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Royal Cornwall Hospitals NHS Trust

Complaints Policy

V3.0

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Data Protection Act 2018 (General Data Protection Regulation – GDPR) Legislation

The Trust has a duty under the Data Protection Act 2018 and General Data Protection Regulations 2016/679 to ensure that there is a valid legal basis to process personal and sensitive data. The legal basis for processing must be identified and documented before the processing begins. In many cases we may need consent; this must be explicit, informed, and documented. We cannot rely on opt out, it must be opt in.

Data Protection Act 2018 and General Data Protection Regulations 2016/679 is applicable to all staff; this includes those working as contractors and providers of services.

For more information about your obligations under the Data Protection Act 2018 and General Data Protection Regulations 2016/679 please see the Information Use Framework Policy or contact the Information Governance Team

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1. Introduction

1.1. This policy sets out the processes and procedures for the investigation and management of informal and formal complaints received by the Trust. It provides a robust framework to ensure a consistent approach across the whole organisation, which focuses on resolving the individuals' issues in an open and timely manner. Our aim as an organisation is to provide a complainant centred/led and responsive process which aims to deal with every complaint or concern both sensitively and compassionately.

1.2. The Royal Cornwall Hospitals NHS Trust values all feedback and particularly wants to know when someone is not satisfied with the service provided so that we can put things right and learn from the experience of our service users. The Trust uses the principles of this policy to resolve concerns as quickly as possible, demonstrating our Trust Values of Respect, Compassion, Honesty, and Teamwork.

1.3. The policy also outlines the roles and responsibilities of staff within these processes, the standards which apply to complaints handling, the processes in place to monitor delivery of those standards, and how the Trust learns from complaints and takes positive action to mitigate the risk of similar issues occurring.

1.4. The Complaints Policy is relevant to all staff who have any form of contact with patients, carers and visitors during the course of their employment at the Trust. All staff should be aware of the principles which underpin this policy, particularly those described in sections 2.2.

1.5. This policy for the handling of complaints is entirely separate from the Trust's Disciplinary Procedures.

1.6. This version supersedes any previous versions of this document.

2. Purpose of this Policy/Procedure

2.1. The purpose of this policy is to:

- Ensure an effective mechanism through which patients and/or their representatives can raise issues of concern and/or make a complaint, without fear that their care will be adversely affected.

- Ensure all staff recognise their own responsibility for the investigation and resolution of concerns and complaints and provide them with a clear understanding of the Trust's expectations and requirements.

- Ensure investigation outcomes lead to purposeful actions that mitigate risks of the same thing happening again and that the learning from complaints is shared widely across the organisation.

2.2. The provisions of this policy are consistent with statutory and legal requirements, and evidence-based good practice. This policy is consistent with:

- The statutory duties, as set out in the NHS Constitution, to support the rights for service users to make complaints and receive redress, and the pledges made by the NHS to enhance the experience of that process.

- The Local Authority Social Services and NHS Complaints (England) Regulations 2009. The Regulations recognise that, irrespective of an issue being named as a concern or complaint, individuals are entitled to an appropriate investigation and response.

- Regulation 16 (Receiving and acting on complaints) of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (CQC standard for complaints).

- The Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling 2009:

    - Getting it right

    - Being customer focused

    - Being open and accountable

    - Acting fairly and proportionately

    - Putting things right

    - Seeking continuous improvement

3. Scope

3.1. This policy applies to all disciplines of staff across the Trust and should be applied to the management of all complaints and concerns raised about the services of the Trust regardless as to whose attention the concern or complaint is initially brought.

3.2. This policy provides detailed information to any individual who wishes to raise a concern or make a complaint about any service provided by the Trust.

4. Definitions / Glossary

4.1. Local Resolution

- Local resolution refers to the stage of the NHS Complaints Procedure where the Trust has the opportunity to resolve issues of dissatisfaction or discontent no matter how they are raised or whether they are treated internally as a concern, or as an informal or formal complaint.

4.2. Complainant

- A complainant can be a patient or a representative of the patient. Representatives can include, but are not limited to a relative, a parent or guardian, a friend, peer organisation, advocates, or a Member of Parliament.

4.3. Complaint

- A complaint is defined as “any expression of dissatisfaction that requires response or action”. It is a generic term used for types of complaints raised verbally (in person or by telephone) or in writing (by letter, email, Trust website). Use of the word ‘complaint’ should not automatically mean that someone expressing dissatisfaction enters the formal complaints process.

- The Trust has dual processes for dealing with informal and formal complaints and it is important that the most appropriate process is identified and agreed with the complainant.

4.4. Formal Complaint

A formal complaint is one that requires an investigation and enters the formal, regulated, complaints process. All complaints are triaged on receipt and a decision made by the Complaints Manager regarding whether a complaint should be investigated formally, on agreement with the complainant. Examples of these are when complaints:

- Concern issues that are assessed as medium or high severity grade.

- Are multi-department or multi-agency.

- Are complex, e.g. about lack of capacity or services not available, involve a patient safety incident about complex clinical issues, involve circumstances surrounding the death of a patient, about system failures.

4.5. Informal complaint

- A complaint that can be dealt with in a more immediate and timely manner, particularly if the issues can and should be resolved ‘in the here and now’. Examples are when complaints are:

    - Within the remit of staff to resolve within a short time period (usually up to 10 working days) e.g. appointment cancellations, reasons for surgery cancellations, communication problems.

    - Current and occurring on a ward or department, assessed as low severity grade.

    - Not requiring a complex investigation process to take place.

- If the informal complaint is not resolved to the satisfaction of the person raising it, it might, at the wish of that person or with their agreement, then be entered into the formal complaints process.

4.6. Joint Complaint

- A complaint involving more than one Care Group. The complaint is processed as normal by the Complaints Officer, who will specify who should be the lead Care Group and which areas should respond to each point.

- It is still the responsibility of the lead Care Group (that with the main or central issue to answer or the most issues to answer), to coordinate the response as the response will be reported through the Performance Assurance Framework.

- Where there is disagreement or queries around lead Care Group allocation or which Care Group should respond to which queries, a meeting should take place at the earliest opportunity, between the relevant Care Group governance leads and Complaints Officer to agree plan and approach. Where there is still disagreement following the meeting, the Complaints Officer should escalate immediately to the Complaints Manager.

