Central London Community Healthcare NHS Trust

TITLE: **COMPLAINTS, COMMENTS, CONCERNS AND COMPLIMENTS, POLICY AND PROCEDURE**

VALID FROM: **September 2019**

EXPIRES: **September 2021**

REFERENCE: **GOV 03**

This procedural document supersedes the previous procedural document *(Policy and Procedures for Managing Complaints, Comments, Concerns and Compliments October 2016- September 2019)*

Version	4.0
Policy reference and description of where held.	GOV 03 Intranet – Policies
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Responsible director:	Charlie Sheldon, Chief Nurse
Approved by originating committee, executive or departmental management group	Trust Patient Experience Coordinating Committee – 21 March 2019 Trust Quality Committee – 18 April 2019 Trust Board – 30 May 2019
Ratified by Policy Ratification Group	10th June 2019
Review date:	March 2021
Target audience:	This policy is Trust-wide. It applies to all employees of the Trust in all locations including the Non-Executive Directors, temporary employees, locums and contracted staff'.

Version Control Sheet

Version	Date	Author	Status	Comments
1.0	January 2013	Tony Fishenden	Final	Initial complaints policy updated to reflect revised CLCH structure
2.0	January 2014	Tony Fishenden	Final	Policy revised to be compliant with CLCH template
2.1	September 2016	Kate Wilkins	Draft	Policy revised and updated
2.2	October 2016	C Sheldon H Ashforth	Draft	Review following QC comments
3.0	November 2016	Kate Wilkins	Final	Minor formatting amendments made post board approval.
4.0	May 2019	Dominic Mundy	Final	Policy revised and updated and approved at Trust Board

1. Introduction

In 2013, following the Francis report, the need for openness, transparency and candour throughout the healthcare system was identified. In 2014 a further report was commissioned 'A Review of the NHS Hospitals Complaints System: Putting Patients Back in the Picture' (Clwyd and Hart) which found that patients want:

- A complaints system that is easy to understand and to use and that takes account of the difficulties many people face in expressing themselves or giving evidence, particularly at times of stress, ill health or in bereavement
- A guarantee that the complaint will never lead to poorer care or treatment for the patient
- Do not want to be blamed if they complain but rather, for staff to see complaints as an opportunity to improve the care given to others in future
- Want to be included in the process and clear about how a complaint will be investigated
- Want a complaints system that is flexible and proportionate to the cause of the complaint and provides appropriate remedy
- Want their complaints dealt with promptly and may suffer if the process is drawn out
- Want a complaints system to cover all aspects of a patient's care, even if this crosses boundaries within the NHS or between the NHS and social care
- Want to know that their complaints make a difference
- Want to know that even if the complaint is handled internally, there is scope for an external review or a further level of scrutiny if their complaint fails or stalls

Furthermore the NHS constitution, the Parliamentary and Health Service Ombudsman's 'Principles of Good Complaints Handling' (2009) and user-led vision of the complaints system; 'My Expectations; for raising concerns and complaints' (2014), explains how patients or service users when making a complaint, have the following rights:

- To have their complaint acknowledged and properly investigated
- To discuss the manner in which the complaint is to be handled and know the period of time when the complaint response will be sent
- To be kept informed of the progress and to know the outcome including an explanation of the conclusions and confirmation that any action needed has been taken on
- To take their complaint to the independent Parliamentary and Health Service Ombudsman if they are not satisfied with the way the NHS has dealt with their complaint or to take a complaint about data protection breaches to the independent Information Commissioners Office (ICO) if not satisfied with the way the NHS has dealt with this
- To make a claim for judicial review if they believe they have been directly affected by an unlawful act or decision of an NHS body
- To receive compensation if they have been harmed by negligent treatment

The NHS constitution also commits to ensuring that patients or service users are:

- Treated with courtesy and receive appropriate support throughout the handling of a complaint; and that the fact that they have complained will not adversely affect their future treatment
- That when mistakes happen or if a patient or service user is harmed while receiving health care, they will receive an appropriate explanation and apology, delivered with sensitivity and recognition of the trauma experienced, and know that lessons will be learned to help avoid a similar incident occurring again
- That the organisation learns lessons from complaints and claims and uses these to improve NHS services

In September 2013, the Patients Association published the 'Good Practice Standards for NHS Complaints Handling' outlining that when managing a complaint, all those involved (the complainant, staff members etc.) should be treated with respect, tact, compassion and concern for their wellbeing. They also outline that organisations should be able to demonstrate to all stakeholders that the investigation and decision making process has been:

- Open and transparent
- Evidence based
- Logical and rational
- Comprehensive and with a level of detail appropriate to the seriousness of the complaint
- Timely and expeditious
- Proportionate to the seriousness of the complaint(s) raised

2. Aims and Objectives

This policy aims to ensure that the needs and rights of patients, as described above are addressed. It also ensures compliance with the requirements of the Care Quality Commission (CQC) (specifically, regulation 16: receiving and acting on complaints) and the Parliamentary and Health Service Ombudsman (PHSO) in proving complaints are investigated in a supportive, timely and accessible way are met.

Specifically this policy aims to:

- Outline the Trust's approach to receiving, acknowledging, investigating and closing concerns and complaints received from the users of Trust services
- Describe the support provided to complainants

- Ensure that patients and the public are provided with an appropriate response to their concerns and receive an offer of apology where mistakes have been identified
- Ensure that the complaints procedure can be accessed on a fair and equal basis by all patients and carers regardless of their race, language, culture, disability, religion or belief, age, gender, sexual orientation or marital status
- Ensure that any barriers faced by complainants are minimised when using the complaints process
- Ensure that processes are in place for learning from complaints to be shared across the trust
- Ensure that complaints are triangulated with other key quality performance criteria to inform an overview of quality performance across the trust through the red flag system

3. Definitions of any terms used

Complaint: A complaint is defined as an 'expression of dissatisfaction' received verbally or in writing that requires a response'. All complaints require Investigating, requiring someone to explore the situation on behalf of the complainant and responded to.

Compliments: These are where positive feedback has been received about CLCH Services

Concerns: These are issues that are of interest or importance affecting the person raising them.

Datix: Electronic patient safety and risk/ incident recording system

Deprivation of Liberty Safeguards (DOLs): The Deprivation of Liberty Safeguards (DoLS) are part of the Mental Capacity Act 2005. The safeguards aim to make sure that people in care homes and hospitals are looked after in a way that does not inappropriately restrict their freedom.

Duty of Candour: A legal duty to inform and apologise to patients if there have been mistakes in their care that have led to significant harm

PALS: Patient Advice and Liaison service

The Trust: Central London Community Healthcare NHS Trust

Consent: Permission for something to happen or agreement to do something

Mental Capacity: Being able to make your own decisions

4. Roles and Responsibilities

4.1 All staff working for/ on behalf of the Trust

All staff are responsible for complying with the requirements of this policy including:

- Reporting complaints and cooperating in the investigative processes
- Ensuring that the Duty of Candour is met where mistakes in care have been identified
- Dealing with minor complaints or concerns they may receive local, where practical and if skilled to do so
- Co-operating with complaint investigation processes including the timely and appropriate writing of investigation reports and raising the risks to the Trust Risk Register
- Ensuring that any complaints received are shared with the Patient Experience Team in order to make sure that they are logged and dealt with in line with this policy

4.2 All Managers

Managers are responsible for:

- Understanding their role in identifying, reporting, investigating & following- up complaints
- Ensuring that all complaints received within services are reported via the Datix system to the Patient Experience Team
- Conducting thorough investigation of complaints including:

    - Completing the investigation within the agreed timescale
    - Ensuring that witness statements/ statements of involvement are obtained from staff involved or witness to accidents/ incidents
    - Producing an investigation report
    - Ensuring outcomes of investigations highlights any and improvement actions required as a result of the complaint
    - Ensuring lessons are shared with all the relevant stakeholders
    - Supporting staff who may be affected by the complaint or where training needs have been identified

4.3 Patient Experience Team

The Patient Experience Team is responsible for

- Providing information about the NHS complaints procedure and how to get independent help if it is decided to make a complaint
- Providing information and help introduce agencies and support groups outside the NHS

