upon the quality of services provided by the Trust

Version History

Version	Date Issued	Reason for Change
V1	01/10/2019	New Policy for GHC

V1.1	03/10/2019	Typing error updated on page 25, section 5.37.5: Appendix C now reads as Appendix A All appendices have been updated in 2024 version of policy
V1.2	16/12/2022	Extension to review date and addition of 'under review' banner including further information regarding the review – Policy confirmed as fit for purpose
V2	03/09/2024	Reviewed and aligned with the PHSO Complaint Standards

SUMMARY

This page summarises the key points of this policy. You should ensure that you read the policy in full to comply with the requirements and measures to be taken in order to respond to feedback, including complaints, fairly and effectively; specifically:

Welcoming feedback in a positive way and:

- recognising it as important insight into how to improve services
- creating a positive experience by making it easy for service users to provide feedback and/or make a complaint
- giving colleagues the freedom to resolve issues quickly and to everyone's satisfaction.

Supporting a thorough and fair approach to managing feedback and:

- giving an open and honest answer as quickly as possible, considering the complexity of the issues
- making sure service users who provide feedback, and colleagues directly involved in the issues, have their say and are kept updated when they carry out this work
- making sure service users can see what colleagues are doing to look into the issues in a fair and objective way, based on the facts.

Encouraging fair and accountable responses that:

- set out what happened and whether mistakes were made
- fairly reflect the experiences of everyone involved
- clearly explain how the organisation is accountable
- give colleagues the confidence and freedom to offer fair remedies to put things right
- take action to make sure any learning is identified and used to improve services.

Promoting a learning culture by supporting the whole organisation to:

- see feedback as an opportunity to develop and improve its services and people
- set clear expectations to embed an open, non-defensive approach to learning
- regularly talk to managers, leaders and service users about learning and how this has influenced change
- give colleagues the support and training they need to deliver best practice in managing feedback.

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ABBREVIATIONS

Abbreviation	*Full Description*
GHC	Gloucestershire Health and Care NHS Foundation Trust
PHSO	Parliamentary and Health Services Ombudsman
PCET	Patient and Carer Experience Team
NEDs	Non-Executive Directors
CEO	Chief Executive Officer

1. INTRODUCTION

1.1 We strive to deliver the best possible service for those in our care. Every person in contact with our services should receive flexible, compassionate, empathetic, respectful, inclusive, timely care and communication from Trust staff and volunteers.

1.2 In accordance with Trust values, national complaint guidance and legislation, we will actively seek feedback about our services. Where feedback includes a complaint about services, the Trust will comply with the relevant requirements in the Local Authority, Social Services and National Health Service Complaint Regulations 2009 and the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the 2009 and 2014 Regulations).

1.3 The Trust is committed to having effective procedures in place to manage all issues brought to its attention. The organisation will learn from feedback and ensure that people's experiences are used to continually improve services. The Parliamentary and Health Service Ombudsman, Review of Complaint Handling for 2011/12 notes:

"…each complaint that is not fully addressed or investigated is a missed opportunity for the NHS to continue to improve, to pick up on possible systematic problems, and to reinforce the trust that we all place in the NHS to get our care and treatment right."

1.4 The Trust accepts the NHS Complaint Standards, which set out how NHS organisations should approach complaint handling in a clear and consistent way. This policy describes how Gloucestershire Health and Care NHS Foundation Trust will put into practice the core expectations given in the Standards and provide a positive experience for everyone when issues are raised.

2. PURPOSE

2.1 The purpose of this policy is to ensure a robust process is in place for processing feedback from patients and carers as quickly, sensitively and supportively as possible. The Trust's approach is to manage matters locally, wherever possible, with the aim of providing a resolution and/or reassurance that patients and carers have been heard.

To achieve this, the policy and process has a strong focus on:

- being open and transparent, easily accessible and responsive to those who use it
- providing early resolution, wherever possible, by empowered and well-trained staff
- regularly reviewing what learning can be taken from feedback and using this to improve Trust services.

3. SCOPE

3.1 This policy and procedure is relevant to all staff employed by the Trust and will be applied to all feedback the Trust receives. There are no limitations to its circulation within the Trust and the wider NHS community and it is available to service users, their families and/or carers and members of the public via the Trust website or on request.

3.2 Where feedback does not relate to any Trust service, this will be forwarded to the responsible organisation by the Patient and Carer Experience Team, with the agreement of the complainant where required.

3.3 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 set out the duty to handle complaints at section 6. The regulations allow a wide definition and a complaint can be made about any matter reasonably connected with the exercise of an organisation's NHS services.

The following complaints are not required to be dealt with under the Local Authority Social Services and National Health Service Complaints (England) Regulations (2009), Regulation 8(1):

- A complaint made by any NHS organisation or private or independent provider or responsible body.
- A complaint made by an employee about any matter relating to their employment.
- A complaint, the subject matter of which has previously been investigated under these or previous NHS Regulations.
- A complaint that is made orally and resolved to the complainant's satisfaction no later than the next working day.
- A complaint arising out of an NHS body's alleged failure to comply with a request for information under the Freedom of Information Act 2000.
- A complaint that relates to any scheme established under section 10 (superannuation of persons engaged in health services) or section 24 (compensation for loss of office) of the Superannuation Act 1972 or to the administration of those schemes.

3.4 If a complaint (or any part of it) does not fall under this procedure, the Trust will, in accordance with regulation 8(2)(b), explain the reasons for this, in writing, to the person who has raised the complaint and provide any relevant signposting information, for example to organisations that are better placed to assist.

3.5 Regulation 12 states that a complaint must be made within 12 months of the date the matter complained about occurred or the date the person who has raised the complaint found out about it, whichever is the later.