4.7. Multi-agency complaint

- A complaint involving more than one organisation. The complainant will be asked whether they would prefer one combined response or separate responses. If one combined response is requested the organisation with the main central issue to answer (or the most issues to answer) will lead and coordinate the response.

4.8. Re-opened Complaint

- Where a complainant is dissatisfied with the first response to their complaint and does not feel it has been resolved, the complaint can be re-opened and a further attempt made to achieve resolution.

4.9. The Advocacy People

- An independent health complaints advocacy service who can support complainants who have difficulty in raising a complaint themselves.

5. Ownership and Responsibilities

5.1. Role of Trust Board of Directors

- Designates a Board Director as the executive lead for complaints with the responsibility of ensuring Trust compliance with national complaint regulations.

- Receives and reviews monthly information about complaints via the Trust's Integrated Performance Report (IPR) by agreed indicators.

- Delegate's authority to the Quality Assurance Committee to receive and review a detailed quarterly analysis of complaints themes and learning.

- Receives an annual summary of complaints performance and activity via an Annual Complaints Report.

5.2. Role of the Chief Executive

- Has overall accountability for how complaints are handled and will sign (or delegate the signing of) responses to all complaints investigated through a formal investigation process.

5.3. Role of the Chief Nursing Officer / Deputy Chief Executive

- Is the executive lead for complaints and the person designated by the Trust Board with the responsibility of ensuring compliance with the complaints regulations.

- Will act as signatory, supported by other executive team members, on behalf of the Chief Executive for all complaints investigated through a formal investigation process.

- Will review responses and return to the Patient and Family Experience Team within two working days of receipt.

- Will be responsible, with the Director of Integrated Governance, for reviewing complaints escalated by the Patient and Family Experience Manager or Head of Risk, Safety and Experience, in accordance with the **standard operating procedure 'Escalation of High-Risk Complaints to Executive Directors'.**

5.4. The Director of Integrated Governance

- To support the Chief Nursing Officer in reviewing complaints escalated by the Patient Experience Manager (Complaints) or Head of Safety, Risk and Patient in accordance with the standard operating procedure 'Escalation of High-Risk Complaints to Executive Directors'.

5.5. Other Executive Directors

- Responsible for advising on any complaints assigned via the escalation process in accordance with the guidance set out in the standard operating procedure 'Escalation of High-Risk Complaints to Executive Directors'.

- Deputise as signatory for formal complaints responses if necessary.

5.6. Head of Safety, Risk, and Patient Experience

- Oversees the operationalisation of this policy and appropriately delegates responsibility to Trust colleagues.

- Maintains an up-to-date policy reflecting any national regulatory changes.

- Ensures delivery of the Patient and Family Experience Team's annual work plan, and monitors performance against board-reported performance targets.

- Advises the Patient and Family Experience Team and Care Group teams on the management of complex complaints.

5.7. Care Group Triumvirates (General Manager, Clinical Director, Head of Nursing, Head of Business and Quality Assurance and Head of Midwifery)

- The Head of Nursing/Midwifery/Business and Quality Assurance is responsible for ensuring that complaints procedures are applied in their respective Care Groups and that Datix is fully utilised to ensure complaints

are managed, tracked, and that investigation records, actions and progress notes are up to date.

- In the absence of the Head of Nursing/Midwifery/Business and Quality Assurance, the other two members of the triumvirate are responsible for ensuring that complaints procedures are applied.
- Review the quality of all complaints responses leaving their Care Groups.
- Ensure that complaints and complaints process performance are discussed as a standing agenda item at every Care Group Governance Meeting.
- Ensure that learning from complaints is embedded into quality improvement and service development work within the Care Group.
- Ensure that actions and learning arising from complaints are implemented and shared Trust wide.
- Discuss any breach of performance with Trust Executives in Care Group Performance Review meetings and provide assurance about how performance will be improved.
- Ensure complaints are investigated thoroughly, fairly and within agreed timescale.
- Ensure that incidents are reported when identified in the course of a complaint investigation.
- Ensure that the staff in their Care Groups are aware of the complaints procedure and that staff who are involved in complaints investigation receive relevant training.
- Assess thematic learning via detailed quarterly analysis of complaints received and respond to these themes with positive improvement actions on behalf of the Care Group.
- Ensure the Care Group is represented by the Head of Nursing at the Trust's quarterly Patient Experience Group, to participate in discussions about complaints themes and shared learning.
- Ensure that the Head of Nursing/Head of Midwifery disseminates and shares learning and updates in their Care Group from the Patient Experience Group.

5.8. **Care Group Governance Manager**

- Responsible for the administration processes relating to the management of complaints within their Care Group, utilising Datix to ensure complaints are managed, tracked, and that investigation records, actions and progress notes are up to date.
- Ensure that all actions taken in response to complaints outcomes are recorded on Datix and monitored until closed.

- Will communicate with the Patient and Family Experience Team regarding any areas of concern or potential delays during the investigation of a complaint.

- Support the Investigating Officer to ensure that any extensions are explained and agreed with the complainant and agreed by the Patient and Family Experience Team.

- Provide administrative support to the Investigating Officer including requesting notes and arranging Local Resolution Meetings (LRM).

- Review and validate data in respect of breaches of complaints targets (delays in responses, or dissatisfied complainants).

5.9. **Patient Experience Manager**

- Responsible for the Trust-wide management and coordination of complaints processes set out in this policy and associated standard operating procedures in cooperation with the Complaints Manager.

- Produces data and accompanying narrative for Trust and national reporting requirements.

- Promote and disseminate organisational learning by the identification and collation of action plans and service improvements from the outcomes of complaints and concerns investigations.

- Prepare Quarterly Complaints Reports and the Trust's Annual Complaints Report for submission to the Patient Experience Group.

- Quality Assurance Committee and Trust Board.

- Routinely reviews all dissatisfied responses prior to Executive sign-off and performs random checks of other draft complaints letters from the Trust to ensure a high quality of response is maintained.

- Is in the scheme of escalation of complaints that are, for example, complex or high profile, in line **with 'Escalation of High-Risk Complaints to Executive Directors'.**

5.10. **Complaints Manager**

- Daily triage and allocation of complaints on Datix to complaints officers, offering advice and support where necessary

- Ensures that complaints are acknowledged within three working days as required in the NHS Complaints Regulations 2009.