- Helping to improve services by listening to complaints, concerns, suggestions and experiences and ensuring that people who design and manage services are aware of the issues raised
- Providing an early warning system for the Trust and monitoring bodies by identifying problems or gaps in services
- Providing advice, training and support to individuals or teams as required
- Triangulating themes and learning from complaints with other patient reported experience measures in order to continuously improve patient experience and safe and effective care

4.4 Complaints and Claims Officer

The complaints and Claims officer is responsible for:

- Providing advice, support and information to users of the service
- Providing information and support to those who need help to make a formal complaint
- Receiving, logging and responding to complaints, comments, concerns and compliments about Trust services
- Facilitating the speedy resolution of concerns by listening, providing information, liaising and negotiating with staff colleagues as appropriate
- Identifying issues requiring a formal investigation and supporting service users to access the formal complaint process should they wish to do so
- Providing information to patients in alternative formats as required; including an easy-read guide for people with learning disabilities and in other formats/languages as appropriate

4.5 The Complaints and Claims Manager

The Complaints and Claims Manager is responsible for:

- The day to day management and facilitation of the complaints service
- Ensuring that the service is accessible, providing information, advice and a first point of contact for those who have queries about or are unhappy and wish to raise concerns and complaints about Trust services
- Negotiating immediate solutions or speedy resolution of problems where possible so that concerns do not escalate
- Monitoring and supervising the informal process of responding to concerns and any complaints graded as low risks - that the enquirer agrees can be resolved through this route
- Ensuring that those issues that require a formal complaint investigation comply with the complaints procedure
- Ensuring service users are sign-posted to appropriate independent advice and advocacy support from local and national sources

- Producing data for reports as required helping identify trends from complaints, comments, concerns and feedback.
- Providing training, support and advice to staff regarding the process for the investigation and management of concerns or complaints
- Ensuring feedback is provided to staff involved in complaints
- Ensuring that learning from complaints is shared across divisions and the Trust using vignettes, monthly reports or through training
- Triangulating themes and learning from complaints with other patient reported experience measures in order to continuously improve patient experience and safe and effective care
- Ensuring that a quarterly audit of complaints information available to patients and staff is undertaken and reported to the Patient Experience and Coordinating Committee

The Complaints and Claims Manager is accountable to the Assistant Director of Patient Experience.

4.6 Assistant Director of Patient Experience

The Assistant Director of Patient Experience is:

- Responsible for overseeing the operational management of the Patient Experience Team
- Responsible for the day to day management of complaints; ensuring principles and policy are achieved and learning is shared
- Accountable to the Director of Nursing and Therapies (Patient Experience and Education)
- Triangulating themes and learning from complaints with other patient reported experience measures and quality performance metrics in order to continuously improve patient experience and safe and effective care
- Responsible for ensuring that information identifying how to make a complaint is available in all services across the Trust and for all patients/ service users

4.7 Divisional Directors of Operations (DDO) and Divisional Directors of Nursing and Therapies (DDNT)

The DDOs and DDNTs are responsible for:

- Ensuring all staff are aware of this policy
- Ensuring all staff have training as required in order to support and effectively undertake their role as identified within this policy
- Ensuring the timely and effective investigation and resolution of complaints that fall within their areas of responsibility and for ensuring that the procedures outlined in this policy are followed within their division
- Monitoring the investigation process used for complaints ensuring that a robust investigation has been undertaken to address any complaint

- Reviewing and approve draft divisional report/ responses prior to being sent to the complainant
- Sharing learning from complaints across the division

4.8 Director of Nursing and Therapies (Patient Experience and Education)

The Director of Nursing and Therapies (Patient Experience and Education) is responsible for

- Ensuring the efficient and effective implementation of the Complaints Policy
- For managing the Assistant Director of Patient Experience

4.9 Chief Nurse

The Chief Nurse is responsible for

- Ensuring the efficient and effective implementation of the Complaints Policy and for monitoring the effectiveness of Patient Experience for the Trust
- Monitoring and overseeing the Trust's systems for quality, safety & effectiveness
- Reviewing and approving the investigation and final response letter prior to sign off by the Chief Executive

4.10 Medical Director

The Medical Director is

- Responsible for reviewing and approving those investigations and final response letters where the complaint is regarding clinical treatment and/or involve a medical doctor prior to sign off by the Chief Executive
- The executive lead for clinical and medical concerns raised in complaints

4.11 Chief Executive

The Chief Executive is:

- The 'Responsible Person' (as per the Local Authority Social Services and National Health Services Complaints (England) Regulations 2009) and is accountable for ensuring effective management of complaints across the Trust
- The responsible signatory for written responses to Formal Complaints. (This role is designated to a nominated deputy in their absence to ensure that the process continues)

4.12 Patient Experience Coordinating Committee (PECC)

The Trust Patient Experience Coordinating Committee is responsible for sharing learning from incidents, complaints and patient feedback to support service improvement and patient experience.

4.13 Quality Committee

The Quality Committee will consider quarterly quality reports which include an update on the Positive Patient Experience campaign and an overview of complaints for the previous quarter. Furthermore the Quality Committee will receive the annual complaint report prior to its submission to the Trust Board.

4.14 The Trust Board

- Receives the annual complaints report that the Trust is required to prepare in accordance with Regulation 18 of the Local Authority Social Services and NHS Complaints Regulations
- Receives the quarterly performance report, including complaints which will monitor the effectiveness of the complaints process.

5. The Management of Concerns, Complaints, Comments and Compliments

(See also appendices D, E and F)

5.1 How can complaints be made?

Complaints whether informal or formal can be made to any employee of the Trust or to any member of staff who provides a service commissioned by the Trust. Complaints can also be via a third party.

Complaints can be made verbally or in writing (including electronic means such fax, e-mail, telephone or via the CLCH website). Complaints may also be received via 'Patient Experience Feedback Forms' which are widely available at Trust sites.

5.2 Informal complaints, concerns or PALS enquiries

Service users and/or their carers often raise issues about which they are unhappy, without wishing to make a formal complaint. In many instances, they will simply be concerned and wish to receive an explanation and – if something has gone wrong – an apology.

Expressions of concerns and comments must be passed to the PALS team who will record and ask the appropriate team to investigate and respond to the enquirer as necessary. All informal concerns (PALs) will be resolved within **5 working days**.

If a concern is not resolved to the satisfaction of the person concerned they will be given the opportunity to make the matter a formal complaint.

If a concern is not considered by the enquirer to require a formal response but the member of the PALS team considers it to be of a serious nature then the concern would be escalated to the complaints team. However the enquirer will be responded to as they have requested.

The PALS team can be contacted on the following telephone numbers:

Freephone 0800 368 0412 or 0207 798 1435.

Their e-mail address is clchpals@nhs.net

5.3 Who can complain?

A formal complaint may be made by a service user or any person affected by or likely to be affected by the action, omission or decision of the NHS body, independent provider or local authority that is the subject of the complaint. Complaints can be made by health care and social care professionals on behalf of patients, their carers and relatives.

Someone acting on behalf of another person may make a complaint where that person is unable to make the complaint herself/himself or has asked the person to make the complaint on her/his behalf. Where people are unable to make a complaint themselves, the representative will need to have or have had sufficient interest in their welfare, and be an appropriate person to act on their behalf.

A complaint may be made by a person acting on behalf of a person as described above where that person:

- Has died
- Is a child
- Is unable by reason of physical or mental incapacity to make the complaint
- Has requested that a representative act on his/her behalf

If the complainant is acting on behalf of someone else then consent must be obtained from the patient themselves.

If the complainant is acting In the case of a child, the representative must be a parent, guardian or other local person who has care of the child and where the child is in the care of a local authority or a voluntary organisation, the representative must be a person authorized by the local authority or the voluntary organisation.

Where consent is required the trust timescales for a final response will not start to be measured until this has been received.

5.4 When should a complaint be made?

It is important that complaints are made as soon as possible after the event has occurred. Usually, complaints can only be investigated if they are:

- Made within 12 months of the event; or
- Made within 12 months of the date on which the matter, that was the subject of the complaint, came to the notice of the complainant

If a complaint is made after the 12 months timescale, the Trust may investigate at the discretion of the Complaints Manager where the complainant had good reasons for not making a complaint within that period and/or it is still possible to investigate the complaint effectively and efficiently.

