

Trust Board

TB2009

From: Elaine Strachan-Hall Director of Nursing and Clinical Leadership
Date: April 2009
Subject: **Updated Complaints Policy**
For: **Decision**

Synopsis

The Trust's Complaints Policy and Procedure has been amended in the light of new legislation which came into force on 1 April 2009 which introduced a single complaints system for health and local authority adult social care services in England.

We have taken the opportunity in light of the Department of Health's document *Listening, Improving, Responding: the Parliamentary and Health Service Ombudsman's publication The Six Principles of Good Complaints Handling; and The NHS Constitution 2009* to review our processes; to listen and provide a flexible response to complainant's concerns and complements; and improve our services by feeding the learning from complaints and comments into our work.

Regulations 3 and 9 require local authorities and NHS bodies to make joint arrangements for the handling of complaints

Regulation 7 allows the Primary Care Trust, with the complainant's consent, to investigate a complaint about the service provider

Regulation 12 specifies the time limits for making a complaint - 12 months

Regulation 13 specifies the complaint must be acknowledged within 3 working days and must offer a discussion with the complainant on how the complaint is to be handled

The Board is asked to approve the amended Complaints Policy and Procedure.

Comment by Director of Finance

This paper is for information.

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Complaints Policy and Procedure April 2009

Introduction

1. The Trust Board recognises that complaints in the Health Service represent only a small proportion of the total number of contacts between staff and the public and that staff continually strive to provide the highest possible standard of health care.
2. Since patients see our service from a different perspective, their views can provide a valuable insight in an organisation committed to continuous quality improvement.
3. Staff work very hard to get the job right first time, but with busy services mistakes can happen. If we can get our response to these mistakes right, people affected are less likely to be unhappy and future problems can be prevented.
4. When a mistake has happened, it is important to acknowledge it: put things right quickly: and learn from the experience.
5. The Trust takes seriously people's rights to raise informal concerns and formal complaints without their care, treatment or relationship with staff being compromised. All information given to service users, carers and the public about raising concerns and complaints should make it clear that people can expect not to be treated any differently as a result of doing so.
6. Complaints letters, investigation reports and notes of conversations relating to concerns or complaints should not be filed in patients' clinical files unless a specific item is of clinical importance.
7. Details of how to complain if people feel they are being treated unfavourably as a result of raising concerns are published on the website, and in the complaints leaflet.

Aims

8. To use a personalised approach in the handling of complaints incorporating a customer care focus when listening and responding to people with the aim of improving our services. To ensure that
 - 8.1. the complaints process is well publicised in ways that will reach all service users
 - 8.2. the seriousness of the complaint is assessed when we receive it
 - 8.3. when we acknowledge the complaint we offer to discuss the matter to agree on the best way to get a satisfactory outcome
 - 8.4. we deal efficiently with complaints and investigate them properly and appropriately
 - 8.5. we offer a full written explanation to the person who has complained; explaining how it has been resolved and what appropriate action has been taken

- 8.6. we consider remedies to put things right which are proportionate to the circumstances
- 8.7. we strive to resolve the complaint locally including using mediation in difficult cases where people remain dissatisfied
- 8.8. we remind people of their right to take the matter to the Health Service Ombudsman if they are still unhappy
- 8.9. staff receive training to know how to handle, progress and resolve concerns and complaints
- 8.10. we improve our services by using comments and complaints to identify what's working, potential service problems and risks; and take action to prevent them getting worse: highlight opportunities for staff improvement: provide information to enable effective review of our services and procedures

Definitions

- 9. A useful definition of a complaint is 'an expression of dissatisfaction that requires a response'. The dissatisfaction may be with one or more aspects of the service provided and it is essential that in our response we address all aspects of the complaint. A complaint may be clinical or non-clinical

Arrangements for the handling and consideration of complaints

- 10. Complaints will be dealt with efficiently and properly investigated
 - 10.1. Complainants will be treated with respect and courtesy and are not treated differently as a result of making a formal complaint
 - 10.2. receive, as far as is practicable, assistance to enable them to understand the procedure or advice on where to obtain assistance
 - 10.3. receive a timely and appropriate response
 - 10.4. be told the outcome of the investigation
- 11. Action will be taken if necessary in the light of the outcome of a complaint