- Provide support for frontline Trust staff with the resolution of complaints and/or patient related enquiries, in line with the Trust's policies.

- Liaise with all levels of staff, including senior clinical staff and managers and other organisations' to resolve complaints, concerns and enquiries.

- Ensures oversight of the quality of complaints response letters (including creation of templates for trust-wide use).

- Leads on the delivery of complaint training for staff.

- Routinely reviews all dissatisfied responses prior to Executive sign-off, and performs random checks of other draft complaints letters from the Trust to ensure a high quality of response is maintained.

- Where the substance of a complaint indicates that a patient may have come to harm, liaises with the corporate Patient Safety Team and/or Safeguarding Team to confirm whether a complaint is, or should be, the subject of a reported incident.

- Escalates delayed complaints responses or actions to Care Group Heads of Nursing/Midwifery/AHPs.

- Reviews responses where the complainant is not satisfied in collaboration with the Patient Experience Manager and relevant Care Group.

- Escalates high risk complaints to the Chief Nursing Officer (or Director of Integrated Governance) and other senior staff in accordance with the **standard operating procedure 'Escalation of High-Risk Complaints to Executive Directors'.**

- Ensures that the **Multi Agency Protocol** for complaints involving other organisations is followed to ensure that wherever possible a single response is drafted.

- Ensures that complaints responses are Quality Assured by the relevant complaints officers and approved by the Chief Nursing Officer within the agreed timescale.

- Alerts the Trust Communications Team to any situation that has potential for press interest.

- Liaises with the PHSO in respect of complaints which have been raised directly with them by the complainant.

5.11. **Complaint Officers**

- All complaints managed through the Patient Experience Team will have a nominated Caseworker, who is responsible for the initial processing of the complaint and liaising with the Care Group Governance Team to initiate the process and to ensure it progresses through the complaints process in a timely manner.

- Datix is the Trust approved system for managing complaints.

- Receive and acknowledge all complaints within three working days, drafting a response template/ meeting agenda by pulling out the salient points of complaints for investigation by the Care Groups.

- Creating the initial Datix record to send out to Care Group triumvirate and Care Group Governance Team for action.

- Ensure appropriate permissions and consents are in place.

- Track progress of complaints on their own caseload to ensure Care Groups respond in a timely manner.

- If timescales are at risk of not being met, escalate appropriately to the Senior Management Team in the Patient Experience Team.

- Quality assure each response in their caseload or provide administrative support for LRM's on request.

- Process final responses, preparing for signing by the Chief Nursing Officer to send out responses and ensure Datix record is correct and completed in full.

- Contact the complainant by telephone (unless they have asked not to be contacted by telephone). This is a vital first step which enables the Investigating Officer to:

    - Make a personal connection and establish a relationship with the complainant.

    - Build trust and confidence.

    - Ensure that all issues to be investigated are captured.

    - Agree the method of feedback i.e. telephone (informal only), letter or Local Resolution Meeting.

    - Confirm the timescale for response, appropriate and proportionate to the complaint being made – if a renegotiation of the original timescale is required, this must be agreed in conjunction with the complainant.

- Maintain detailed investigation records, including interview records and witness statements, and ensure these are uploaded to the complaints file on Datix.

- If timescales are at risk of not being met, contact the complainant to apologise and explain, and agree a new timescale with the complainant.

- To QA complaint responses.

- Maintain relationships to work cooperatively with governance teams in supporting thorough complaint investigations.

- Escalate to Complaints manager as necessary where investigations are not progressing, or issues are identified during the scope of the investigation.

5.12. RCHT Patient Experience Group

- Reviews the quarterly complaints report summarising complaints activity, themes and learning arising out of complaints and performance in complaints management and reports to Quality Assurance Committee.

- Monitors compliance with CQC Regulation 16 'Receiving and Acting on Complaints' and assurance reports to Quality Assurance Committee.

- Monitors effectiveness of actions relating to themes and trends.

- Ensures learning from complaints is shared across Care Groups via Care Group Heads of Nursing/Midwifery/AHPs.

5.13. Front line staff

- Concerns might be raised or complaints initiated with front line staff in wards and departments or on reception desks. Frontline staff need to be aware of their role in handling complaints at the time of occurrence.

- Staff should try to resolve concerns fairly and quickly as they arise, and seek support from their line manager who should always be informed.

- Staff should be aware of the complaints process and know how to advise people how to make a complaint should they want to and provide them with the Trust Complaints leaflet.

5.14. The Advocacy People (independent health complaints advocacy)

- The Advocacy People are a free, independent advocacy service to provide support to people, particularly those who are vulnerable, to make a complaint if they have a difficulty in making a complaint themselves.

5.15. Parliamentary and Health Service Ombudsman (PHSO)

- The Parliamentary and Health Service Ombudsman manages the second stage of the NHS complaints procedures by assessing complaints which have not been resolved locally and, where appropriate, commissioning independent investigations into complaints about the NHS in England.

- The Ombudsman, who is independent of the Government and the NHS:

    - Will require that the Trust has made all possible attempts at local resolution of the complaint before accepting their need to investigate.

    - Can pass information to a professional regulatory body.

    - Can make recommendation to the Trust for additional remedy, should local resolution be found to be insufficient.

6. Standards and Practice

6.1. Who can make a complaint?

6.1.1. A complaint can be made by any existing or former user of the Trust's services, or any person affected, or likely to be affected, by the action, omission, or decision of the Trust within the previous 12 months.

6.1.2. A complaint may be made by a person acting on behalf of a person receiving or who has received services from the Trust who:

- Is a child (see 6.2).
- Has died (see 6.3).
- Is unable to make the complaint themselves because of physical or mental incapacity (see 6.3).
- Has requested a representative to act on their behalf (see 6.4).

6.1.3. Where a representative makes a complaint on behalf of a child or a person who lacks capacity within the meaning of the Mental Capacity Act 2005, if the Trust is not satisfied that the representative is not conducting the complaint in the best interests of the person on whose behalf the complaint is made, the Trust must not consider the complaint and the responsible body must notify the representative in writing and state the reason for the decision.