5.5 Exceptions to the complaints process

Exceptions to the complaints process include:

- Complaints or concerns raised verbally which are resolved to the satisfaction of the person who has raised the issue within one working day after the complaint or concern was made
- Complaints which have been previously investigated under this or previous NHS complaints regulations
- A complaint by an employee relating to their employment. Employees should follow guidance given by the Trust Grievance Procedure
- NHS and Provider professionals wishing to make a complaint about care provision in general should refer to the Trust Raising Concerns at Work policy, which is available online through the Trust's intranet site or the relevant HR department
- A complaint made by a responsible body such as commissioners, an NHS employee or partner organisation about another NHS employee or partner organisation
- A complaint made by a Local Commissioner under the Local Government Act 1974 (a) or a Health Service Commissioner under the 1993 Act
- Complaints about Freedom of Information Requests and Access to Information Requests. These should be directed to the Trust Freedom of Information Policy
- A complaint that is being investigated by the Health Ombudsman

Should there be any doubt about whether a complaint will prejudice any other formal proceedings then the person who has received the complaint should immediately pass the relevant information to the Complaints Manager who will then make a decision with regard to when to initiate any action by taking appropriate professional advice.

If a complaint does include in part any of the exceptions noted above during any stage of the Complaints Procedure, this should not delay any investigation of unrelated issues raised within the complaint.

5.6 Complaints by other health and social care professionals

In accordance with regulations, complaints made by other health and social care professionals (from a responsible body, commissioners, a local authority, NHS body, primary care provider or independent provider) fall outside of the NHS complaints procedure.

These complaints will be recorded and investigated in the same way as a formal complaint but logged as an organisation or commissioner complaint as appropriate.
The patient experience team will help to produce any written responses to external organisations as necessary.

5.7 Unreasonable and persistent complainants

In the event that a complainant is deemed as unreasonably persistent and/or repetitive, it is important that any decisions are made with reference to this policy; in conjunction with the Service Director in whose area the complaint falls, Chief Nurse and the Chief Executive (if necessary), and that it can be shown that all attempts to resolve the issue locally have been made. Detailed guidance is contained in Appendix H.

5.8 Complaints process

5.8.1 Acknowledgement

All complaints received must be sent to the Patient Experience Team within one working day; this should be done by scanning and sending by secure e-mail to facilitate same-day receipt. Receipt must be confirmed.

A verbal or written acknowledgement to the complainant will be made by the Patient Experience Team no later than **3 working days** from the day the complaint was received. The acknowledgement must include the following information:

- An apology
- Clarification of the type of complaint (Appendix C) and all the issues to be investigated.
- Offer a meeting to discuss concerns.
- Agree the type of response required (writing, meeting, phone, or email)
- Agree customer's desired outcomes
- Will advise of their right to independent support e.g. an advocate or interpreter
- Advise who will carry out the investigation, and
- Agreed timescales for the final response

If the complaint was made verbally, the complainant must be asked if they require a written summary to be sent to them together with an invitation to agree or amend the information.

If a telephone number has not been provided the complainant will be sent a brief acknowledgement letter, **within 3 working days**, asking them to contact the Patient Experience Team to discuss their complaint in more detail. The letter will also advise that if no contact is made the Trust will assume they wish for their complaint to be responded to in writing, unless their complaint advised differently.

The list below covers those topics which may highlight any potential safety issues for service users. Where complaints contain these topics which have their own policy and procedures, the responsible departments must also be made aware of the complaint directly.

- Incidents see Incident reporting and serious incident policy
- Safeguarding – See Safeguarding adults at risk procedure, Safeguarding children and young people procedure and Safeguarding children policy
- Deprivation of Liberties see Consent policy
- Discrimination see Equality and diversity policy and Equality and Diversity (patients) policy

5.8.2 Meeting with complainants

Misunderstandings and miscommunication are often the root cause of most complaints. Meetings can therefore be a good way of resolving complaints. If a meeting is to take place with the complainant and their representatives, Trust staff should refer to Appendix F – Guidance for meeting with a complainant.

The Trust follows the Department of Health principles of Being Open and will endeavour to include service user, family or carers in setting the scope of any investigation and the investigation itself if appropriate.

The Trust will give consideration to the provision of information and support to service users, relatives & carers and staff involved in the complaint in accordance with the Being Open policy.

5.8.3 Assessment

In addition to the acknowledgment described above, the Patient Experience Team will assess the complaint.

Based on the risk assessment, the following indicative timescales will apply. Timescales for the final response will be agreed with the complainant.

Category	Assessment level	Action	Response time to complainant - working days
Informal complaint/ PALS enquiry	Low Risk Straightforward resolution	Explanation or apology as required	5 (1 week)
Formal complaint (Type 2)	Low to Medium Risk	An investigation will usually be led by the Line Manager and, where appropriate, in conjunction with the relevant Clinical Lead. Duty of Candour requirements should be met.	25 (5 weeks)
Formal complaint (Type 3)	Moderate or above Risk	Highly complex and sensitive complaints. Duty of candour requirements should be met. Moderate risks may involve one or more services/ organisation, requiring, more in depth investigation and will be overseen by a Service Head of Service or Service Manager/ Director. Such complaints will normally be an integral part of an incident and a full RCA investigation would take place	60 (12 weeks)

5.8.4 Investigation

The appropriate Service Manager is responsible for investigating the complaint, together with support and guidance available from the Complaints Manager.

The Complaint Resolution Investigation report can be found at appendix D. The template will contain all of the information required which will then be shared with the relevant division for dissemination to staff who are tasked with investigating the complaint.

Staff directly involved in the complaint will **not** be nominated to investigate the complaint although if required they will be approached to provide a statement in relation to the complaint. (Guidance is provided at appendix E).

The complaint investigation will include some or all of the following actions:

- requests for statements from staff
- analysis of the relevant health records
- staff interviews
- root cause analysis

- impartial advice or opinion from other Trust staff that are independent of the clinical team providing the care complained about.
- Consideration of Duty of Candour requirements

A 48 hour meeting will be scheduled to review complaints which are of concern and these will be handled in accordance with the Trust Incident report policy and SI process.

Complaints graded as high or above will be investigated using the Root Cause Analysis (RCA) method level 2/3. They will also be shared with the relevant Division Lead, Medical Director and Chief Nurse.

Investigations will employ the National Patient Safety Agency's (NPSA) best practice on conducting investigations using Root Cause Analysis (RCA) methodologies to include:

- Care and service delivery problems:
- Contributory factors
- Root causes
- Lessons learned
- Recommendations
- Arrangements for shared learning

5.8.5 Independent investigations

An independent investigation may be carried out in agreement with the Chief Nurse, Senior Managers and the complainant in circumstances where, for example:

- A complaint amounts to an allegation of a serious incident
- Subject matter involving clinically related issues is not capable of resolution without an expert clinical opinion
- A complaint raises substantive issues of professional misconduct or the performance of senior manager
- A complaint involves issues about the nature and extent of the services commissioned

The Chief Nurse will appoint an Independent Investigator, who will take on the role of Investigating Manager who will lead the investigation and prepare a written report for adjudication by a senior manager.

5.8.6 Response timescales

The Health and Local Authority Adult Social Care Complaints Regulations 2009 require that a timeframe within which the investigation of the complaint is likely to be completed is agreed with the complainant. Although the legislation allows the response time to be flexible, the Trust aims to provide a **response** in as timely a manner as possible setting an internal benchmark of **25 working days** for low to medium risk graded complaints.

The 25 day deadline will commence from the date the complaint is received by the service or any employee of the Trust with the exception of complaints made on behalf of a patient which require their consent to be investigated where the 25 day deadline will commence from the date the consent is received.

For complaints graded as moderate or above, the Trust aims to provide a response within **60 working days**.

Within this timeframe, 5 days is allowed for the Patient Experience Team receiving the investigation report and obtaining approval of the draft response from the service. A further 7 days allowed for the Chief Nurse (or designated deputy) or the Medical Director for approval and being signed by the Chief Executive or nominated deputy.

Once the investigation has been completed a review of all moderate to high complaints will be analysed by the service. If a complaint theme is occurring frequently the Patient Experience Manager may review and inform the Divisional Boards or the Trust Patient Experience Coordinating Committee (PECC).