Responsibility for Complaint Arrangements

- 12. The Chief Executive has overall responsibility for the Trust's complaints procedure. The Director of Nursing and Clinical Excellence will oversee the management of the complaints procedure and its further development; monitoring its performance and reporting to the Trust Board
- 13. Directorate Managers have responsibility for the investigation of all complaints irrespective of their severity and implementation of red action plans where necessary within their directorate. Support can be requested from staff within the

division/directorate; for example, the Associate Chief Nurses and Clinical Governance Co-ordinators. Staff undertaking investigations will have appropriate training in order to reduce the risk of re-occurrence

14. Executive Directors (or designated senior managers) are responsible for the investigation of all red complaints and the implementation of action plans where necessary within the corporate Directorates

15. The Head of Comments and Complaints, in conjunction with the Divisional Complaints Co-ordinators, is responsible for:

15.1. The administration of all complaints received by the Trust, and the co-ordination of responses in conjunction with the Directorate Managers / Heads of Departments

15.2. Maintaining the Trust's centralised complaints database to provide data for reports and the Korner return to the Department of Health

16. The Complaints Specialist Practitioner is responsible for providing specialist advice and management of complex complaints received by the Trust; and as well as being the first point of contact for distressed patients, relatives and carers; to offer support and advice to staff and clinicians at all levels; to provide an advisory service to the Trust Legal Services and Clinical Governance team. To be the first point of contact and ensure a robust system is in place to manage the Ombudsman enquiries and reviews of Trust complaints. To lead and co-ordinate the Trust's capacity to be fit for purpose and improve the quality of the organisation and service development; and ensure appropriate systems are in place in managing complaints and to support the work of the customer care team and the Patient Advice and Liaison Service.

17. All staff have a responsibility and duty to co-operate in the management of complaints. Permanent staff should ensure that temporary staff are aware of their 'Local Policy' for the management of complaints

18. All wards, clinics and departments must ensure that anyone using the Trust's services has access to information about the complaints procedure through posters and the Trust leaflet '*Let us know your views*'. Copies of the posters and leaflets are available from the Comments and Complaints Office. Information about the complaints procedure together with the '*Let us know your views*' leaflet, is available on the Trust website at www.oxfordradcliffe.nhs.uk. Staff may also access the complaints procedure via the hospital intranet

1998 Data Protection Act

19. All staff must comply with the provisions of the 1998 Data Protection Act when handling complaints. These state that:

19.1. The complaint file is disclosable on request from the patient (or a person legally responsible for the patient)

19.2. Explicit consent must be obtained from the patient (or person legally responsible for them) before identifiable information is given to any third party

19.3. The purpose of the information gathered is specifically to investigate / respond and make changes (where appropriate) and share best practice

19.4. All complaints correspondence must be filed separately from Health Records

19.5. Confidentiality: Records of complaints kept by departments must be stored securely

19.6. The complaint file ID number, not the patient's name, should be used wherever possible during investigations to maintain confidentiality

Who may Complain

20. Anyone may make a complaint with the exception of private patients where the complaint relates to the medical care provided by the consultant outside their NHS contract

21. Staff and volunteers working in the Trust who wish to raise concerns can do so through the Trusts' Raising Concerns ('Whistleblowing') Policy or if the concern is of a personal nature through the Grievance Policy. In both instances advice can be sought from the Human Resources Department

Complaints excluded from the Complaints Procedure

22. Complaints which have previously been investigated

23. A complaint by an employee about any matter relating to that employment

24. A complaint arising out of the alleged failure to comply with a request for information under the Freedom of Information Act (2000)

25. The complaints procedure will cease if following a complaint a decision is made to undertake a disciplinary investigation in respect of those matters. The complainant has no right to be informed as to whether or not disciplinary action is being taken or to its outcome. The Directorate Manager (or other senior manager) must at all times seek advice from Human Resources regarding such investigations

Duty to Handle Complaints and Co-operate

26. Where complaints are about the NHS and a local authority, and where the complainant so wishes, the organisations involved must co-operate and provide a coordinated response to the complaint

26.1. on receipt of a complaint, the NHS body should check whether it also appears to raise issues around local authority handling of the case