3.6 Regulation 13 states that 'a complaint may be made orally, in writing or electronically'. This includes in person, on the telephone, email and on- line. Where a complaint is made orally,

you ‘must— make a written record of the complaint; and provide a copy … to the complainant’.

3.7 The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Regulation 20) says there is a duty of candour and that organisations ‘must act in an open and transparent way with relevant persons in relation to care and treatment provided to service users in carrying on a regulated activity’.

In March 2014, the Department of Health and Social Care issued a clarification note for complaints cases subject to litigation, inquests and other serious investigations. This says that where a complainant expresses an intention to take legal proceedings but has not instructed a solicitor, an NHS body should continue to try to resolve the complaint quickly unless there are compelling legal reasons not to do so.

4. DUTIES

4.1 The Trust Board is the responsible body under the NHS Complaints Regulations. The Board provides delegated responsibility to the Trust’s Governance Committee to approve this document.

4.2 Non-Executive Directors (NEDs) will provide assurance via quarterly audits of anonymised complaints.

4.3 The CEO is responsible for ensuring Trust compliance with NHS Complaints Regulations.

4.4 Service Directors/Clinical Directors and their delegated deputies are responsible for ensuring the prompt provision of information in response to feedback. Where required, they should also allocate investigators to look into complaints in a timely way and oversee the investigation process; supporting all colleagues involved and ensuring any learning is appropriate and achievable.

4.5 Complaint Investigators will undertake accurate, robust and objective preliminary complaint investigations. Mediation and/or conciliation work might also be required.

4.6 The Head of Patient and Carer Experience has delegated authority to manage the complaints procedure on behalf of the CEO. They will ensure that the Patient and Carer Experience Team is available and accessible to service users, carers, the public and members of staff during working hours (Monday to Friday, 08:30 to 16:30).

4.7 All Trust staff should be aware of this policy, as they have a responsibility to enable resolution wherever possible.

4.8 All staff have an obligation under the Duty of Candour Policy to ensure that any patient harmed by the provision of our services must be informed of the fact and appropriate remedy offered, regardless of whether a complaint has been made or an issue has been raised.

5. MENTAL CAPACITY ACT COMPLIANCE

5.1 Where parts of this document relate to decisions about providing any form of care treatment or accommodation, staff using the document must do the following:

- Establish if the person able to consent to the care, treatment or accommodation that is proposed? (Consider the 5 principles of the Mental Capacity Act 2005 as outlined in section 1 of the Act. In particular principles 1,2 and 3) Mental Capacity Act 2005 (legislation.gov.uk).
- Where there are concerns that the person may not have mental capacity to make the specific decision, complete and record a formal mental capacity assessment.
- Where it has been evidenced that a person lacks the mental capacity to make the specific decision, complete and record a formal best interest decision making process using the best interest checklist as outlined in section 4 of the Mental Capacity Act 2005 Mental Capacity Act 2005 (legislation.gov.uk).
- Establish if there is an attorney under a relevant and registered Lasting Power of Attorney (LPA) or a deputy appointed by the Court of Protection to make specific decisions on behalf of the person (N.B. they will be the decision maker where a relevant best interest decision is required. The validity of an LPA or a court order can be checked with the Office of the Public Guardian) Office of the Public Guardian - GOV.UK (www.gov.uk).
- If a person lacks mental capacity, it is important to establish if there is a valid and applicable Advance Decision before medical treatment is given. The Advance Decision is legally binding if it complies with the MCA, is valid and applies to the specific situation. If these principles are met it takes precedence over decisions made in the persons best interests by other people. To be legally binding the person must have been over 18 when it was signed and had capacity to make, understand and communicate the decision. It must specifically state which medical treatments, and in which circumstances the person refuses and only these must be considered. If a patient is detained under the Mental Health Act 1983 treatment can be given for a psychiatric disorder.
- Where the decision relates to a child or young person under the age of 16, the MCA does not apply. In these cases, the competence of the child or young person must be considered under Gillick competence. If the child or young person is deemed not to have the competence to make the decision then those who hold Parental Responsibility will make the decision, assuming it falls within the Zone of Parental control. Where the decision relates to treatment which is life sustaining or which will prevent significant long-term damage to a child or young person under 18 their refusal to consent can be overridden even if they have capacity or competence to consent.

6. POLICY DETAIL

6.1 Context

The Trust acknowledges its requirement to comply with current NHS guidance and best practice to resolve issues for patients and carers, wherever possible.

This document complies with:

- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
- NHS Constitution for England 2015
- NHS Complaint Standards 2023
- DHSC NHS Complaints Guidance
- Data Protection Act 2018
- Access to Health Records Act 1990
- Mental Health Act 1983 (amended 2007)

- Mental Capacity Act 2005
- Accessible Information Standard (DCB1605 Accessible Information 2017)

7. FEEDBACK AND COMPLAINTS

- People may want to provide feedback instead of making a complaint. In line with DHSC's NHS Complaints Guidance people can provide feedback, make a complaint or do both. Feedback can be both complimentary or an expression of dissatisfaction but is normally given without wanting to receive a written response.
- People do not have to use the term 'complaint' nor should we assume that people want to pursue a formal complaint when this term is used. We will use the language chosen by the patient, service user or their representative when they describe their concerns, and we will always seek to understand how they would like us to proceed.
- We will consider all accessibility and reasonable adjustment requirements of people who wish to provide feedback or make a complaint in an alternative way. We will record any reasonable adjustments we make.
- We will acknowledge a complaint within three working days of receiving it. This can be done in writing, electronically or verbally.

7.1 Who Can Make a Complaint?

As set out in the 2009 Regulations, any person may make a complaint to us if they have received or are receiving care and services from our organisation, including those that we sub-contract out (see section 10.9). A person may also complain to us if they are not in direct receipt of our care or services but are affected, or likely to be affected by, any action, inaction, or decision by our Trust.