5.8.7 Responding to complainants

At the conclusion of the investigation, a “Letter of findings” response will be prepared by the Patient Experience Team and passed to the Chief Nurse (or designated deputy), or the Medical Director regarding clinical treatment and/or involve a medical doctor, for approval prior to being signed by the Chief Executive or nominated deputy. (The letter of findings template can be found at appendix G).

The response will include:

- A detailed explanation, in light of the investigation findings, regarding the questions raised in the complaint from the service involved
- An apology
- Conclusions reached in relation to the complaint including remedial action and lessons learned

- Information on how complainants can proceed if they are not satisfied with the reply, and will specifically mention the complainant's right to refer the complaint to the Health Service Ombudsman
- A copy of the Customer Satisfaction Questionnaire for the complainant to complete

The outcomes of the complaint must also be recorded in the Complaints Database as either being Upheld, Partially Upheld or not Upheld as required by NHS Information Centre for Health K041a submission. This is an annual mandatory collection of complaints made by (or on behalf of) patients.

- If the investigation's findings agree with the customer's complaint, it is **upheld.**

- If the investigation's findings disagree with the customer's complaint, it is **not upheld.**

- If the investigation's findings agree with some parts of the customer's complaint, it is **partly upheld.**

Where appropriate all action plans and learning will be evidenced and tracked by the Division involved.

5.9 Re-opened Complaints

If the complainant is not satisfied with the response their remaining concerns will be passed to the service for a further response. The Director of Nursing and Therapies (Patient Experience and Education) and /or the Medical Director as required will also be consulted for a decision as to whether the further response from the Trust can be issued by the service or if the response is to be escalated to Director level.

5.10 Complaints in relation to Investigations as part of a Disciplinary Procedure, Professional Misconduct or Criminal Offences

If a complaint is received by the Trust which indicates a need for a referral or is subject to any of the points below, the person in receipt of the complaint should at once pass the relevant information to the Complaints & Claims Manager.

- An investigation under the disciplinary procedure
- Any of the professional regulatory bodies
- An independent inquiry into a serious incident
- An investigation of a criminal offence
- An in investigation where counter-fraud investigators are involved

The Complaints & Claims Manager will ensure that a referral is made to an appropriate Director as identified in the Trust's Disciplinary Procedures Policy. This referral may be made at any point during any stage of the complaints procedure.

The Complaints & Claims Manager and the identified Director must establish whether progressing with the complaint might prejudice the investigation of the disciplinary, professional conduct or criminal process. If this is the case, the complaint will be closed or put on hold until such time as the relevant investigation is concluded. The complainant will be advised of this by the Complaints & Claims Manager.

5.11 Parliamentary and Health Service Ombudsman (PHSO)

When complainants are not satisfied with the final response from CLCH they have the right to refer their complaint to the PHSO. The Trust will always proactively advise complainants of this right and provide them with the necessary contact details. The Trust will co-operate in full with any requests made by the PHSO.

Recommendations received from the PHSO will be recorded by the Complaints Manager and the Chief Executive's Office and then provided in full to the relevant directorate or service provider for implementation. Where recommendations are made these are normally made to reduce the risk of a similar adverse event occurring again.

Progress of any recommendations made by the Ombudsman will be monitored by the Patient Experience Manager and included in reporting to the CLIPS Group (Shared Governance Councils).

5.12 Payment of Financial Remedy

Compensation in response to a complaint is not necessarily about money; it is about asking what benefit is there if the complaint is handled to the patient's satisfaction.

Research has demonstrated that when patients complain they are seeking either:

- An apology or explanation
- Reinstatement or an intent to remedy the situation
- Empathy
- Symbolic atonement (i.e., a gesture to demonstrate your good intentions)
- Follow up

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

See also the **Claims Policy** (formerly the legal services policy) for further information.

In the interests of swift resolution of a complaint, the Trust may have the opportunity of offering financial redress to a complaint which does not sit under the remit of a claim for compensation on the grounds of clinical negligence. Such situations may include unnecessary travel expenses incurred as a result of an error by the Trust.

The Ombudsman's Principles of Remedy provide guidance on determining the level of financial compensation. In this guidance the organisation must consider:

- The nature of the complaint
- The impact on the service user
- How long it took to resolve the complaint
- The trouble the service user was put to in pursuing it

For more information refer to the Ombudsman's Principles of Remedy - www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples

In cases of financial redress, the Trust should calculate payments for financial loss by looking at how much the service user demonstrably lost or what extra costs they incurred. In cases where financial redress is requested, this will be considered by the Chief Executive.

5.13 Mediation and Conciliation

Independent mediation and conciliation arrangements can be made available on a case-by-case basis. The Director of Nursing and Therapies (Patient Experience and Education) will review requests made to access these services and approve funding for independent mediation and conciliation services when appropriate. (Refer to the Trust Mediation Policy).

5.14 Withdrawn Complaints

Where a complainant requests that a formal complaint is withdrawn, the Trust will record the complaint and will undertake a review as per normal procedure if there is sufficient information to do this. This is so that issues can still be captured and any actions taken.

5.15 Duty of confidentiality

Care must be taken at all times throughout the complaints procedure, to ensure that any information disclosed about the service user is confined to that which is relevant to the investigation of the complaint. Information will only be disclosed to those people who have a demonstrable need to know it for the purpose of investigating the complaint or ensuring that the complaints procedure is followed. It is good practice to explain to the service user or complainant that information from his/her health records may need to be disclosed to staff involved in managing the complaint

including the Ombudsman should it be required. If the service user objects to this then the effect on the investigation will be explained.

5.16 Communication

Within the complaints process it is essential for information to be conveyed in a speedy and secure way. E-mailing of service user identifiable information, for the purpose of complaints resolution, is permitted between email addresses within the same domain name, which is identified by the section of the address following the @ symbol, which is secure. The Patient Experience team will store all emails related to the complaint on the complaint file in the DATIX database; therefore once an e-mail has been sent to the Patient Experience team it can be deleted.

To minimise the risk of confidential information being lost or stolen, e-mails must not include the name of the service user, the person making the complaint or any other identifiers within the subject header. Wherever possible, information should be presented within a word document and information, such as address and contact details, should be removed unless this is essential to the purpose of the e-mail. Password protecting the document is not necessary.

NB: Service user identifiable material **should not** be emailed to other NHS, Local Authority Social Care departments, or other Trusts or organisations as part of the complaints process unless the sender and receiver are both using nhs.net accounts. Emails containing patient identifiable information should be sent from and to an nhs.net account.

If details are sent by fax, then the relevant person within the Patient Experience team should be informed prior to the fax being sent. The complaints fax is a safe haven facility and therefore secure and not accessible to non-Patient Experience personnel. The receipt of the fax must be confirmed to the sender by the Patient Experience Team.

See also the **Records management policy** for further information.

5.17 Trust Wide Learning

A fundamental aspect of the complaints process is ensuring that the Trust learns and improves from the experience of receiving and managing complaints. Each complaint investigated will have recorded, as a feature of the final outcome, the lessons learned and what action has been, or will be taken as a result of the investigation.

The Complaints Manager will analyse complaints and the subsequent investigations to identify emerging themes or trends and where appropriate, will highlight these for urgent attention. Lessons learned and emerging themes will be presented to the Patient Experience Coordinating Committee (PECC) as per the schedule of that

group and also the Patient Safety and Risk Group (PSRG) as appropriate. Where required, learning bulletins can be quickly disseminated via email or through the appropriate governance structure.

An increase of complaints for a service will also be one of the seven key criteria used in the trust red flag system which provides a monthly overview of quality performance. When a team flags, the Divisional Directors of Nursing and Therapies determine if a short, focused intervention can be undertaken or if they need the support of a Quality Action Team (QAT). Red flag reports are reviewed monthly at divisional level. They also form part of the Quarterly Quality Reports presented to the Trust Quality Committee.

All complaints and themes are shared with the service for learning and action. In 2017/18 the Complaints team introduced 'Complaint Vignettes' which are shared with the division and commissioners highlighting the learning and actions taken as a result of the feedback received.

5.18 Disciplinary procedure

The complaints procedure will be kept separate from the staff disciplinary procedure. The purpose of the investigation carried out under the complaints procedure is to resolve complaints and not apportion blame or to make recommendations regarding disciplinary action against members of staff.