6.2. Complaints involving children (including overlap with Child Death Review process)

6.2.1. A child or a representative of the child can make a complaint about the child's care.

6.2.2. Where a representative makes a complaint on behalf of a child, the Trust must be satisfied that there are reasonable grounds for the complaint being made by the representative instead of the child, and if it is not so satisfied, must not consider the complaint and must notify the representative in writing, stating the reason for its decision.

6.2.3. If the child is aged 11 or over (and has Gillick/Frazer competency); or for a child under 11 but you suspect they have maturity to make own decisions, the child's consent should be sought.

6.2.4. If a child is unable to consent, and anyone other than a parent or legal guardian raises a complaint, consent must be sought from a parent or legal guardian before any information is released.

6.2.5. If a complaint gives rise to a child safeguarding concern, advice and support will be provided by the Trust's Child Safeguarding Team in accordance with the county wide South West Child Protection Procedures.

6.2.6. It is important to note that the timing and subject matter of a complaint investigation may occasionally overlap with a Child Death Review. Where concerns raised in the context of a complaint pertain to the death of a child, this information should be brought to the attention of the chair of the Child Death Review. In such circumstances, the designated Complaints Investigating Officer should attend the Child Death Review meeting, and a co-ordinated approach to parent follow-up should be agreed. Refer to the standard operating procedure 'Escalation of High-Risk Complaints to Executive Directors' for escalation process. In no circumstances should a complaint investigation be delayed or otherwise subordinated to a Child Death Review without express permission of the family.

6.3. Complaints relating to a patient who has died or has been assessed as without capacity

6.3.1. Complaints involving the death of a patient need to be handled with great sensitivity. As with all complaints, the complainant will be offered a meeting to resolve their concerns.

6.3.2. In the case of a patient or person affected who has died, the representative must be the patient's legal representative or have consent from the legal representative.

6.3.3. In the case of a patient lacking capacity, the representative must have legal authority to make decisions for the patient.

6.3.4. Where a legal representative has not been established, the case will be referred to the Complaints Manager or Head of Information Governance for a decision on consent.

6.3.5. If a complaint raises a safeguarding concern, the Trust's Named Officer for Safeguarding Adults or Safeguarding Children should be contacted for advice.

6.4. Complaints from other third parties

6.4.1. Complaints about individual patients may also be received from or via other sources such as friends or family members, Member of Parliament (MP), GP, The Advocacy People, solicitor or a voluntary organisation.

6.4.2. Consent from the patient should always be sought in accordance with **standard operating procedure 'Permissions Required When Making a Complaint/Raising a Concern'** with the exception of:

- Complaints received from an MP acting on behalf of a constituent, as it will be considered that the MP has obtained consent from the patient prior to him/her contacting the Trust. If however, a patient's representative has raised a complaint with the MP, consent should still be sought.

- Complaints received from GPs acting on their patient's behalf. In the absence of evidence to the contrary, patients are normally considered to have given implied consent for the use of their information by health professionals for the purpose of the care they receive. Information sharing in this context is acceptable to the extent that health professionals share what is necessary and relevant for patient care on a 'need to know' basis.

6.5. Complaints not requiring to be dealt with under the NHS Complaints process

6.5.1. A complaint made by another NHS organisation relating to the exercise or failure of this Trust's functions and services.

6.5.2. A complaint from an employee about any matter related to their employment.

6.5.3. A complaint made orally and resolved to the complainant's satisfaction no later than the next working day.

6.5.4. A complaint that has been closed by the Parliamentary and Health Service Ombudsman.

6.5.5. A complaint about failure to comply with a data subject request under the General Data Protection Regulation (GDPR) or a request for information under the Freedom of Information Act.

6.5.6. Complaints about private medical treatment provided in an NHS setting if the service is delivered totally by privately employed staff and the NHS premises are being privately leased at the time. The policy does cover any complaints made about Trust staff delivering medical care to private patients under their NHS contract of employment and/or facilities provided whilst receiving private medical care delivered by NHS staff in Trust premises. The policy also covers the delivery of medical treatment and care funded by the NHS in private facilities.

6.6. Complaints dealt with by frontline staff

6.6.1. Staff need to be aware of their role in handling concerns and complaints at the time of occurrence. Further information is provided to staff through departmental/Care Group complaints training sessions.

6.6.2. Staff hearing of or receiving concerns should make every effort to resolve the issues quickly and fairly.

6.6.3. The staff should inform their line manager that a concern has been raised and the line manager should support staff in resolving the concern.

6.6.4. If staff are unable to resolve the concern, they should forward the complaint to the Patient Experience Team to process as an informal or formal complaint.

6.7. Receiving and acknowledging complaints

6.7.1. All complaints should be forwarded to the corporate Patient Experience Team for action.

6.7.2. The Patient Experience Team will:

- Review the complaint to establish whether it should be managed through the informal or formal complaints process (10 working days for informal and 30 working days for formal).
- Create a Datix record and acknowledge the complaint within three working days, advising method of response and likely timescale.
- Send out the appropriate communication to the Care Group within three working days of receipt.

6.7.3. All complainants will be notified of how to contact the Advocacy People for assistance and support in relation to the resolution of their complaint, and of the option of subsequent independent review by the Parliamentary and Health Service Ombudsman should they remain dissatisfied at the end of the local resolution process.

6.8. Contact with Complainant

The Investigating Officer dealing with a complaint through either the informal or formal complaints resolution process is required to contact the complainant to:

- Introduce themselves as the person responsible for investigating the complaint.
- Ensure all issues to be investigated are captured.
- Confirm the method of response i.e. telephone (informal only), letter or Local Resolution Meeting which should have been initially agreed by Complaints Officer.
- Confirm the timescale for response, appropriate and proportionate to the complaint being made – if a renegotiation of the original timescale is required, this must be agreed in conjunction with the complainant.
- If appropriate, discuss with them whether and how they would like to be involved in the complaints investigation.
- If appropriate, discuss with them whether and how they would like to be involved in developing any wider solutions to the issues they have identified in their complaint.

6.9. Duty of Candour

We are committed to openness and honesty with complainants at all stages of the complaints process, consistent with the spirit of Duty of Candour. Duty of Candour is a statutory duty placed on healthcare providers. All staff involved in

investigating and responding to complaints must do so in a way that fulfils the requirements of the professional and statutory Duty of Candour (see the Trust's **'Being Open and Duty of Candour Policy'**).