26.2. obtain the consent of the complainant to send details to the local authority

26.3. where the complainant does not want the details shared, the NHS body should advise them on the parts of the complaint it will deal with

26.4. where the complainant wants the details shared, the local authority must deal with it's part of the complaint

27. The two bodies should seek to agree who will take the lead in coordinating the response

28. The Chief Executive of the NHS body should sign the response, except where there are good reasons for them not being able to do so

29. Joint handling of a case should not affect the need to meet statutory deadlines

Complaints about the provision of health services

30. The Primary Care Trust may investigate a complaint it receives about a service provider, where it is appropriate and with the consent of the complainant

Time Limit for Making a Complaint

31. A complaint must not be made later than 12 months after the date on which the matter occurred or the date on which the matter came to the notice of the complainant

32. The time limit shall not apply if it can be satisfied that a) the complainant had good reasons for not making the complaint within that time limit; and b) notwithstanding the delay, it is still possible to investigate the complaint effectively and fairly

Procedure Before Investigation

33. The complaint is graded according to the electronic matrix and must be acknowledged within 3 working days after the day on which the complaint is received

34. The acknowledgement may be made orally or in writing

35. At the time of acknowledgment an offer must be made to discuss with the complainant, at a time to be agreed with the complainant a) the manner in which the complaint is to be handled b) the period within which the investigation is likely to be completed and the response is likely to be sent to the complainant

Investigation and response

36. The investigation should be in a manner appropriate to resolving it speedily and efficiently and according to the grading

37. The complainant should, as far as reasonably practicable, be kept informed during the investigation, of its progress

38. The complainant should be sent soon as reasonably practicable after completion of the investigation, a written response signed by the responsible person which includes

- 38.1. an explanation of how the complaint has been considered
 - 38.2. the conclusion reached
 - 38.3. details of remedial action needed
 - 38.4. confirmation of any action needed to be taken or proposed to be taken
 - 38.5. details of the complainant's right to take their complaint to the Health Service Ombudsman
39. If the complaint response is not sent by the agreed time, the complainant must be notified in writing and given a reason why: and be sent a response as soon as reasonably practicable after the relevant period

Form of Communication

40. Responses may, with the consent of the complainant, be sent electronically and with an electronic signature

Publicity

41. Information about the complaints process and how further information about the arrangements can be obtained, must be made available to the public

Monitoring and Audit

42. A record on the Trust's complaints database will be maintained of each complaint received: the subject matter, outcome and the response period
43. An integrated approach with Risk and Legal Services will be applied in the investigation and monitoring of complaint
44. The Trust's Safety Quality & Risk Unit Information Team will supply monthly complaints progress reports to the Care Quality Board and weekly overview and short summary complaint reports to Directorate Managers. Other ad-hoc reports will be provided on request to, and by agreement with the Safety Quality & Risk Unit Information Team. Reports will be of a quantitative and qualitative nature.
45. The Trust's Incident, Claims and Complaints Committee will review the red complaint action plans detailing the work undertaken to improve standards arising from serious complaints and monitor Trust-wide trends. A representative of Oxfordshire PCT Governance team attends ICC to share safety lessons.
46. Where a complaint is likely to generate media interest or constitutes a serious incident the Head of Comments and Complaints will contact the Director of Quality and Risk, who in conjunction with the Director of Communications, will alert the Strategic Health Authority and take appropriate actions on media handling