If at any time we see that a representative is acting inappropriately, we will assess whether we should stop our consideration of the complaint. If we do this, we will share our reasons with the representative in writing. In such circumstances we will advise the representative that they may complain to the Parliamentary and Health Service Ombudsman if they are unhappy with our decision.

7.2 Complaints on Behalf of a Service User (Including Children and Young People)

If the person affected does not wish to deal with the complaint themselves, they can appoint a representative to raise the complaint on their behalf. There is no restriction on who may represent the person affected; however, they will need to provide us with their consent to discuss their personal information (including any relevant medical records).

Parents or guardians can complain on behalf of their child or young person; however, we may require consent in order to share details of their confidential health records with them (see 7.3 below).

7.3 Complaints from Children and Young People

Children who access Trust services have the right to make a complaint. In the case of a child who is under 18 years of age, a parent or guardian may make the complaint on their behalf.

It may be appropriate to obtain consent from a child if they are considered to be capable of understanding the situation and can provide informed consent. We will always request that a consent form is completed for children older than 12; however, parents or guardians

can complete this form on their behalf where appropriate.

7.4 Complaints on Behalf of Deceased Patients

If the person affected has died or is otherwise unable to complain because of physical or mental incapacity, a representative may make the complaint on their behalf. There is no restriction on who may act as representative but there may be restrictions on the type of information we may be able to share with them. We will explain this when we first look at the complaint.

7.5 Members of Parliament and County Councillors

Enquiries from Members of Parliament (MPs) are usually directed to the Chief Executive Officer. Responses to MP enquiries are usually coordinated by the CEO's office with support from the Patient and Carer Experience Team, as required. Such enquiries are not usually subject to a formal complaint investigation when they are received via this route.

7.6 Care Quality Commission

The Trust may receive enquiries from the Care Quality Commission (CQC) on behalf of complainants who have contacted them directly. Responses will be coordinated by the Patient and Carer Experience Team in line with Trust Policy. The response will be made to the complainant and CQC will be informed of the outcome.

7.7 Anonymous Complaints

Issues raised anonymously fall outside the scope of this process as it is not possible for the Trust to provide the complainant with a response. However, all feedback is recorded, reviewed and investigated as appropriate. Where learning is identified, this is shared with Service Directors to take forward with relevant teams.

8. SUPPORT FOR THOSE INVOLVED IN A COMPLAINT

8.1 Support Available to People Who Raise a Complaint

- The Trust acknowledges that raising a complaint may feel daunting and the thought of navigating the formal complaints process may discourage some people from getting in touch. The Trust welcomes all feedback in a positive way and is committed to providing the most accessible way for individuals to share their experiences. Patient and Experience Officers offer support and guidance on the range of methods available to share feedback or raise a complaint, including the reasonable adjustments that can be made.
- The Patient and Carer Experience Team will offer details of the independent local NHS Complaints Advocacy Service to everyone who raises a formal complaint. Information, including contact details, will be sent to the complainant when the complaint issues are formally acknowledged in writing.

8.2 Support for Complainants with Language or Other Access Difficulties

If a complainant has difficulty in sharing their feedback, for example, due to language differences or disability, their needs will be identified, and the appropriate support will be offered in order to help them to be heard.

8.3 Support for Colleagues Identified in a Complaint

Any member of staff named in a complaint is entitled to receive a copy of the complaint letter and final Trust response letter. Wherever possible, we will avoid using staff names in our correspondence with complainants and use job titles instead.

The Trust recognises that being identified in a complaint can be stressful and colleagues can draw upon support and guidance from the Trust. Initial support will be provided by the individual's line manager. Staff should also be advised that a counselling service is available to them via Working Well (occupational health). Colleagues may also wish to obtain support from their professional organisation or Trade Union and/or to speak with the Trust Freedom to Speak Up Guardian.

- The Trust will ensure all staff who look at complaints have the appropriate: resources, support and time to investigate and respond to complaints effectively. This includes how to manage challenging conversations and behaviour.
- Investigators will make sure staff who are named in complaints are made aware of the complaint (either directly or via their line manager) and we will give them advice on how they can get support, if required.
- We will make sure staff who are named in complaints have the opportunity to give their views on the events. Our staff will act openly and with empathy when discussing these issues.
- The person carrying out the investigation will keep any staff involved updated, including sight of the draft response where appropriate.

9. TIMESCALE FOR MAKING A COMPLAINT

- Complaints must be made to us within 12 months of the date the incident being complained about happened or the date the person raising the complaint found out about it, whichever is the later date.

- If a complaint is made to us after that 12-month deadline, we will consider it if:
    - We believe there were good reasons for not making the complaint before the deadline, and
    - it is still possible to properly consider the complaint.

- If we do not see a good reason for the delay or it is not possible to properly consider any part of the complaint, we will write to the complainant to explain this. We will also explain that they can complain to the Parliamentary and Health Service Ombudsman or Care Quality Commission (for complaints about the use of the Mental Health Act 1983) about this decision.

10. THE COMPLAINT PROCEDURE

10.1 Making Sure People Know how to Complain

- We will make it easy for service users to share their experience by providing materials promoting feedback in public areas and on our website.
- We will make sure that everybody who uses (or is impacted by) our services, and those that support them, know how they can make a complaint. We will provide a range of ways to do this so that people can do this easily in a way that suits them.
- Feedback and complaints can be made to us:

    - In person
    - by telephone on 0300 421 8313
    - in writing to Edward Jenner Court, Pioneer Avenue, Brockworth, Gloucester, GL3 4AW
    - by email at experience@ghc.nhs.uk
    - online at www.ghc.nhs.uk/get-in-touch
- Where it may not be possible to achieve a relevant outcome through the complaint process, we will consider other processes that may help address the issues and/or provide the outcomes sought. This can happen at any stage in the complaint handling process and may include issues that could or should:
    - trigger a patient safety investigation
    - trigger our safeguarding procedure
    - involve a coroner investigation or inquest
    - trigger a relevant regulatory process, such as fitness to practice
    - involve a relevant legal issue that requires specialist advice or guidance
    - trigger an internal HR investigation

- When another process may be more appropriate, our staff will seek advice and provide clear information to the individual raising the complaint. We will make sure the individual understands why this is relevant and the options available.