6.10. Consent and confidentiality

6.10.1. When a complaint is made on behalf of a patient who has not authorised someone to act for him/her, care must be taken not to disclose personal health information to the complainant unless the patient has consented to its disclosure. The Patient Experience Team will ensure that such consent is sought before a response is made.

6.10.2. It is sometimes possible to respond to a complaint where no consent is gained, however no confidential information should be shared, i.e. information around standard processes can be provided which may answer queries contextually, without disclosing specific confidential patient information.

6.10.3. Consent may be granted through the Coroner's office confirmation of Properly Interested Parties

6.11. Third Party Confidence

The duty of confidence (i.e. confidentiality) applies equally to third parties who have given information or who are referred to in the patient's record. Care must be taken if information has been provided in confidence by or about a third party who is not a healthcare professional. Such information should not be disclosed to the patient unless the person who provided the information has expressly consented to the disclosure. If anonymous information will suffice, identifiable information should be omitted. However, this does not remove the legal duty of confidence.

6.12. Consideration of independent investigation

6.12.1. Four levels of independent investigation apply to this policy:

- Review by another specialty within the Care Group.
- Review by another Care Group or a senior member of Trust staff outside the Care Group.
- External independent review/investigation appointed by the Trust in collaboration with, and with the agreement of, the complainant.
- Independent review/investigation by the Ombudsman (PHSO).

6.12.2. The PHSO will be the primary route by which complainants may routinely seek an independent review of their complaint if they remain unhappy following the Trust's attempts at local resolution.

6.12.3. Whenever a 'high risk' complaint is escalated within the Trust, the Chief Nurse (or Director of Integrated Governance) will consider, in conjunction with the lead Care Group, whether it is appropriate to seek

either a) an independent investigation of the complaint by another Care Group in the Trust, or in exceptional circumstances b) independent review by a third party independent of the Trust. The latter may be considered, for example, in cases where an independent investigation has been requested by the complainant and there is reason to believe that the integrity of an investigation carried out by the Trust is likely to be challenged, or as part of a mediation process agreed with the complainant.

6.12.4. When a 'second dissatisfied' response is escalated within the Trust the Chief Nurse (or Director of Integrated Governance) will routinely consider whether it may be appropriate to ask a different senior manager in the Care Group to review the complaint, or alternatively to initiate a review of the complaint by another Care Group in order to obtain a more independent view.

6.13. Coroner's Inquests

6.13.1. The fact that a death has been referred to the Coroner does not mean that investigations into a complaint need be suspended.

6.13.2. The Coroner's Office can contact the Trust via Legal Services when concerns are raised and where appropriate the Trust should initiate a complaint investigation. Where it is inappropriate to conduct an immediate investigation at that moment in time, the complainant should be advised of this and notified of the reasons why. Following the conclusion of the Inquest, the complainant is then able to request that any outstanding aspects of their concern which have not already been addressed through the inquest process are investigated through the complaints process.

6.14. Possible legal action

If when a complaint is received, there is a prima facie case of negligence or an indication of possible legal action, the Patient Experience Team will provide information to complainants on advocacy for clinical negligence claims, and would not proceed with a complaint if the sole resolution sought is compensation. Whilst it is usual practice for a solicitor acting on behalf of a patient to await the outcome of a complaint investigation before commencing a clinical negligence claim, the two processes are separate and may run concurrently. In circumstances where a complaint is ongoing after a letter of claim has been received by the Trust, a discussion should take place between the Patient Experience Team and Legal Services about the most appropriate way to manage the patient's complaint/claim.

6.15. Complaints relating to the Freedom of Information Act or Data Protection Act 2018 (General Data Protection Regulation – GDPR)

Any complaints that arise out of the Trust's alleged failure to comply with either a data subject access request under the Data Protection Act 2018 (General Data Protection Regulation – GDPR) or under the Freedom of Information Act 2000 will be referred to the Head of Information Governance.

6.16. Staff complained against or named in a complaint

6.16.1. The Clinical Director or Head of Nursing/Midwifery/AHPs, or delegated person (e.g. Investigating Officer), should inform the line manager of any member of staff named in a complaint, either personally or by role, upon receipt of the complaint. They should always bear in mind the need to consult with staff involved, in advance of any response being made to the complainant. Staff cited in the complaint should be given the full support of their line manager. In particularly serious complaints, the Clinical Director / Head of Nursing/Midwifery/AHPs should ensure that the person providing the support does so face-to-face.

6.16.2. Staff members directly named in a complaint should not complete any complaint investigation themselves but should provide information to the Investigating Officer during the scope of the investigation.

6.16.3. Staff member names and job titles may be shared within a complaint response, however if by making this disclosure it can be demonstrated that the physical or psychological health of the staff member is at risk, then we have a duty of confidentiality and care to that staff member, not to disclose their information.

6.16.4. Sources of support available to staff are set out in the Trust's document **'Supporting Staff Involved in an Incident, Complaint or Claim'.**

6.17. Complaints made by members of staff

6.17.1. Where complaints are made by a member of staff, the complaints officer receiving the complaint should ascertain whether this is affecting their work.

6.17.2. Complaints made by staff should be escalated to the Complaints or Patient Experience Manager in the first instance

6.17.3. Where a staff member is unable to continue their work due to the issues identified in the complaint, this should be escalated to the Head of Safety, Risk and Experience/Deputy Director of Integrated Governance for input and advice.

6.17.4. Managers who have staff who experience anxiety, stress or difficulties in relation to the investigation of a complaint should seek the advice of Occupational Health and/or their line manager.

6.18. Keeping complaints records and health records separate

Complaint records must be kept separate from health records. This applies to all reports and statements produced during a complaint investigation, verbal or written.

6.19. Coordinating the Complaints and Patient Safety Investigation Response Framework (PSIRF) and processes

6.19.1. It is recognised that sometimes the issue(s) raised within a complaint may also have been identified internally via patient safety incident response. Where this occurs, the two processes need to work together to provide a coordinated response to patients and their families.

6.19.2. **Recognising a Patient Safety incident within a Complaint**

6.19.2.1. Recognising an incident in an existing complaint investigation is important. Those involved in reviewing and investigating a complaint, who recognise an incident, must report it on Datix and consideration given as to whether it constitutes escalation in terms of any associated continuing patient safety risks.