In the event of a complaint being received that involves serious allegations of misconduct about a member (s) of staff warranting a management investigation, involvement of a professional regulatory body or a criminal investigation, the Patient Experience Manager should immediately inform the HR Manager and the relevant Service Director.

If a formal management investigation is initiated and, in particular, in these circumstances if instigation of the disciplinary procedure is required, there is a need to balance obligations relating to confidentiality of staff with reassuring the complainant. It will be explained to the complainant that details of any subsequent disciplinary action against members of staff cannot be divulged but that they will receive an appropriate explanation, apology and any action take to prevent recurrence.

5.19 Media Interest

If the complaint is likely to receive media interest, the appropriate lead in the communications team must be informed immediately upon receipt or notification of the complaint.

The Trust will publicise this policy and provide further information on how to complain through appropriate means, which may include the Trust website, posters, leaflets and through partnership working with key stakeholders.

5.20 Procedure to ensure that complainants are not treated differently as a result of their complaint

The Trust is committed to ensuring that people are not treated differently as a result of making a complaint. As such, documentation regarding a complaint will be held separately from the patient's medical records, and only those staff participating in the investigation will be party to the full details.

Additional controls to ensure people are not treated any differently as a result of making a complaint include:

- Ensuring that individuals can raise concerns anonymously if they wish, via the Patient Experience Team
- Ensuring that investigations are standardised across the Trust with procedures in place that comply with external standards

If there is evidence that someone has been treated differently by staff as a result of raising a complaint, this will be discussed with Human Resources for action to be taken as appropriate.

5.21 Compliments

The potential value of complimentary remarks should not be underestimated. Local arrangements should be put in place to receive, identify, recognise and pass onto the intended recipient. If a compliment is received verbally their name, address and post code should be obtained if possible.

Compliments should be passed on to the Patient Experience Team for recording and where appropriate for sharing the learning from good individual or team practice. Compliments are reported to the Trust via weekly, monthly and quarterly reports. These reports do not divulge the staff member's name, but staff details are captured so that they can be used in an appropriate way. For example, to support evidence for staff recognition awards and staff appraisals if required.

6. Consultation Process

This document was developed in consultation with the Trust's internal stakeholders and includes an Equalities Impact Assessment .The following stakeholders were consulted by email in the creation of this policy and comments incorporated as appropriate.

- Chief Nurse

- All Directors, Assistant Directors, Divisional Directors
- All staff who receive the weekly complaints and compliments reports
- Patient Experience Coordinating Committee
- Patients' representatives

7. Approval and Ratification

This policy was taken to the Trust Patient Experience Coordinating Committee on 21 March 2019 and the Trust Quality Committee on 18 April 2019 and agreed. The policy was reviewed at the Trust Board on 30 May 2019 and approved.

8. Dissemination & Implementation

This policy document will be implemented as follows:

- This procedural document will be placed on the intranet by the QLD team. The QLD team will provide a reference number for this policy. It will be therefore be available to all staff via the CLCH NHS Trust intranet.

- Furthermore the document will be uploaded on the Trust intranet after ratification and will also be circulated to all managers by an email from the Complaints Manager. They will be required to cascade the information to members of their teams and to confirm receipt of the policy and destruction of the previous policy which this supersedes. Managers will ensure that all staff are briefed on its contents and on what it means for them.

9. Archiving

The QLD Team will undertake the archiving arrangements.

10. Training

The Trust recognises that if the reporting and investigation of complaints is to be successful and beneficial, then staff training must be available and supported by regular updates. The Trust will provide training through staff inductions and briefings directly to service teams to assist with the implementation of this policy, which will be included in the staff induction process.

Induction training, which is mandatory for all staff, will include a section on handling complaints. The Complaints Manager will ensure that this element is kept up-to-date, as well as ensuring that communications materials (for example. leaflets, briefing and intranet content) are made available and that all staff are advised of their availability

The Complaints Manager in conjunction with the Training/Learning and Development team will develop and arrange annual targeted training for Service Managers and their teams who take part in the management or investigation of complaints, and to ensure that staff have skills appropriate to their level of involvement.

Root Cause Analysis (RCA) training is also available for staff.

11. Monitoring and auditing compliance with this policy

There will be an annual complaints report that will be submitted to the Trust Board. Progress against complaints targets will also be incorporated into the monthly performance report. See also appendix A.

12. Review arrangements

The policy will be reviewed at least every two years; the next review is due in March 2021. It will be reviewed earlier by the Complaints Manager or their successor subject to:

- Receipt of updated legislation, and/ or guidance issued by regulators
- Learning identified through the on-going use and deployment of the Datix system

13. References

1. Department of Health 'Listening, Responding, Improving: A guide to better customer care'. Department of Health, 2009.
2. The Parliamentary Health Service Ombudsman 'Principles of Good Complaints Handling' guide.(2009)
3. The Parliamentary Health Service Ombudsman 'Principles of Remedy' guide. (2009)
4. The Parliamentary Health Service Ombudsman 'Principles of Good Administration' guide (2009)
5. Care quality commission (2009) *Guidance about compliance with the Health and Social Care Act 2008 registration requirements regulations 2009: A consultation.* [online] London: Care Quality Commission. Available at <http://www.cqc.org.ukl
6. The NHS Constitution, 26 March 2013. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/170656/NHS_Constitution.pdf
7. The Mid Staffordshire NHS Foundation Trust Public Inquiry (The Francis Report- Effective Complaints Handling). Available at http://www.midstaffspublicinquiry.com/
8. Report of handling of complaints by NHS hospitals in England by Ann Clwyd MP and Professor Tricia Hart.

9. National Patient Safety Agency. (2005). Patient Briefing - Saying Sorry When Things Go Wrong. London, National Patient Safety Agency.
10. National Patient Safety Agency. (2005). Being Open Communicating Patient Safety Incidents with Patients and Their Carers. London: National Patient Safety Agency.
11. The Data Protection Act 1998 London: Office of Public Sector Information. Available at: www.opsi.gov.uk
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14. The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009 http://www.legislation.gov.uk/uksi/2009/309/contents/made
15. Reform of Complaints' Handling in Health and Social Care – key messages for boards, members and senior management teams (DH 2009)
16. Human Rights Act 1998
17. Good practice standards for NHS Complaints Handling, Patients Association, 2013. Available at: https://www.noeccn.org.uk/resources/Documents/Education%20Group/Resources/Good-Practice-standards-for-NHS-Complaints-HandlingSept-2013.pdf
18. My Expectations; for raising concerns and complaints (Parliamentary and Health Service Ombudsman, 2014). Available at: https://www.ombudsman.org.uk/sites/default/files/Report_My_expectations_for_raising_concerns_and_complaints.pdf

14. Associated documentation

CLCH Violence and Aggression at Work Policy
CLCH Incident Reporting and Serious Incident Policy
CLCH Records Management Policy
CLCH Risk Management Strategy
CLCH Claims policy
CLCH Raising Concerns at Work Policy
CLCH Equality and Diversity Policy
CLCH Counter Fraud and Corruption Policy
CLCH Being Open Policy
CLCH Induction and Statutory and Mandatory Refresher Training Policy
CLCH Mediation Policy
CLCH Consent Policy
CLCH Whistleblowing Policy
CLCH Safeguarding Adults at Risk procedure
CLCH Safeguarding Children Policy
CLCH Safeguarding Children and Young People Procedure
CLCH Equality and Diversity Policy

15. Appendices

Appendix A	Monitoring and compliance tool
Appendix B	Equality Impact Assessment
Appendix C	Types of complaint and their management
Appendix D	Complaint resolution investigation report template
Appendix E	Guidance for staff writing a statement
Appendix F	Guidance for a meeting with the complainant
Appendix G	Letter of findings template
Appendix H	Unreasonable and persistent complainants
Appendix I	Complaints flow chart

Appendix A: Monitoring and auditing compliance

Element to be monitored	**Lead**	**How Trust will monitor compliance***(Data and audit)*	**Frequency of monitoring**	**Reporting arrangements**	**Results of monitoring**
All elements of complaints reporting including numbers, type, complainant and themes will be monitored	Director of Nursing and Therapies	Annual complaints report	Annual	Trust Board Quality committee	See annual complaints report and quarterly quality performance reports
Delivery of complaints against agreed KPIs	Assistant Director of Patient Experience	Monthly complaints reporting	Monthly Quarterly	Trust Performance Meetings Quality Committee	As above
Delivery of quarterly complaints audits of complaints information available to patients and staff is undertaken	Complaints and Claims Manager	Monthly complaints reporting	Quarterly	Patient Experience Coordinating Committee Quality Committee	As above

Appendix B: Equalities impact assessment

Trust Complaints policy

EQUALITIES IMPACT ASSESSMENT PRO FORMA

This **MUST** be completed only if **NEW** policy

Please complete the screening assessment grid below for equality groups listed within the Equality Act (2010) and highlight the evidence underlying your assessment.