10.2 Issues that can be Resolved Quickly

- We want all people to have a good experience when they use our services. If somebody feels that the service received has not met our standards, our staff are empowered to proactively resolve any issues raised at first point of contact.
- All staff will handle feedback in a sensitive, empathetic way and will:
    - Listen to the service user to make sure they understand the issue(s)
    - ask how they have been affected
    - ask what they would like to happen to put things right
    - capture any learning to share with colleagues and improve services for others.
- Where frontline staff are unable to provide a satisfactory resolution themselves, or if the issues are complex, they can signpost service users to the Patient and Carer Experience Team.

10.3 Acknowledging Complaints

- We will acknowledge all complaints within three working days and allocate a Case Handler from the Patient and Carer Experience Team.
- The Case Handler will triage the complaint in order to assess the seriousness of the issue(s) raised and to establish:
    - the potential impact on the people involved
    - the potential risks to individuals and/or the organisation.
- Should potential risk be identified during the triage process, the Case Handler will discuss with relevant colleagues or their line manager.
- The Case Handler will engage with the complainant as soon as possible to:
    - introduce themselves and provide their contact details
    - agree the key issues to be looked at
    - understand how the person has been affected
    - explore the outcome(s) they seek

    - explain the complaint process.
- The Case Handler will determine, in collaboration with the complainant and based on the issues agreed, whether 'Early Resolution' or a 'Closer Look' investigation is appropriate.
- The Case Handler will send the complainant an acknowledgement letter, formally setting out a summary of the complaint and the issues for investigation as well as the expected timeframe for a response and the details of an independent advocacy service (in Gloucestershire, this is POhWER).

10.4 Focus on Early Resolution

- We are committed to resolving complaints at the earliest opportunity. When our Case Handlers believe that early resolution may be possible, they will work quickly with services to provide a response.
- Early Resolution may be suitable if:
    - a service has not been provided that should have been
    - a service has not been provided to an appropriate standard
    - a request for a service has not been answered or actioned
    - a service being provided is having an immediate negative impact
    - an error has been made that can be corrected quickly
    - a member of staff was perceived as rude or unhelpful
    - a staff member or contractor did not attend a scheduled appointment.
- **Deputy Service Directors/Medical Leads** will nominate someone not directly involved with the patient to investigate the complaint, supported by the Case Handler.
- There is no obligation for the investigator to speak to the complainant, unless specifically requested (as the Case Handler will already have done so).
- A formal written response and learning summary will be drafted by the Case Handler for comments/approval by the investigator and sign off by the Deputy Service Director/Medical Lead (or both)
- We aim to do this as quickly as possible but no later than 12 weeks from the date the complaint was received.

10.5 A Closer Look into the Issues

- Not every complaint can be resolved quickly and sometimes we will need to take a closer look into the issues.
- A closer look may be required when:
    - The issues raised are complex and require detailed investigation
    - the complaint is about more than one area of care/service or multiple organisations
    - the complaint is about both health and social care
    - the complaint relates to issues that have been identified as serious or high risk/high profile.
- We will make sure staff involved in carrying out a closer look have:
    - The appropriate level of authority/autonomy to carry out a fair investigation
    - the right resources, support and time to carry out the investigation.
- **Service Directors/Medical Directors** will nominate someone not directly involved with the patient to investigate the complaint, supported by the Case Handler.
- The investigator should speak to the complainant to hear their experience directly (the Case Handler can support with facilitating this)

- A formal written response and learning summary will be drafted by the Case Handler for comments/approval by the investigator and Service Director/Medical Director (or both). This will then be shared with the Director of Nursing for sign off.
- We aim to do this within 12 weeks but no later than 26 weeks from the date the complaint was received.

10.6 Carrying out the Investigation

- Investigators will be provided with an editable template, summarising the background and issues for investigation. All information, including interviews/statements, should be documented here.
- Investigators will give a clear and balanced explanation of what happened and what should have happened, referencing relevant legislation, standards, policies, procedures and local/national guidance.
- Investigations will clearly address all the issues raised and confirm whether each issue is upheld or not upheld. Issues cannot be partially upheld.
- If the complaint raises clinical issues, or other issues outside the investigator's expertise, they will obtain a view from someone suitably qualified in that area.
- Investigators will complete their investigation within four weeks. Should this not be possible, they will inform the Case Handler so that they can notify the person raising the complaint and explain the reasons for the delay/provide a new target timescale for completion.
- If we cannot conclude the investigation and issue a written response within 26 weeks, the Head of Patient and Carer Experience will write to the person to explain the reasons for the delay and maintain oversight of the case until a formal written response is shared.

10.7 The Formal Written Response

- As soon as practical after the investigation is finished, the Case Handler will draft a written response and learning summary. The response will include:
    - A reminder of the issues investigated
    - an explanation of how we investigated the complaint
    - the relevant evidence we considered
    - an explanation of what happened compared to what should have happened, with reference to relevant local/national guidance
    - if something went wrong, an explanation of the impact it had
    - an explanation of how that impact will be remedied for the individual
    - a meaningful apology for any failings
    - where appropriate, reassurance that good practice and policies were followed
    - an explanation of any wider learning we have acted on/will act on to improve our service for other users
    - details of how to contact the Parliamentary and Health Service Ombudsman (or Care Quality Commission for Mental Health Act complaints) if the individual is not satisfied with our final response.