Organisational Learning

47. Every formal complaint that the Trust receives should be regarded as an opportunity to learn and improve services
48. On completion of an investigation into a red complaint, the directorate manager should send an action plan to the complaints department along with the investigation report, evidence and draft response letter. This action plan will clearly highlight specific actions to be taken as a result of the complaints in order to reduce the risk of reoccurrence, against firm timeframes and responsibilities for their delivery. In all cases, consideration should be given to whether a risk has been identified which should be referred for inclusion in the corporate or local Risk Register.
49. The nature of actions recommended should reflect the level and scope of the complaint, and be proportionate. Care should be taken to focus on actions that try to restore complainants to the position they were in prior to making a complaint, insofar as this is possible. Recommendations should consider the range and integration of options available: what nature of procedural, clinical, strategic, information or governance changes are required and whether these are of short, medium or long-term significance.
50. A summary of complaints is discussed quarterly by Directorates.
51. Divisional Boards and Divisional Clinical Governance Board will discuss action plans and outcomes.
52. Complaints are reported to Trust's Incidents, Claims and Complaints Committee where practice needs to change across the Trust.
53. Complaints are reported on a monthly basis to the Care Quality Board including a synopsis of complaints received. This includes case numbers, department, directorate, division and category: including the top five categories of complaint.
54. The Divisional Directors will make a quarterly report to the Governance Committee including a synopsis of complaints received, actions taken and changes made.
55. Complaints and Ombudsman reviews will be reported bi-annually by the Director of Nursing and Clinical Leadership to the Trust Board with evidence of organisational learning.
56. Further opportunities for sharing lessons across the local Oxfordshire healthcare community will be provided by the attendance of the Head of Complaints and Specialist Complaints Practitioner at the Oxfordshire Networking meeting.

Annual Reports

57. An annual report (covering a 12 month period ending 31 March) must specify the number of complaints received: the number well founded: the number referred to the Ombudsman and

- 57.1. summarise the subject matter
- 57.2. summarise the matters of general importance arising out of those complaints or the way in which they were handled
- 57.3. summarise where action has been taken or is to be taken to improve services
- 58. The annual report must be available to any person on request
- 59. A copy must be sent to the Primary Care Trust

Handling unreasonable complainants

- 60. It is important to explain what you are doing and why, and to keep detailed records
- 61. On rare occasions, despite your best efforts to resolve a complaint, the person making it can become aggressive or unreasonable. There are a number of ways to help manage the situation
- 62. Make sure contact is being overseen by a manager at an appropriate level in the organisation
- 63. Provide a single point of contact with an appropriate member of staff and make it clear to the complainant that other members of staff will be unable to help them
- 64. Ask that they contact you only in one way, appropriate to their needs e.g. by phone
- 65. Place a time limit on any contact with the complainant
- 66. Restrict the number of calls or meetings you will have with them during a set period
- 67. Ensure that any contact involves a witness
- 68. Refuse to register repeated complaints about the same issue
- 69. Explain that you do not respond to correspondence that is abusive
- 70. Make contact through a third person such as a specialist advocate
- 71. Ask the complainant to agree how they will behave when dealing with your service in the future
- 72. Return any irrelevant documentation and remind them that it will not be returned again

National Guidance

- 73. This procedure has been drawn up in accordance with The Local Authority Social Service and NHS Complaints (England) Regulations which came into force on 1 April 2009.

Monitoring Progress

74. The effectiveness of this policy will be monitored by means of a number activities. The Care Quality Board will monitor the Trust's performance against national standards on a monthly basis. The PCT review the number of complaints received against targets for reduction on a monthly basis at the PCT Commissioner's contract performance meeting with the Trust. The quality of complaints draft responses by Directorate Managers are monitored by the Complaints team using a complaint response quality checklist. Red complaint action plans are monitored monthly by the Complaints Specialist Practitioner in a meeting with the Associate Directors of Nursing and Divisional Clinical Governance Co-ordinators. Exceptions are tabled at the monthly Incident Complaints and Claims meeting. Feedback from the Ombudsman will be used to monitor the complaints handling process by the Complaints Specialist Practitioner. There will also be monitoring using patient satisfaction surveys, targeted surveys, ad hoc staff surveys and internal audits.

Review Date

75. This policy will be reviewed every three years, or sooner should there be any amendment to the NHS (Complaints) Regulations in the intervening period. In addition, amendments will be made in the intervening period, should aspects of this policy's effectiveness be found to be inadequate as a result of the ongoing monitoring, or if inadequacies in its operation are identified at any stage.