6.19.2.2. When a new complaint is processed, the Patient Experience Team will check the Datix incident module to see if a corresponding incident has been recorded or whether an investigation is underway. If either are recorded, the Complaints Officer will link the two records and inform the Care Group Governance Team and Patient Safety Team that there is now also a related complaint.

6.19.2.3. Where the Complaints Manager or Complaints Officer identifies concerns within a complaint which may need to be raised as an incident, they will highlight this to the investigating Care Group in the email sending out the initial complaint for consideration.

6.19.3. **Recognising a complaint from a Patient Safety Review**

6.19.3.1. Where a Patient Safety Review (PSR) is undertaken, and the family or patient wishes to make a complaint, they should be referred to the Patient Experience Team.

6.19.3.2. When a PSR is confirmed, the Patient Safety Team will check the Datix Complaints module to identify if an existing complaint is in process. If a complaint is in progress the Patient Safety Team will link the two records and inform the Care Group Governance Team and the Patient Experience Team that a PSR has been initiated.

6.19.4. In all cases where there is a linked complaint and PSR, the Care Group Governance Team should consider if a joint investigation is the most appropriate way forward or if a separate investigating officer is required, and inform the relevant Complaints Officer of this decision.

6.19.5. An agreement should be made with the complainant regarding how they wish to be contacted, once a decision is made i.e. a single point of contact or separate investigating officers.

6.19.6. The response(s) will be coordinated and reviewed together by the Care Group Governance Team for Care Group Level and Executive sign-off

at the Incident Review and Learning Group (IRLG).

6.19.7. Where possible and practical, the PSR report and complaint response should be provided together to the patient or family, and a meeting offered to discuss the findings.

6.19.7.1. It is recognised that there are different timeframes for completion of PSR and Complaint investigations. Where practical, the complaint investigation timeframe will be extended to align with the expected timeframe for completion of the PSR. This will be confirmed within the acknowledgement letter to the Complainant.

6.19.7.2. Where a PSR is declared during the complaint investigation, an extension will be requested in line with the expected timeframe for completion of the PSR.

6.19.8. Further information on the investigating and handling of patient safety incidents is contained in the RCHT **'Incident Management Policy.**

6.20. Local Resolution Meetings

6.20.1. Local Resolution Meetings should be offered to all complainants on receipt of a formal complaint where appropriate, either virtually or in person.

6.20.2. The issues to be investigated and discussed at the LRM will be confirmed with the complainant on receipt, and an agenda produced to send to the complainant and Care Group Triumvirate and governance team for clarity.

6.20.3. Meetings will be arranged directly by the Care Group Governance Team with the complainant, with the support of the Complaint Officer.

6.20.4. LRMs are digitally recorded with the consent of the complainant and a copy sent to the complainant electronically or on disc, along with a written summary of the meeting to include attendees and agreed actions. Meetings are recorded to ensure objectivity and accuracy. Members of staff specifically referred to within a complaint should not be asked to attend meetings with complainants, unless this is felt appropriate and is agreed by all parties involved.

6.20.5. Local Resolution Meetings should be 'facilitated' rather than 'chaired' as the implication of chairing a meeting is that someone is in charge whereas attendees at such meetings should be seen as equal partners seeking resolution together. Facilitation implies that both parties will be heard and should be undertaken by someone with experience of LRMs.

6.20.6. The meeting actions must be sent to the complainant within 10 working days of the meeting together with a cover letter from the Chief Nursing Officer.

6.21. Financial remedy

6.21.1. The Parliamentary and Health Service Ombudsman is clear within 'Principles of Good Complaints Handling' (February 2009) that "putting things right" should include, where appropriate, financial remedy for direct or indirect financial loss, loss of opportunity, inconvenience, distress or any combination of these.

6.21.2. There is a Severity of Injustice Scale produced and referred to by the Parliamentary and Health Service Ombudsman in regards to providing financial remedy where appropriate [Severity of injustice scale (ombudsman.org.uk)].

6.21.3. Where it is felt that financial remedy may be indicated, the Complaints Manager or Patient Experience Manager will make a recommendation to the relevant Head of Nursing and Governance Manager, for approval within the Care Group under their budget code. Once agreed, the Patient Experience Team will request the bank details of the complainant to make the payment to and provide this to the Care Group Governance Lead to progress the payment.

6.21.4. The Care Group will follow their own internal processes for any financial remedy approval, taking into consideration the requirements of the scheme of delegation.

6.22. Learning from complaints

6.22.1. **Individual learning**

It is essential that individuals and teams learn and improve their practice through complaints which are received and investigated by the Trust. Staff can take steps to improve personal practice through means such as:

- Participation in the complaints investigation.
- Meeting personally with the complainant if appropriate and if both parties agree.
- Objective reflection on their involvement in a situation which has become the subject of a complaint.
- Support and coaching from line managers or clinical supervisors.
- Participating in specific training relevant to any identified training needs.

6.22.2. **Care Group learning**

6.22.2.1. Complaints metrics will feature on Care Group monthly performance assurance framework reports for analysis and review by the Care Group management teams.

6.22.2.2. Detailed breakdowns of complaints performance (including breaches of deadlines and dissatisfied complaints) will be provided on a monthly basis by the Patient Experience Team to highlight breaches in overall corporate complaints targets. Actions to address performance will be identified and implemented by Care Group management teams and monitored by the Trust Board and Patient Experience Group.

6.22.2.3. On a weekly basis, the Complaints Manager will send out reports of all open and informal complaints to all Care Groups, governance teams and associated staff. These will identify due dates and breaches where applicable, request more recent updates and identify the complaints officers and investigating officers for each complaint.

6.22.2.4. On a monthly basis, the Patient Experience Manager will send out the retrospective data to Care Group governance teams regarding the previous month's closed complaints, identifying themes and actions from complaint investigations which remain open.

6.22.2.5. Action plans to address these themes and issues will be agreed at Patient Experience Group and implemented by Care Group management teams.

6.22.2.6. Monitoring of action plans will occur through Care Group Governance Boards/meetings and the Patient Experience Group.

6.22.3. **Organisational learning**

6.22.3.1. The organisation can learn from unsatisfactory patient experiences and improve the way in which services are managed, by the sharing of learning from complaints across Care Groups. This is achieved by the reporting of learning from complaints at Care Group Governance Boards/meetings and through the Patient Experience Group.