10.8 Complaints Involving Multiple Organisations

- If we receive a complaint that involves other organisation(s) (including cases that cover health and social care issues), we will investigate in collaboration with those organisations wherever possible. The people handling the complaint for each

organisation will agree who will be the 'lead organisation' responsible for overseeing and coordinating consideration of the complaint.

- The person investigating the complaint for the lead organisation will be responsible for making sure the person who raised the complaint is kept involved and updated throughout. They will also coordinate a joint response.
- Where we are not the lead organisation, we will fully cooperate with the organisation who has been identified as the lead and liaise with them to ensure all their issues are addressed.

10.9 Complaints about a Private Provider of our NHS Services

- This complaint handling procedure applies to all NHS Services we provide directly. If the complaint relates solely to private healthcare, we will direct the complaint to the relevant provider.
- Where we outsource the provision of NHS Services to a contractor or private provider, we will make sure they have a robust complaint procedure. We will ask for consent from the patient before sharing their complaint with them to respond directly.

10.10 Complaining to the Commissioner of our Service

- Under section 7 of the 2009 Regulations, the person raising the complaint has a choice of complaining to us, as the provider of the service, or to the commissioner. If a complaint is made to our commissioner, they will determine how to handle the complaint in discussion with the person raising the complaint.
- In some cases, it may be agreed between the person raising the complaint and the commissioner that we, as the provider of the service, are best placed to deal with the complaint. If so, we will treat the complaint as if it had been made to us in the first place.
- In other cases, the commissioner of our services may decide that it is best placed to handle the complaint itself. It will do so following the expectations set out in the Complaint Standards and in a way that is compatible with this procedure. We will co-operate fully in the investigation.

10.11 Complaints about the Patient and Carer Experience Team (PCET)

- Complaints about the Patient and Carer Experience Team should be sent directly to the Director of Nursing, Therapies and Quality, CEO or the Trust Chair.
- A robust and independent investigation of the issue will be undertaken in line with usual policy but managed through an alternative route to maintain objectivity.

10.12 Complaints about the CEO, Executive Directors or Non-Executive Directors

- Complaints regarding the CEO, an Executive Director or a Non-Executive Director should be sent to the Trust Chair.
- The Trust Chair will ensure that a robust and independent investigation of the issue raised will be undertaken.

10.13 Complaints about the Trust Chair

- Complaints about the Trust Chair should be sent to the CEO.

10.14 Confidentiality of Complaints

- We will maintain confidentiality and protect privacy throughout the complaints process in accordance with UK General Protection Data Regulation and Data Protection Act 2018.
- We will make sure that our service users' ongoing or future care will not be affected (either positively or negatively) because they have provided feedback or made a complaint, and documents relating to a complaint investigation will be kept separately from medical or other patient records in line with the Trust's Health Records and Clinical Record Keeping Policy (CLP005) - Interact (ghc.nhs.uk).

10.15 Managing Unreasonable Complaints

- One of the Trust's core values is working together with service users, carers and staff and the Trust will take all reasonable steps to reach a resolution wherever possible.
- Staff should recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and make reasonable allowances for this; however, any incidents of harassment should be reported and documented on Datix
- Where all avenues have been explored to reasonably resolve issues, further action may be considered. Guidance on defining and managing unreasonable complaints is contained in Appendix E. This procedure will only be used in exceptional circumstances and as a last resort when all other measures have been exhausted.
- Unreasonable behaviour, violence and aggression NOT related to a complaint is managed under the Management of Violence and Aggression Policy - Interact (ghc.nhs.uk).

11. MONITORING, LEARNING AND DATA RECORDING

- We expect all staff to identify any learning that can be taken from complaints, regardless of whether mistakes are found or not.
- Our senior managers take an active interest and involvement in all sources of feedback and complaints, identifying where insight and learning will help improve services for other users.
- Learning summaries are shared with the Learning Assurance Lead and relevant directorate leads at the end of each complaint investigation, along with a copy of the formal response letter. Outcomes are shared via monthly directorate level and Trust-wide reports for discussion and assurance (see Section 12). Anonymised summaries may also be published on our website to promote service improvement.
- We maintain a record of:
    - Each complaint we receive
    - The subject matter
    - The outcome (upheld, not upheld or partially upheld)
    - Whether we sent our formal written response within 12 weeks.
- We monitor all feedback and complaints over time, highlighting emerging trends and potential risks to directorate lead and to the Learning Assurance Lead.
- In keeping with the 2009 Regulations section 18, as soon as practical after the end of each financial year, we will produce and publish a report on our complaint handling and other Patient and Carer Team activity.

12. PROCESS FOR MONITORING COMPLIANCE

Are the systems or processes in this document monitored in	**YES**

line with national, regional, trust or local requirements?	

Monitoring Requirements and Methodology	Frequency	Further Actions
Learning Summary and Formal Response Letter for individual complaints and any associated action plans	On closure of the complaint	Shared with Service Directors and senior leads for discussion/learning and oversight
Directorate Level Patient and Carer Experience Reports	Monthly	Shared with Service Directors and senior leads for discussion/ learning and oversight via local governance channels. Included in Quality Assurance Group papers for further scrutiny as required.
Trust-wide Patient and Carer Experience Reports	Monthly	Presented at Quality Assurance Group for scrutiny and assurance of continuous improvement. Bi-monthly reports are presented to Quality Committee/Trust Board and are published on the Trust's website as part of Board papers.
Audit of anonymised complaint sample by the Trust's Non-Executive Directors (NED)	Quarterly	The outcomes of the NED audits are reported to Quality Committee/ Trust Board for assurance and/or improvement opportunities.
Patient and Carer Experience Annual Report	Annually	Submitted for assurance to the Quality Committee for scrutiny on behalf of the Board of Directors.