PROCEDURAL DOCUMENT TITLE				
Who will be affected by implementation of the procedural document E.g. Staff, patients, carers etc.				
Protected characteristic	**Positive impact**	**Neutral Impact**	**Negative Impact**	**Reason for impact and action required.**
People of different ages (e.g. Children, young or older people).		√		
People of different religions / beliefs		√		
People with disabilities (physical, sensory or learning).		√		
People from different ethnic groups (including Travellers and Gypsies, Refugees and Asylum seekers and other migrant communities).		√		
Men or women		√		
Transgender people		√		

People who are gay, lesbian, and bi-sexual		√		
People's marital status (including civil partnership)		√		
Pregnancy and maternity (how will the policy affect women who are pregnant or related maternity needs)		√		
Carers (although not a protected characteristic, you may want to consider if the policy affects people with caring responsibilities)		√		
Any other group likely to affected by this policy (e.g. people on low income, homeless etc.)		√		

2	Please describe engagement and consultation process and the key feedback. E.g. with teams, unions or user groups. Please see paragraph 6.
3.	If negative impacts have been identified, please complete a full Equality Analysis, which will set out actions that need to be taken to mitigate those impacts. NA (If further information is required, please contact the equality and diversity lead yasmin.mahmood1@nhs.net)

Signed for team / working group:

Name:
Date:

Appendix C: Types of complaint and their management

Anonymous Complaints:

Complaints made anonymously fall outside the scope of this process. However, wherever possible, these types of complaints will be recorded, reviewed and investigated as appropriate.

Bereavement complaints

Wherever possible a meeting will take place between CLCH and the complainant in order to take a detailed history, record the issues raised and ascertain how they wish the complaint to be handled. Attendance by the Service Associate Director, Divisional Directors of Nursing and Therapies or Director of Nursing and Therapies (Patient Experience and Education) may be appropriate in certain circumstances.

Commissioner complaints

The commissioners of CLCH services reserve the right to investigate complaints received by them about provider services. Complaints arising from CSU/CCGs or other NHS Groups on behalf of a patient will be recorded and tracked by the Patient Experience Team as described in the complaints process and within CLCH corporate mechanisms.

Other complaints

Where complaints involve, or may need to be referred to, external bodies such as the Police or other organisations, advice should be sought from the Chief Nurse.

Counsellor complaints

If a counsellor is acting on behalf of a patient, then consent must be obtained from the patient. Information must not be disclosed without the permission of the patient. If the counsellor has obtained this consent, they must provide evidence of this. When the consent form is received careful note must be made as to where the service user would like the response to be sent to. All complaints and concerns raised by are to be forwarded to the Chief Executive.

Complaints regarding safeguarding or an incident

An incident is any event that has, or may have, impacted upon the safety of patients, staff, and delivery of service or health improvement. Incidents include hazards, accidents, dangerous occurrences, significant events and near misses. For an explanation of these terms please the Incident Reporting and Serious Incident policy.

If an incident is identified in the complaint it must be reported it via the incident reporting module on Datix. Serious incidents must be escalated to the divisional senior management team and a senior member of the Quality and Learning Division (or its successor team). The reporter will be notified as to whether or this will be progressed as a complaint, or whether it will be removed from the complaint process and managed through the incidents process.

If a there is an urgent concern about a child or an adult at risk of harm should be acted on immediately to protect the person at risk, by calling the relevant CLCH safeguarding lead during business hours. The CLCH on-call staff must be notified after hours. If there is no risk of

immediate harm, discuss your concerns with a line manager or the Trust's safeguarding lead or advisor at the time of identification.

Joint organisation and partner complaints

When a complaint is received by CLCH which also involves services provided by another organisation we will work together with them to provide a seamless complaints process for the complainant and not to create additional burden.

When a complaint is made regarding the services of different organisations not in a partnership, CLCH will:

- Contact the complainant to discuss and agree how the complaint will be managed and obtain appropriate consent for information sharing
- Liaise with the other organisations to agree who will lead on the complaint and co-ordinate a response
- Ensure that a single response is provided if this is requested by the complainant
- Where a complaint is made regarding a service provided in partnership with CLCH the investigation will be led by the lead organisation
- Where a complaint is made to CLCH that relates entirely to another organisation or local authority CLCH complaints will:
    - Liaise with the complainant to determine whether they want the complaint be sent to the local authority to which it relates and
    - If the complainant consents to this, send that material to that local authority as soon as is reasonably practicable

Appendix D: Complaint resolution investigation report template

Agreed response <u>date</u> by Investigating Manager:	**Complaint Datix Ref : CLCH C**
<u>Customer's details</u>	
Name: **Date of Birth**:	**Address**
Telephone number: (**Home**): (**Mobile**):	**Email:**
<u>Service User details (if different from complainant)</u>	
Name: (include title): **Date of birth**:	**Address:** (if different from above)
Telephone number: (**Home**): (**Mobile**):	
<u>Details of Investigating service manager</u>	
Name: **Service:** **Site**:	**Job Title:** **Contact No:**
Other organisations/services involved?	
Summary of complaint:	
Key Points to respond to: •	
Actions & Learning	

Action	Handler	Due date	Date completed

Appendix E: Guidance for staff writing a statement

A template for writing a statement is included below along with the following key points which need to be considered:

- Write simply and avoid jargon and abbreviations. If your statement cannot be typed then it needs to be handwritten as clearly as possible
- Please ensure that your report is typed or written in black ink, is dated and signed and includes your name, designation and contact work address
- Always refer to the relevant documents to assist you in providing an accurate report including the patient's health records
- Include as many facts as possible – dates, times, patient names, staff present, location, drugs and equipment used etc. Facts only (not opinions)
- The statement must be accurate
- Avoid making judgements or coming to conclusions – stick to the facts rather than your analysis of them
- Detail the sequence of events as you saw them that led to the alleged complaint occurring
- Write short concise paragraphs
- When mentioning policies, procedures or standards, describe them clearly.
- Always refer to policies, procedures, standards that are currently available, at the time
- When referring to people, be precise in using their full name and title
- Assume the reader is not familiar with the way in which the Trust provides treatment and care
- Always assume that a statement could be read by the complainant

Staff Statement

Full Name	
Position	*At time of incident, plus position now if different*
Grade	
Team/Ward	
Contact number	
Qualifications	

Statement in relation to:

- Give date of adverse event and name of patient or other person concerned, or give Complaint/SUI/Claim reference number

Experience

- Include how long you have been qualified and/or working in this speciality, and when you joined the Trust

Role in which involved in the events being investigated

- E.g.: present when the event happened / clinical responsibility for patient / management responsibility for area

Detail of involvement

- Give a clear account of how you were involved.
- State the sequence of events in chronological order, giving dates and times (dd/mm/yy and hh:mm, using 24 hour clock), patient names, staff present, location, drugs and equipment used
- Only include factual details where you have direct knowledge.
- Make clear what part is from memory, what part is from the notes and what part from your recollection of your standard practice at the time.
- Give reasons for your own actions, but do not speculate other people's motives.
- If reporting conversation, use direct speech in inverted commas, e.g. Nurse Brown said "I saw him fall".
- State observations, not opinions – e.g. "His breath smelt of alcohol" rather than "He was drunk".
- Write simply and avoid jargon or abbreviations and explain any difficult terms
- Provide as much detail as possible giving locations and amounts (if appropriate, e.g. drugs)
- Aim to respond to specific issues of concern.
- Refer to policies/procedures/guidelines in use at the time (if appropriate) and explain the reasons for deviating from these guidelines.
- Comment on any allegations made concerning your involvement

Other persons present • Give names and roles. If persons were not present throughout, give details
Background factors • Give factual details of any background factors you believe may have been relevant, e.g. lack of full staff complement, unusual number or dependency of patients
Records made • Indicate any written records made by yourself in relation to matters covered in this statement – e.g. clinical notes, incident form, training notes etc.
Any other relevant information • Give any other information which you feel is relevant and is not covered above.