Katharine Munby

Head of Comments and Complaints

April 2009

Document Complaints Policy and Procedure

Oxford Radcliffe Hospitals

Complaints Procedure V1 April 2009

Version Control

Date Approved:

Approving Body: Trust Board and Executive Board

Distribution: Policy to all Executive Directors, Divisional Directors and Chairs, Directorate Chairs and Managers

Review Date: April 2010

Category: Nursing Directorate

Author: Head of Comments and Complaints

Lead Executive: Director of Nursing and Clinical Excellence

Lead Manager: Head of Comments and Complaints

Further Guidance
or information: Head of Complaints

This policy should be read in conjunction with the following Trust procedures:

1. Procedure for Managing and Handling Serious Incidents.
2. Interpreting procedure

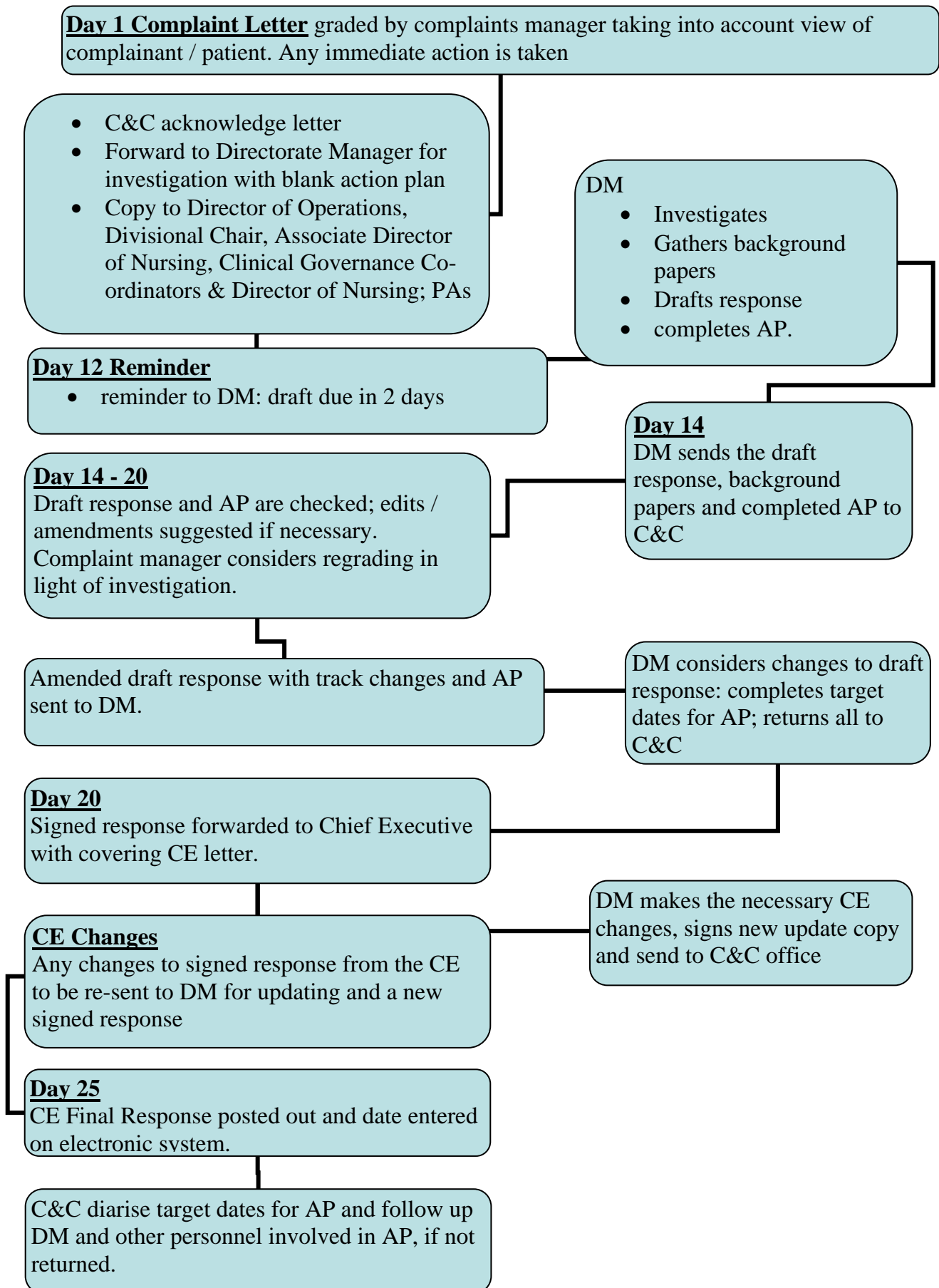
Appendix 1

The Complaints Procedure

1. The NHS procedure for handling written complaints is divided into two stages:
 - 1.1. Local Resolution
 - 1.2. Independent Review by the Health Service Commissioner for England (Ombudsman) if they are dissatisfied with the outcome of their complaint
2. Local Resolution provides the quickest and fullest opportunity for investigation and resolution of a complaint. This process should be open, fair, flexible and conciliatory to both complainants and staff. The timescales for making a complaint and responding are as follows:
 - 2.1. Complaints should normally be lodged within 12 months of the event, or within 12 months of the knowledge of the effect of the event. However discretion can be used to extend this time limit
3. The Comments and Complaints team (C&C) should acknowledge receipt of the written complaint within **3 working days** and offer the complainant a discussion on
 - a) the manner in which the complaint is to be handled
 - b) the period within which the investigation is likely to be completed and the response is likely to be sent to the complainant
 - 3.1. The written response should be sent to the complainant with the Chief Executive's covering letter within **25 working days** beginning on the date on which the complaint was made. The 25 day deadline can be extended but only in agreement with the complainant; C&C will contact the complainant to seek the agreement
4. Where a complaint is received in writing, **no matter to whom it is addressed**, it must be forwarded to C&C, Level 3 JR; either scanned to complaints3@orh.nhs.uk or faxed on 01865 228933
5. Consent: where a complaint is written on behalf of a patient by a third party C&C will request written consent from the patient before disclosing personal information. (Ref. Page 3 1998 Data Protection Act.)
6. Acknowledgment:
 - 6.1. Complaints received by Chief Executive are acknowledged by the C&C who enclose a copy of Trust's 'Let us know your views' leaflet