13. INCIDENT AND NEAR MISS REPORTING AND REGULATION 20 DUTY OF CANDOUR REQUIREMENTS

13.1 To support monitoring and learning from harm, staff should utilise the Trust's Incident Reporting System, DATIX. For further guidance, staff and managers should reference the Incident Reporting Policy. For moderate and severe harm, or deaths, related to patient safety incidents, Regulation 20 Duty of Candour must be considered and guidance for staff can be found in the Duty of Candour Policy and Intranet resources. Professional Duty of Candour and the overarching principle of 'being open' should apply to all incidents.

14. TRAINING

14.1 The Trust considers that the skills and experience of staff who are Band 6 or above is sufficient to undertake complaint investigations. Clinical curiosity and objectivity are core requirements of all senior roles.

14.2 The Patient and Carer Experience Team remains available to answer questions about the process and/or provide signposting and support at any time.

15. REFERENCES

NHS Complaint Regulations
The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (legislation.gov.uk)

NHS Complaint Standards and Guides
NHS Complaint Standards | Parliamentary and Health Service Ombudsman (PHSO)

Good complaint handling guides for the NHS | Parliamentary and Health Service Ombudsman (PHSO)

Datix
Digital system for recording feedback (via the Patient and Carer Experience module) and safety incidents: Incident Reporting and Management Policy and Procedure (CGP001) - Interact (interactgo.com)

Duty of Candour Policy (CGP004) - Interact (ghc.nhs.uk)

POhWER
Independent Complaints Advocacy Service Gloucestershire: pohwer@pohwer.net

Care Quality Commission (CQC)
Government body that oversees quality within the NHS: www.cqc.org.uk.

The Parliamentary and Health Service Ombudsman (PHSO)
External organisation with powers to review complaints about NHS services, when issues have not been investigated properly or poor service has been provided: www.ombudsman.org.uk.

The Local Government and Social Care Ombudsman (LGSCO)
External organisation with powers to review complaints about councils, all adult social care providers and some other local public services: https://www.lgo.org.uk/.

GHC Management of Violence and Aggression Policy
Management of Violence and Aggression Policy - Interact (ghc.nhs.uk)

Appendix A – Feedback Process (Flowchart)

Complaints can be made in person, by phone, by email or in writing.

PCET will **triage all complaints** to determine whether there are any immediate/practical requirements (such as a safeguarding or media issues) and consider how best to provide a resolution.

We will always try to **deal with complaints quickly if we can**, however, it is sometimes that case that a detailed investigation is required. We will discuss this with the complainant.

Early resolution

Overseen by DSD (c.c. SD) who appoints an investigator to look into the issues.

We will always try to resolve complaints quickly, if we can.

A written response will be shared with investigator for comments and the DSD for approval (to ensure any learning is appropriate/achievable).

The response will be sent from the DSD (and copies circulated to senior team).

*The investigator should not be directly involved in the patient's care but can be someone from the same team/service.

A closer look investigation

Overseen by SD (c.c. DSD) who appoints an investigator* to look into the issues.

If the matters raised are serious or complex, the response will be shared with the investigator for comments and the SD for approval (to ensure any learning is appropriate/achievable).

A response will be sent from the DoN (and copies circulated to senior team).

*Wherever possible, the investigator should not be from the same team/service.

Local Resolution

If the complainant is unhappy with our response, we can look at our findings again.

We will always try and resolve complaints to the satisfaction of patients and carers before signposting to the PHSO.

The Parliamentary and Health Services Ombudsman

If we are unable to resolve a complaint, the Ombudsman can be asked to consider it.

PCET will explain how to do this once all other options have been exhausted and we are satisfied that the outcome will not be affected by further review.

Appendix B – Sample Investigation Template

with you, for you

NHS
Gloucestershire Health and Care
NHS Foundation Trust

Investigation Report

The outcome of this investigation, learning and recommendations will be shared with the complainant in our formal response letter (FRL) from the CEO (or their designated deputy).

Findings following a complaint involving: NAME

NHS Number: 1234567890
PCET Datix No: 1234

Name of Investigating Officer: NAME
Professional Title: TITLE
Date: DATE

For support on how to complete this investigation template, please contact the Patient and Carer Experience Team (PCET) on **0300 421 8313** or via email at **experience@ghc.nhs.uk**

Please indicate which of the following you have used as part of the investigation:
Please use your mouse/cursor to tick the boxes below.

a.	Reviewed clinical records	☐
b.	Contacted the complainant (please provide date)	☐
c.	Contacted the PCET	☐
d.	Reviewed policies/procedures (please list)	☐
e.	Interviewed staff/obtained statements (please include details)	☐

Where a staff member has been named in the complaint:

a.	Have they been consulted?	☐
b.	Has their line manager been informed?	☐
c.	Have they been offered appropriate support?	☐

The complaint investigator should review all the relevant health records, policies and procedures and interview/obtain statements from any staff that are the subject of the concern/complaint. **As part of our investigation processes and procedures we aim to involve complainants in our approach to resolving their concerns and complaints, should they wish to do so.**

The Operational Governance Lead will inform the relevant Service Director, Service Manager and Head of Profession that the Trust has received a concern/complaint regarding their service and request that an investigator is appointed to examine the issues that have been raised.

The investigator should contact the manager of the team the complaint relates to and inform them of the complaint and any staff it may involve.

Please note that this investigation report may be released to the complainant/patient under a Subject Access Request or to an external organisation, such as the Parliamentary and Health Service Ombudsman (PHSO) or Care Quality Commission (CQC). Random sample audits of formal complaints are also undertaken by the Trust Non-Executive Directors.