6.22.3.2. Individual complaints (anonymised or with consent) are used in training programmes at ward/department level and also Trust-wide, to support the development of staff and to improve services.

Quarterly complaint reports are sent to relevant Trust-wide operational groups, to support learning and service improvement.

6.22.3.3. Action plans resulting from complaints, which identify Trust-wide learning and service improvements, will be cascaded to Care Groups through the Patient Experience Group. These action plans will be discussed by the Heads of Nursing/Midwifery/AHPs with their Care Group management teams and implemented through Care Group governance processes.

6.22.3.4. The Patient Experience team produce a quarterly newsletter in order to disseminate learning from complaints across the organisation.

6.22.3.5. Care Groups hold learning events which often focus on a complainant's experience. These events are open to the entire Trust.

6.22.4. **Recording of actions in response to complaints investigation findings**

6.22.4.1. All learning and/or actions identified must be clearly described in the complaint response letter.

6.22.4.2. The expectation is that actions identified within a complaint investigation are completed by the point of response and is confirmed within the closing letter or at the Local Resolution Meeting.

6.22.4.3. It is acknowledged that some actions may take longer, for example, changes to a policy or a change to an established patient pathway.

6.22.4.4. All outstanding actions must be recorded using the 'Actions' tab on the Datix system by the Care Group Governance Team. Recording actions on Datix creates an audit trail and sends an alert by email to the allocated action owner, adding this to the "To do List" on Datix.

6.22.4.5. Each action should include the name of the person responsible for implementation, a date by which this will be completed and a review date.

6.22.4.6. Progress for implementing actions should be regularly reviewed by the appropriate Care Group Governance Board/meeting.

6.22.4.7. Where an outstanding action is completed outside of the complaint response, we will endeavour to update the complainant once evidence is provided of the action being closed.

6.23. Dealing with persistent, habitual or aggressive complainants

6.23.1. People who bring high volume and/or repeated complaints to the NHS need support to resolve them, and staff should understand that a complainant who contacts them repeatedly with multiple complaints, despite having a full response, will have underlying reasons for their persistence.

6.23.2. Staff must respond with patience and empathy to the needs of complainants; however there are times when nothing further can be done to resolve a real or perceived problem. Some complainants have difficulty accepting this and can become unreasonable in persistently complaining or even become aggressive.

6.23.3. Whilst we recognise that complainants can act out of character through distress and anxiety, and that we need to make reasonable allowances for this, dealing with persistent or habitual complainants causes considerable strain on staff resources and compromises the efficiency of the whole service. Furthermore, it can be very distressing and even threatening to staff.

6.23.4. Where complainants are identified as habitual, vexatious or aggressive, every effort will be made to support the person and investigate their complaint however this should be in line with the Trust's zero tolerance policy on abuse of staff. Where concerns remain regarding personal safety or health of the complainant, the Patient Experience Team will escalate to the in-house safeguarding team or police for advice and guidance. Where a complaint investigation is ongoing but measures such as ARA's are taken, a single point of contact will be identified, for example the complaint officer, investigating officer, or member of the Safeguarding team, who will confirm this to the complainant and maintain contact with them until the investigation has been completed and the complaint closed.

6.24. Complainants survey

The Trust is committed to hearing about and learning from complainants' experiences of using our complaints process. Following closure of their complaint, the Patient Experience Team (a member not involved in the individual case management) will contact a sample of complainants monthly to capture their feedback. Results from the survey will be reported to the Patient Experience Group and will contribute to ongoing service and quality improvement themes.

7. Dissemination and implementation

Arrangements for disseminating and implementing the policy include:

- Presenting the policy to Patient Experience Group and subsequently to Quality Assurance Committee.
- Circulating to Care Group Management and Governance Teams.
- Circulating to external bodies such as Healthwatch Cornwall, Healthwatch Isles of Scilly, the Advocacy People and the Integrated Care Board.
- Uploading to the Trust's Documents Library and adding to Manager's Shelf so that it is available to all staff.
- Inserting as a news item in electronic communications bulletins.
- Including in regular drop-in training sessions.
- Including it in the Pop-Up Roadshows in all main entrances of the Trust during 'Experiences of Care Week'.

8. Monitoring compliance and effectiveness

Information Category	Detail of process and methodology for monitoring compliance
Element to be monitored	• 3-day acknowledgement of new complaints. • Number of new complaints each month. • Number of complaints closed each month. • Number and percentage of dissatisfied complainants. • Percentage responded to within timescale. • Feedback in complainant survey. • Actions from Complaint Investigations.
Lead	Patient Experience Manager.
Tool	Trust Integrated Performance Report (IPR) Care Group. Performance Assurance Framework (PAF). Quarterly Patient Experience Report. Quarterly KO41a Report Annual Complaints Report.
Frequency	Monthly IPR Monthly PAF. Quarterly Patient Experience Report Quarterly KO41a Report. Annual Complaints Report.
Reporting arrangements	Monthly IPR reported to Trust Board. Quarterly Patient Experience Report and Annual Complaints Report submitted to Patient Experience Group whose Terms of Reference include ensuring delivery of this policy. Following Patient Experience Group, both reports will be submitted to Quality Assurance Committee. Quarterly KO41a to NHS Digital.
Acting on recommendations and Lead(s)	Patient Experience Group Quality Assurance Committee.
Change in practice and lessons to be shared	Required changes to practice will be identified and actioned within three months. A lead member of the Patient and Family Experience Team, or Care Group Management Team, or Care Group Governance Team, will be identified to take each change forward where appropriate. Lessons will be shared with all the relevant stakeholders.

9. Updating and Review

9.1. The Patient Experience Manager is responsible for benchmarking nationally to ensure this policy remains contemporary and up to date in line with regulatory standards.

9.2. This policy has been substantially revised since the publication of the 2014 Patient and Service User Feedback Policy.

9.3. This policy will be reviewed and updated in June 2026 unless an earlier need has been identified.

10. Equality and Diversity

10.1. This document complies with the Royal Cornwall Hospitals NHS Trust service Equality and Diversity statement which can be found in the Equality Diversity And Inclusion Policy or the Equality and Diversity website.

10.2. Equality Impact Assessment

The Initial Equality Impact Assessment Screening Form is at Appendix 2.