 - 6.2. Complaints received by the Executive Director's Office at the Horton are acknowledged (within 3 working days) by the Horton office: enclosing a copy of the Trust's 'Let Us Know Your Views' leaflet. The original complaint letter and a copy of the acknowledgement letter is faxed then posted to C&C. The complaint is logged on complaints database by C&C staff
7. Investigation:

- 7.1. Where the complaint involves two areas of service, the response will be collated by the Directorate Manager responsible for the area related to the primary complaint
8. C&C will scan the complaint to:
- 8.1. Appropriate Directorate Manager, or Head of Department for non-clinical issues for investigation and response
 - 8.2. Appropriate Divisional Nurse/Divisional Midwife for information
 - 8.3. Senior Nurse, Private Patient Manager where the complaint relates to private patient concerns arising within other Directorates in the Trust
 - 8.4. Executive Director Horton Hospital, for information (where applicable)
9. The accompanying letter indicates the date by which response should be emailed to the Head of Complaints and C&C
10. The Directorate Manager co-ordinates the investigation which may also involve the Associate Chief Nurses and / or Clinical Governance Co-ordinators. The Directorate Manager copies proposed response to Associate Chief Nurses for quality check on nursing or clinical issues. The response should indicate that it has been copied to the Head of Comments and Complaints and all relevant staff
11. The agreed draft response, background papers and action plan if appropriate, are forwarded to the Head of Complaints and C&C who quality check all responses
12. The response and covering letter are forwarded to Chief Executive for agreement and signing. (In the absence of Chief Executive, the Director of Nursing and Clinical Excellence may sign the covering letter).
13. Details of complaint and outcome recorded on the complaints database and the complaint file is closed unless there are further actions to be undertaken by the Trust
14. The Horton Hospital only. A copy of response will be forwarded to the Executive Director, by C&C if the complaint relates to the Horton
15. The Head of Comments is available for help and support during the Local Resolution stage. It is essential to record, in the complaint management file, all contacts with the complainant and all actions taken in investigating the complaint. Staff are asked to update C&C with all such information
16. Further Letters received from the complainant may be forwarded to the Director of Operation for further investigation
17. Patient Meetings may be arranged at the start of the process if agreed with the complainant, or arranged later in the process if the complainant remains dissatisfied with the response
- 17.1. The Chief Executive's covering letter will offer the complainant the opportunity to meet if the response does not fully address their concerns. Venue, date and time to be mutually agreed