BACKGROUND AND ISSUES

Your experience:
A summary of the background information relating to the complaint goes here.
Please note that this is the complainant's experience. It is not right or wrong, it is how they want their complaint to be heard. This might sometimes be accusatory and it is the responsibility of the investigator to ensure that this is scrutinised objectively.

INSERT EXPERIENCE HERE

Issues for investigation:

Issue 1: INSERT ISSUE HERE

Issue 2: INSERT ISSUE HERE

Issue 3: INSERT ISSUE HERE

General ToR for consideration by the investigator
Please consider the following when completing your investigation:

Was the documentation completed to the expected standard?
Was the overall care provided to the expected standard?
Were all relevant policies, protocols and procedures followed
Was the communication with the patient/family to the standard we would expect?

Is there learning as a result of the investigation?

Please use your mouse/cursor to tick the boxes below.

The outcome of the investigation should be shared with the operational manager to enable recommended action/learning to be initiated promptly.

Is the recommended learning appropriate and achievable? ☐
Has the learning been shared with the operational manager? ☐

Local learning
What is it?
Who will communicate this or ensure changes to practice take place?
How can this be monitored?

Organisational learning
Who will ensure this will happen?
How will this be monitored?

Areas of good practice
Were areas of good practice noted during this investigation?
Have these been fed back to the operational manager?

Thank you for your help in completing this investigation.

Appendix C – Sample Learning Summary

with you, for you

NHS
Gloucestershire Health and Care
NHS Foundation Trust

Experience Complaint Learning Summary | 12345

Patient Name	Patient A				
Date of Incident	DATE				
Investigator	A N Investigator				
Service	A Service				
Complaint	Patient was not told X Patient was not given Y Patient was discharged to Z				
Investigation	Patient was told X Patient was not given Y – apology given and learning below Patient was discharged to Z, which was appropriate				
Learning	**Action**	**Deliver by:**		**Check by:**	
		Date	**Person/role**	**Date**	**Person/role**
	Team Lead to share feedback in weekly meeting	DATE	Team Lead		
Good Practice	Good documentation, including significant explanation relating to conversation with patient about X Evidence of good practice during discharge to Z, notably around triangle of care and family support.				
Notes	Patient remains under A Team.				

Appendix D – Sample Consent Form

Gloucestershire Health and Care
NHS Foundation Trust

Patient Care and Experience Team
Trust Headquarters
1010 Pioneer Ave
Gloucester Business Park
Gloucester
GL3 4AW

Our ref: xxx

Gloucestershire Health and Care NHS Foundation Trust offers a confidential service and will not disclose any details about the patient, or the issues raised, without appropriate consent, in line with our legal obligations under the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

We want to respond fully and promptly to your concerns. However, where a concern is being raised by a third party, we need written permission from the person affected (the patient) and confirmation that the person affected is aware of this concern. We also need to check whether the person affected wishes us to correspond directly with them or with the complainant.

Any information given about the person affected will be limited to that which is relevant to the investigation and only disclosed to those who have a need to know in order to investigate. However, in order to investigate concerns relating to clinical care fully we sometimes need to contact the person's GP or other NHS Trusts, and we need written consent from you to do this.

Please note that if you disclose information that indicates that you or others are at risk, or we identify information during the investigation indicating this, we have a duty to inform the relevant organisations.

Complaint reference:	
Concerning the care of:	
Name	[We complete]
Date of birth	[We complete]
Address including postcode	[We complete]
NHS number	[We complete]

working together | always improving | respectful and kind | making a difference

working together | always improving | respectful and kind | making a difference

Please complete this form if you consent to share information

I authorise the following person to act on my behalf and receive any and all such information as may be relevant to my complaint.

Person making the complaint:	xxxxxxx
Address	xxxxxxx
Postcode	xxxxxxx
Email	xxxxxxx
Connection of patient to person making the complaint	xxxxxxx

I understand that any information given about me is limited to that which is relevant to the investigation of the concern, and only disclosed to those people who have a need to know in order to investigate the concern. I also understand that in order to investigate the concern fully it may be necessary for you to approach all the staff involved with my care relevant to this concern e.g. my GP. I consent to this.

Signed:

Date:

Would you like to receive a copy of the complaint response letter? Yes / No

Please sign and return this form in the prepaid envelope or to: Patient and Carer Experience Team, Trust Headquarters, 1010 Pioneer Ave, Gloucester Business Park, Gloucester GL3 4AW

Appendix E – Procedure for Managing Unreasonable or Unreasonably Persistent Complainants

1. Introduction

1.1 On rare occasions, people who complain may present as unreasonable or unreasonably persistent. This is not because they raise uncomfortable or searching issues but because complaints are pursued in a way which can impede the investigation or have significant resource issues for the organisation. In addition, some people may display unacceptable behaviour towards staff when making a complaint.

2. Criteria for unreasonable or unreasonably persistent behaviour

2.1 Complainants (and/or anyone acting on their behalf) may be deemed to be unreasonably persistent where current or previous contact with them shows that they have met at least two of the criteria below. Once it is clear that a complainant meets any one of the criteria, it would be appropriate to inform them verbally and/or in writing that they are at risk of being classified as unreasonably persistent and what the outcome of this would be. A copy of this procedure should be provided to the person.

- Making the same complaint repeatedly (with minor differences) but never accepting the outcomes.
- Making contact with the organisation, which is unreasonably lengthy, complicated, aggressive, threatening or abusive towards staff.
- Making unnecessarily excessive demands on staff time and resources while a complaint is being investigated, for example excessive telephoning or numerous emails or writing lengthy complex letters every few days and expecting immediate responses.
- Continuing to complain about an historic or irreversible decision or event.
- Significantly changing aspects of the complaint partway through the investigation or denying statements made at an earlier stage.
- Persistently approaching the Trust through different routes about the same issue in the hope of getting different responses (a ‘scattergun’ approach).
- Unwillingness to accept documented evidence as factual or denying receipt of an adequate response despite correspondence specifically answering their questions/concerns. This could also extend to complainants who do not accept that facts can sometimes be difficult to verify after a long time period has elapsed.
- Refusal to identify the precise issues they wish to be investigated, despite reasonable efforts to do so by staff and, where appropriate, their advocates.
- Focusing on a small detail to an extent that it is out of proportion to its significance and continuing to focus on this point.
- Abusive or verbal aggression towards staff dealing with their complaint or their families or associates.
- Making defamatory comments about staff to the media.