Appendix 1. Governance Information

Information Category	Detailed Information
Document Title:	Complaints Policy V3.0
This document replaces (exact title of previous version):	Complaints Policy V2.0
Date Issued / Approved:	04 May 2023
Date Valid From:	May 2023
Date Valid To:	May 2026
Author / Owner:	Patient Experience Manager
Contact details:	01872 252793
Brief summary of contents:	This policy sets out the processes and procedures for the investigation and management of informal and formal complaints received by the Trust.
Suggested Keywords:	Complaint, concern, feedback
Target Audience:	**RCHT:** Yes **CFT:** No **CIOS ICB:** No
Executive Director responsible for Policy:	Deputy CEO and Chief Nurse Officer
Approval route for consultation and ratification:	Patient Experience Group Executive Leadership Team Trust Board
Manager confirming approval processes:	Head of Safety, Risk and Patient Experience
Name of Governance Lead confirming consultation and ratification:	Elizabeth Trew
Links to key external standards:	CQC Regulation 16 Complaints
Related Documents:	The NHS Constitution The Local Authority Social Services and NHS Complaints (England) Regulations 2009.

Information Category	Detailed Information
	Regulation 16 (Receiving and acting on complaints) of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (CQC standard for complaints). The Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling 2009:
Training Need Identified:	Yes
Publication Location (refer to Policy on Policies – Approvals and Ratification):	Internet and Intranet
Document Library Folder/Sub Folder:	Clinical / Patient Experience

Version Control Table

Date	Version Number	Summary of Changes	Changes Made by
26 March 2018	V1.0	Initial issue	Beverley Balin-Bull Matron for Patient Experience
09 June 2020	V2.0	Rewritten in light of organisational restructure and changes to monitoring and reporting processes	Holly Kiernan, Complaints Manager
27 February 2023	V3.0	Updated terminology regarding PSIRF replacing Serious Incident framework	Holly Kiernan, Patient Experience Manager

All or part of this document can be released under the Freedom of Information Act 2000

All Policies, Strategies and Operating Procedures, including Business Plans, are to be kept for the lifetime of the organisation plus 6 years.

This document is only valid on the day of printing.

Controlled Document

This document has been created following the Royal Cornwall Hospitals NHS Trust The Policy on Policies (Development and Management of Knowledge Procedural and Web Documents Policy). It should not be altered in any way without the express permission of the author or their Line Manager.

Appendix 2. Equality Impact Assessment

Section 1: Equality Impact Assessment (EIA) Form

The EIA process allows the Trust to identify where a policy or service may have a negative impact on an individual or particular group of people.

For guidance please refer to the Equality Impact Assessment Policy (available from the document library) or contact the Equality, Diversity, and Inclusion Team rcht.inclusion@nhs.net

Information Category	Detailed Information
Name of the strategy / policy / proposal / service function to be assessed:	Complaints Policy V3.0
Department and Service Area:	Patient Experience
Is this a new or existing document?	Existing
Name of individual completing EIA (Should be completed by an individual with a good understanding of the Service/Policy):	Holly Kiernan, Complaints Manager
Contact details:	01872 252793

Information Category	Detailed Information
1. Policy Aim - Who is the Policy aimed at? (The Policy is the Strategy, Policy, Proposal or Service Change to be assessed)	All staff and service users of Royal Cornwall Hospitals NHS Trust
2. Policy Objectives	1. Ensure an effective mechanism through which patients and/or their representatives can raise issues of concern and/or make a complaint, without fear that their future care will be adversely affected. 2. Ensure all staff recognise their own responsibility for the investigation and resolution of concerns and complaints and provide them with a clear understanding of the Trust's expectations and requirements. 3. Ensure investigation outcomes lead to purposeful actions that mitigate risks of the same thing happening again and that the learning from complaints is shared widely across the organisation.

Information Category	Detailed Information
3. Policy Intended Outcomes	1. Patients and service users will find an accessible and responsive complaints service. 2. Staff will be clear as to their own responsibilities with regards to handling complaints. 3. Reporting of complaints will be informative and useful.
4. How will you measure each outcome?	Ongoing complainant survey. Monthly KPIs.
5. Who is intended to benefit from the policy?	Staff, patients, and their families.
6a. Who did you consult with? (Please select Yes or No for each category)	• Workforce: Yes • Patients/ visitors: No • Local groups/ system partners: No • External organisations: No • Other: No
6b. Please list the individuals/groups who have been consulted about this policy.	**Please record specific names of individuals/ groups:** Patient Experience Group Patient Experience Volunteers Healthwatch Cornwall Healthwatch Isles of Scilly
6c. What was the outcome of the consultation?	Agreed
6d. Have you used any of the following to assist your assessment?	**National or local statistics, audits, activity reports, process maps, complaints, staff or patient surveys:** No

7. The Impact

Following consultation with key groups, has a negative impact been identified for any protected characteristic? Please note that a rationale is required for each one.

Where a negative impact is identified without rationale, the key groups will need to be consulted again.

Protected Characteristic	(Yes or No)	Rationale
Age	No	Consent for complaints concerning older children under the age of 14 will involve a decision about whether a child can give the required permission. This decision will be made on a case-by-case basis

Protected Characteristic	(Yes or No)	Rationale
Sex (male or female)	No	
Gender reassignment (Transgender, non-binary, gender fluid etc.)	No	
Race	No	
Disability (e.g. physical or cognitive impairment, mental health, long term conditions etc.)	No	People with learning disability might have additional difficulty in understanding how to make a complaint and being involved in the process. To mitigate this, an easy read complaints leaflet will be developed and a short video for the Trust website will be made. We will seek the assistance of the CHAMPS for this.
Religion or belief	No	
Marriage and civil partnership	No	
Pregnancy and maternity	No	
Sexual orientation (e.g. gay, straight, bisexual, lesbian etc.)	No	

A robust rationale must be in place for all protected characteristics. If a negative impact has been identified, please complete section 2. If no negative impact has been identified and if this is not a major service change, you can end the assessment here.

I am confident that section 2 of this EIA does not need completing as there are no highlighted risks of negative impact occurring because of this policy.

Name of person confirming result of initial impact assessment: Holly Kiernan, Complaints Manager.

If a negative impact has been identified above OR this is a major service change, you will need to complete section 2 of the EIA form available here:
Section 2. Full Equality Analysis

Appendix 3. Complaint Investigation