- 17.2. The complainant may be supported at the meeting by a person or people of their own choosing (not legal representation), and will have been advised of an appropriate body who may act as their advocate (ICAS)
- 17.3. C&C will consider the need for a mediated meeting
- 17.4. Meetings will be organised by C&C and may include the Consultant (responsible for the patient), Departmental Manager and any other member of staff who may be of assistance
- 17.5. The complainant will be asked to clarify the outstanding concerns so that staff can be properly briefed. These concerns will form the agenda for the meeting
- 17.6. C&C will organise a pre-meeting for staff involved to discuss the agenda and to ensure that all relevant information is available
- 17.7. An offer to record the meeting and provide a CD of the discussion will be offered
- 17.8. follow-up actions or information will be forwarded to the complainant within four weeks of the meeting
18. Independent Review by the Health Service Commissioner for England (Ombudsman) if the complaint is within their jurisdiction the Ombudsman will consider
 - 18.1. what has gone wrong?
 - 18.2. What injustice has this caused?
 - 18.3. What is the likelihood of achieving a worthwhile outcome?
19. If there is a case to answer the Ombudsman will direct the Trust to put things right



Appendix 2

Investigation and information gathering

1. You may be asked to help with an investigation into a formal complaint by providing a written account
2. The following guidance aims to help you with writing your account
 - 2.1. Begin with your full name, address, position and location at the time of the complaint
 - 2.2. Be clear about why you are writing the statement, what it is for and who will need to read it
 - 2.3. Write a factual account only, do not give opinions and avoid using hearsay (i.e. someone else's view or version of events)
 - 2.4. Always refer to the patient's notes to help you
 - 2.5. Give a full description of the sequence of events giving precise dates and times. Include the actions of others involved, and conversations held if appropriate
 - 2.6. Write simply and avoid jargon and abbreviations
 - 2.7. Written comments should be legible, preferably typed and carefully checked
 - 2.8. Sign and date your comments at the end and keep a copy for reference in a safe place
3. If you feel unsure about what you are being asked to do, guidance can be sought from
 - 3.1. Your Line Manager
 - 3.2. Your Professional Association or Trade Union
 - 3.3. Directorate Manager
 - 3.4. Comments and Complaints Office

Response Letters - Quality check

The quality check will ensure that the letter

4. Is addressed to the complainant
5. Is written by the Senior Clinician (all professions) in the case of clinical issues or is collated by the Directorate Manager with reference to the clinician's response
6. Addresses all aspects of the complaint - itemising issues where appropriate
7. Deals with each issue raised by the complainant in a sensitive manner
8. Explains the cause of the situation that led to the complaint arising

9. Identifies what is being done to rectify the situation to avoid recurrence. An explanation if nothing can be done
10. Explains medical terminology in lay terms
11. Almost always includes an apology i.e. an apology that they have felt it necessary to complain
12. Always offers the opportunity for further help and clarification and the opportunity to meet if this is thought appropriate
13. Does not include the outcome of any disciplinary action. Although it may be appropriate to disclose that an issue was addressed under the disciplinary procedure (see section 20 Complaints excluded from the complaints procedure)

Appendix 3

Support in handling Complaints out of hours 17.00 - 08.30

1. John Radcliffe Operational Manager Bleep 1566
2. Horton Senior Nurse Bleep 500
3. Churchill Hospitals Contact Senior Nurse through switchboard 311188
4. If support needed (due to clinical responsibilities) contact John Radcliffe Operational Manager Bleep 1566

Training & Development

5. Members of the Comments and Complaints and Training and Development Teams will provide training to assist staff in managing and handling complaints. This would include training in investigating complaints for managers and staff co-ordinating complaints within the Directorates.
6. Complaints will be included with the Trust's Induction Programmes for all staff.

Contacts and useful addresses

Complaints Specialist Practitioner	Katharine Munby (2)20428
Complaints Deputy Manager	(2)21728
Complaints Officers	(2)28966 and (2)21838

Patient Advice and Liaison Service (PALS)

Churchill	(2) 25956
Horton	(2) 29259
John Radcliffe	(2) 21473
West Wing	(7) 43324

Requests for copies of Health Records

7. Where a complainant requests copies of their Health Records under the complaints procedure these will be released in accordance with the Data Protection Act 1998 or the Access to Health Records Act 1990, but without charge. The Health Records Manager will be responsible for organising the release of the relevant records.