- Having insufficient or no grounds for their complaint and making it for reasons that they do not admit or make obvious.
- Refusing to cooperate with the complaint investigation process, whilst still wishing their complaint to be resolved.
- Insisting on their complaint being dealt with in ways that are incompatible with NHS procedure or good practice or are disproportionate to the complaint.
- Has identified concerns outside the jurisdiction of the Trust and does not accept this when it is explained.
- A history of repeatedly making unreasonably persistent complaints.
- Displaying unreasonable demands or expectations and failing to accept that these may be unreasonable after a clear explanation has been provided about what constitutes an unreasonable demand. For example, insisting on responses to complaints or enquiries being provided more urgently than is reasonable or recognised practice.

2.2 It is important to differentiate between persistent complainants and unreasonably persistent complainants. Some people may be persistent because they feel that the Trust has not dealt with their complaint properly and are not prepared to leave the matter there. Unreasonably persistent complainants pursue their complaints in an inappropriate way which can cause great strain on both staff and resources.

3. Procedure for identifying and advising about unreasonable or persistent behaviour

3.1 The Head of Patient and Carer Experience will notify the Director Nursing, Quality and Therapies when they feel a complainant is demonstrating unreasonable or persistent behaviour, who will then raise this with the Executive Team. If the Executive Team agrees that the individual is presenting as unreasonable or unreasonably persistent then a decision will be made about taking any further action that is necessary to take.

3.2 The complainant should be informed that if their behaviour persists, action may be taken and explanation as to why this is the case must also be offered.

3.3 If a complainant's unreasonable behaviour is abusive or threatening, it is reasonable to require them to communicate in a specific way, such as in writing or with one or more designated members of staff. If a complainant or their representative threatens or uses actual physical violence towards staff or their families or associates at any time, this will in itself cause personal contact to be discontinued and the complaint to be responded to through written communication only or not at all. Any such incidents should be documented and reported via the incident reporting function on Datix and in association with the Trust's Security Policy.

4. Action that can be taken

4.1 It may be appropriate, in the first instance, for the CEO to inform a complainant that they are at risk of being classified as unreasonable or unreasonably persistent. A copy of this procedure will be sent to the complainant, who will be advised to take account of the criteria in any dealings with the Trust. In some cases, it might be appropriate to

copy this notification to others involved in the complaint and suggest that the complainant seeks advice before taking their complaint further, e.g. from an independent advocate.

4.2 It may also be appropriate to try to resolve matters by drawing up a signed agreement with the complainant setting out a code of behaviour for the parties involved.

4.3 If these steps do not lead to a change in the complainant's behaviour, members of the Trust Board such as the CEO, Medical Director/Director of Nursing and/or a Non-Executive Director will determine whether to identify the complainant as 'unreasonable or unreasonably persistent' and, if so, what action to take. If the complainant is a service user, the advice of an appropriate clinician will also be sought. The Local Security Management Specialist will also be notified.

4.4 The CEO will implement such action and will notify the complainant, in writing, of the reasons why they have been classified as unreasonable or unreasonably persistent and what action will be taken. This notification may be copied for the information of others already involved in the complaint. A record must be kept for future reference of the reasons why a complainant has been classified in this way. The CEO may deal with the complainant in one or more of the following ways:

- Withdraw contact with the complainant in person or by any other means, provided that one form of contact is maintained. Alternatively, restrict all contact to liaison through a third party. If staff are asked to withdraw from telephone conversations with a complainant, an agreed statement will be drafted and made available for them to use at such times.

- Notify the complainant, in writing, that the CEO has responded fully to the points raised and has tried to resolve the complaint, but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant may be notified that correspondence in relation to their complaint or any further complaints relative to the same period of time or the same or similar issues as an earlier complaint, is at an end and that further letters received will be acknowledged but not answered.

- Inform the complainant that in extreme circumstances, the Trust reserves the right to pass unreasonable or unreasonably persistent complaints to the Trust's solicitors or Police, which may result in legal action against the complainant.

- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice and/or guidance from solicitors, the Local Security Management Specialist, or other relevant agencies.

4.5 Any decision to classify a complainant as unreasonable or unreasonably persistent will be reported in an anonymised format to the Trust Board as part of the quarterly Patient and Carer Experience report.

5. Managing unreasonable and unreasonably persistent status

5.1 Any steps taken to consider the behaviour of an individual as 'unreasonable or

unreasonably persistent' should be viewed as temporary.

5.2 There will be a mechanism for withdrawing this status put in place. For example, if the complainant subsequently demonstrates a more reasonable approach or if they submit a further complaint for which normal complaints procedures would appear appropriate, a reversal of the decision may be made. Subject to the approval of the Executive Team, normal contact with the complainant and application of NHS complaints procedures will be resumed.

5.3 A complainant will also have an opportunity to apply to have their 'unreasonable or unreasonably persistent' status withdrawn. A Non-Executive Director should review the circumstances and establish the current position. If this remains unchanged, then the policy continues to be applied to the complainant.

5.4 If there is demonstrable evidence that the circumstances have changed, then the Non-Executive Director and the Executive Team will consider withdrawing the status of 'unreasonable or unreasonably persistent'. Subject to their approval, normal contact with the complainant and application of the NHS complaints procedure will be resumed.