The contents of this statement are true to the best of my knowledge	
Signature	
Date	

Appendix F: Guidance for a meeting with the complainant

Misunderstandings and miscommunication is often the root cause of most complaints. Meetings can therefore be a good way of resolving complaints. Make sure before organising the meeting that the meeting and/or type of meeting are appropriate for the complaint.

1. Before the meeting clarify

Purpose:
Be clear to the complainant what the meeting is for; explain it is to establish facts. Manage expectations and be clear about what the meeting can and cannot offer. Prior to meeting complainant may wish to identify a list of questions which if shared before meeting can aid in all getting the most out of the process.

Venue (home, health centre or other)
This can be a Health Centre or other venue; however the patient/complainant may wish to meet in a more neutral venue. Meeting in persons home often allows for a more relaxed environment, where the person making the complaint feels more comfortable. If the meeting is at the complainant's home a risk assessment must be carried by CLCH staff out prior to the meeting

Attendees:
Depending on the complaint issue may want to look at the numbers attending. Complaints meetings which are small are less intimidating to the complainant and less likely to end in defensive responses. CLCH Complaints representation can help in meetings which require chairing. Having a lay conciliator present can aid in facilitating the meeting, however there are few lay conciliators and so tend to be used only in bereavement complaints or difficult to resolve issues. Complainants should always be informed of their right to advocacy or to bring a friend or family member. Both complainant and a CLCH representative present should be aware of who is attending and why before the meeting. The person complained about would not normally be present unless they specifically feel this would benefit resolution and the complainant/patient is happy for the person to be there.

Time:
This really depends upon the nature of the complaint; however it is advisable to ensure that 1 hour is provided for the meeting as a minimum. Any meeting longer than 3 hours will need an allocated break.

Evidence:
Copies of appropriate sections of medical records should be available, alongside any policies and procedures relevant to the complaint in hand (e.g. NICE guidance). These should be available for the complainant to review in the meeting and ideally copies to take away

Minutes/record

Ensure that the meeting will be documented in a way that is appropriate, for example, only actions might be recorded. If the meeting response is not particularly complex these actions could be recorded by someone who is part of the meeting (so as not to increase attendees unnecessarily. For meetings involving a more complex response it may be necessary to bring outside administrative support. Consideration also might be given to the use of sound recording equipment in order to aid writing up of minutes, in which case permission to do so by the attendees must be sought.

2. At the meeting

This is an advised structure for complaints meeting; however each meeting may be different:

- Introductions, thanks, clarification of purpose and boundaries, information about complaints process
- Complainant highlights issues, summarises questions/list so form an agenda basis.
- Go through each point and respond with questions and answers.
- Summarise after each point covering all the issues raised, explain clearly why a course of action was taken.
- Apologise for mistakes made and discuss what actions will be taken to prevent a reoccurrence.
- Concluding, go through action points, acknowledge any differences reiterate options for taking complaint forward, thank person again.

Try to be non-defensive: It is very easy to become defensive especially if you are being blamed. Be open and honest, the complainant will often only be trying to understand, if defensive this will antagonise the situation and jeopardise the meeting. If there are points of disagreement acknowledge these, state these are noted and move on.

3. Following the meeting

- Complete actions and/or minutes and send copy to all present (with option to alter if wish), these can be in draft copy, ensuring that when returned with alterations the final copy can be sent via CLCH Patient Experience Team from the Managing Director with a ‘sign off letter’
- Ensure details of next stage provided (these will be provided in the ‘sign off letter’ as well)
- Carry out actions and monitor action plan

Appendix G: Letter of findings template

Private and Confidential

Office of the Chief Executive
Ground Floor
15 Marylebone Road
London

NW1 5JD

Tel: 020 7798 1436
Fax: 020 7798 0891
E-mail: clchcomplaints@nhs.net
Web: www.clch.nhs.uk

Our reference: CLCH CXXX

Name
Address
Address
Post Code

Date DD Month YYYY

Dear Mr/Mrs/Ms (or other title)

I am writing in response to the concerns you raised in your letter/email/telephone call of xx Month YYYY regarding…

Having received your letter, I asked (include name and job title) to undertake a comprehensive investigation into the issues which you raised. As part of the investigation he/she has spoken (staff involved / add in professional group i.e. nurses involved) as well reviewed (Patient's) medical records. Having completed their investigation I am now able to respond.

Investigation findings.

I would like to thank you for taking the time to raise your concerns with me. I do hope I have been able to assure you that our clinicians are committed to providing patients with high quality care. (Add, where appropriate and that the most suitable treatment available and that my explanation assures you the best treatment was provided, based on the clinical findings at the time of the assessment).

Yours sincerely,

Andrew Ridley
Chief Executive
Central London Community Healthcare NHS Trust

Please note:

Receiving complaints is one way that we, at Central London Community Healthcare NHS Trust, can understand where processes have gone wrong and helps us to remedy gaps in our services.

Please feel free to contact the Customer Service Team on 0800 368 0412 who will be happy to assist you if there is anything you would like clarified or investigated further.

If you are unhappy with my response to your complaint, you may ask us to review your remaining concerns again. If you are then still unhappy, you have the right to ask the Health Service Ombudsman for an independent review of your case within twelve months of knowing about the problem. The Ombudsman can carry out independent investigations into complaints about poor treatment or service provided through the NHS in England.

Appendix H: Unreasonable and persistent complainants

1. The subject matter of a complaint is the same as that of a complaint which has been previously investigated under the complaints legislation, and under these new legislative arrangements try to reopen or represent previously investigated cases by another organisation, and have been classified as being unreasonable, inappropriate or unreasonably persistent will not be considered.
2. If a complainant begins to demonstrate behaviours which could be classified by the lead or secondary organisations as unreasonable and persistent as described below, the lead organisation will advise the complainant and issue a letter of concern.
3. If the complainant persists then the lead organisation in consultation with any other secondary organisations involved in the complaint will make a decision to classify the complainant as unreasonable and or persistent.
4. During the complaints process CLCH staff might have contact with a small number of complainants who absorb a disproportionate amount of NHS resources in dealing with their complaints. The aim of this policy is to identify situations where the complainant might be considered to be persistent and to suggest ways of responding to these situations which are fair to both staff and complainant. **It is emphasised that this policy should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the NHS complaints procedures,** for example through local resolution, conciliation, and involvement of independent advocacy as appropriate.
5. Judgement and discretion must be used in applying the criteria to identify potential habitual complainants and in deciding the action to be taken in specific cases. **This policy should only be implemented in relation to a specific complainant, following careful consideration by, and with the authorisation of, the appropriate Non-Executive Director and/or Chief Executive of CLCH.**
6. Complainants (and/or anyone acting on their behalf) may be deemed to be persistent where previous or current contact with them shows that they meet at least **TWO** of the following criteria:
    - The same complaint with minor differences but the complainant will not accept the outcome of any investigation into their complaint after it has been fully and properly implemented and exhausted.
    - Seek to prolong contact by changing the substance of a complaint or continually raising new issues and questions whilst the complaint is being addressed. (Care must be taken not to discard new issues which are significantly different from the original complaint. These might need to be addressed as separate complaints).
    - Are unwilling to accept documented evidence of treatment given as being factual
    - Matters where the complainant is seeking an unrealistic outcome.
    - The complaint arises from a historic and irreversible decision or incident.
    - Frequent, lengthy, and complicated contact which is stressful for staff.
    - Refusal to specify the grounds of the complaint despite offers of help from staff.
    - Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this.) Staff should document all incidents of harassment in line with the Violence at Work Procedures, completing an incident form.
    - The complainant changes aspects of their complaint partway through the Investigation.
    - Deny receipt of an adequate response despite evidence of correspondence specifically answering their questions.
    - The complainant continually makes or breaks contact with the agency/ complaint investigation lead organisation.

- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into e.g. excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.
- The complainant persistently approaches the agency/ complaint investigation lead organisation through different routes about the same complaint, in the hope that they will secure a different response.
- This list is not exhaustive and so only covers some of the main kinds of behaviours and actions that come to the agency's/ lead organisations attention.

7. Check to see if the complainant meets sufficient criteria to be classified as an unreasonable or persistent complainant.

Where there is an ongoing investigation

- Where the view of a Non-Executive Director * is deemed appropriate in order to review the Trust's response, they should write to the complainant setting parameters for a code of behaviour and the lines of communication. If these terms are contravened consideration will then be given to implementing other action.

** It would be inappropriate for the Chief Executive to set these parameters at this stage as s/he will be involved in the ongoing complaints process.*

Where the investigation is complete

- At an appropriate stage, the *Chief Executive* or nominated Non-Executive Director should write a letter informing the complainant that:
  - the *Chief Executive* has responded fully to the points raised, and
  - has tried to resolve the complaint, and
  - there is nothing more that can be added, therefore, the correspondence is now at an end.
- The Trust may wish to state that future letters will be acknowledged but not answered.

8. In extreme cases the CCG should reserve the right to take legal action against the complainant.

WITHDRAWING 'PERSISTENT' STATUS

9. Once complainants have been determined as 'persistent' there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach or if they submit a further complaint for which normal complaints procedures would appear appropriate. Staff should previously have used discretion in recommending 'persistent' status and discretion should similarly be used in recommending that this status be withdrawn.

Appendix I: Complaint severity assessment matrix

	Clinical Risk & Quality	Patient/ Staff safety	Finance, Litigation & Statute	Performance	Environment& Estates	Reputation & Confidentiality
Negligible 1	- Minor non-compliance with any clinical standard. - Clinical standards generally acceptable. - Peripheral element of treatment or service suboptimal.	- Minimal first aid treatment. Minor cuts/ bruises etc. - No time off work	- Minimal financial loss (<£1,000); - Informal complaint / inquiry - Recovery from consequence handled quickly without need to divert resources. - Informal communication from external Enforcement body.	- Loss/ interruption of business activities.	- Minor environmental impact - Minor property damage. - False alarm for security.	- Minor complaint in Local Paper.- public perception remains intact. – minimal/temporary impact. - Minor breach of confidentiality- single individual affected. - Damage to an individual's reputation. - Potentially serious Info Governance breach- less than 5 people affected or risk assessed as low, e.g., files were encrypted
Minor 2	- >80% compliance with clinical standards- action plans for improvement implemented - Failure to meet internal standards - Minor impact on patient care.	- Moderate first aid treatment. Cuts/ bruises under 3 day absence. - Non-permanent harm (up to 1 month effect). - Minor/ temporary breach of safety policy.	- Moderate financial loss (£1 K to 20K); - Formal complaint (Stage 1) - Local resolution of complaint is ineffective - Official Letter from enforcement body.	- >80% compliance with or likelihood to meet CGC registration standards- action plans for improvement implemented -- Treatment or service effectiveness is reduced with minor business impact -- Low staffing levels -- 20% of staff not attended training	- Theft of single item of property less than £500. - Reasonable damage to single room/ vehicle.	- Public perception altered slightly- no significant damage. - Damage to a team's reputation. - Serious potential Info Gov breach and risk assessed high- unencrypted clinical records lost; up to 20 people affected

	Clinical Risk & Quality	Patient/ Staff safety	Finance, Litigation & Statute	Performance	Environment& Estates	Reputation & Confidentiality
Moderate 3	- 60- 80% compliance with clinical standards. - Internal quality improvement project (within 3 months). - Repeated failure to meet internal standards - Marginal failure of external review - Policy is not in place to identify accountabilities & give directions re a specific risk.	- RIDDOR reportable event - Semi permanent harm or disability (up to 1 year to resolve e.g. fracture with no complications). - Significant breach of H&S Policy. - Healthcare associated infection which may result in semi-permanent harm. -- Life threatening situation. -- Major patient safety implications if findings are not acted on	- Major financial loss (£20K to £100K) - Formal complaint (Stage 2) - Local resolution (with potential to go to independent review) - Breach of legislation - Voluntary closure of (part of) service. - Improvement Notices	- 60-80% compliance with or likelihood to meet CQC registration standards. - 60% likelihood of not meeting KPIs/ SLA requirements. - Treatment of service has significantly reduced effectiveness - Service could cease for up to 1 week. -- Unsafe staffing levels (<5 days) - 40% of staff not attended training - Low staff morale-- SHA enquiries	- Spillage or escape of clinical or toxic waste or substance/hazard affecting an entire building. - Serious Environmental Impact. - Theft of one item over £500 or several items of equipment or any staff/ patient personal belongings. - Significant damage to a number of rooms/location/vehicles. - Local Fire Incident.	- Serious loss of reputation (Local media coverage for a week); - Moderate loss of confidence in org. - Damage to a service's reputation - Serious breach of Info Gov- up to 100 people affected; unencrypted clinical records lost

	Clinical Risk & Quality	Patient/ Staff safety	Finance, Litigation & Statute	Performance	Environment& Estates	Reputation & Confidentiality
Major 4	- 40-60% compliance with professional and/or national standards. - Internal quality improvement project (within 2 weeks - Unacceptable impact on patient care. - A key clinical policy/ protocol/ guideline is not in place that should be or is grossly out of date. - Critical report. - Significant Failure of External Review - Recovering from consequences is highly complicated & time consuming	- Permanent harm or disability. - Mismanagement of pt care with long term effects - Healthcare associated infection which may result in major harm e.g. HepC.	- Major financial loss (£100K - £1 million) - Non-compliance with national standards with significant risk to patients if unresolved. - Multiple complaints. - Independent complaints review. - Multiple breaches of legislation Prohibition Order & Voluntary Closure of site - Incidents reportable to HSE/ SHA/ Regulator	- 40-60% compliance with or likelihood to meet CQC registration standards. - 40-60% likelihood of meeting KPIs/ SLA requirements - Service closure <1 week. - Unsafe staffing levels (> 5 days) - 50% of staff not attended training - Loss of essential/ key staff - Very low staff morale - Major business interruption. - Special measures imposed - Unable to provide assurance on key risk.	- Spillage or escape of clinical or toxic waste or substance/hazard with effects contained to Org premises. Small scale pollution of water course/soil. - Major Environmental Impact; - Major damage to an Org building (Forcing closure). - Major vehicle accident on premises. - Serious Fire Incident – Brigade attendance. - Major civil disturbance on site. Long period services failure. - Limited food poisoning outbreak.	- National adverse publicity. Major loss of confidence in Org. - Major loss of reputation (Sustained media coverage). - Public reaction causes major disruptions. - Serious breach with either particular sensitivity e.g. sexual health details, or up to 1000 people affected

	Clinical Risk & Quality	Patient/ Staff safety	Finance, Litigation & Statute	Performance	Environment& Estates	Reputation & Confidentiality
Catastrophic 5	- Gross failure to meet professional and/or national clinical standards. - Totally unacceptable clinical standards – requires immediate action (no delay). - Unacceptable reduction in quality of service - Lives of stakeholders could be threatened. - Major epidemic; - Serious failure of external review.	- Single death of any person. - Multiple avoidable deaths on or off site - Large number of people affected by an incident. - Notifiable disease outbreak inc. MRSA & C-dif	- Loss of >£1million - Loss of ability to achieve/maintain financial stability of the Org. - Gross failure of patient safety if findings not acted on. - Inquest or enquiry by CQC or Ombudsman. - Blatant breach of legal requirement. - Prohibition Order & Prosecution	- <40% compliance with or likelihood to meet CQC registration standards. - <40% likelihood of meeting KPIs/ SLA requirements - Extended service closure (>1 week). - Ongoing unsafe staffing levels - <50% of staff attended training - De-merger/ takeover of Organisation	- Spillage or escape of clinical or toxic waste or substance/hazard with effects beyond PCT premises. Major pollution of air/water/land. - Wide spread environmental Impact. - Total destruction of single location or major damage to whole site. Major theft of equipment/property. - Legionella outbreak. Major food poisoning outbreak.	- International adverse publicity/severe loss of confidence in Org and/ or the NHS. - Risk impacts upon the local health economy.. - Parliamentary questions, board resignations. - Serious breach with potential for ID theft or over 1000 people affected.