THE LEEDS TEACHING HOSPITALS NHS TRUST
PROCEDURE FOR INVESTIGATING AND RESOLVING COMPLAINTS

1. INTRODUCTION

This procedure will be followed in accordance with Department of Health Guidance to support implementation of the National Health Service (Complaints) Regulations 2004.

2. DEFINITION OF FORMAL COMPLAINT

“An expression of dissatisfaction requiring a written response.”¹

3. DEFINITION OF INFORMAL COMPLAINT

“Concerns about issues such as services, or information requests that do not require a written response”²

4. GENERAL POINTS

4.1 Who can complain about the way they have been treated

Any patient who is affected by or likely to be affected by the action, omission or decision of the Leeds Teaching Hospitals Trust can make a complaint. Each complaint must be taken on its own merit and responded to appropriately. In many circumstances it may be a relative or friend who complains on behalf of a person who is or has been a patient. If this is the case it is essential that the member of staff handling the complaint is assured in writing that the patient is aware the complaint is being made and has given their consent to that person acting on their behalf. Patient Relations Department Staff will be responsible for obtaining such written consent.

If a patient has died or is otherwise unable to act for themselves, the complaint can be accepted from a close relative, friend, organisation or individual suitable to represent the patient. It is always important in such circumstances to pay particular attention to the need to respect the patient’s confidentiality and any known wishes expressed by the patient that information should not be disclosed to anyone else. (see 4.4)

4.2 Informal Complaint/PALS (Patient Advice and Liaison Service)

Most complaints start as concerns and are received by front line staff in wards, clinics, at reception desks or by departmental managers. It is important to try and resolve them on the spot in an informal and sensitive manner. All PALS issues should be recorded on the appropriate documentation.

As part of the Trust wide approach to the delivery of PALS through Matrons, Patient Relations Department staff and Senior Managers, all staff have a responsibility to help patients, their families and visitors with any concerns or queries they may have. Great emphasis is placed on early resolution at an informal stage. Staff should not automatically encourage patients and visitors to make a formal complaint.

¹Quoted from Citizen’s Charter Complaints Task Force
²Taken from Department of Health Good Practice Toolkit for Local Resolution
4.3 **Time Limit for Initiating Complaints**

Advice/information given to patients about the complaints procedure will encourage them to raise any complaint as soon as possible. The time limit for making a complaint will generally be within 6 months of such an event. If the complainant was not aware that there was cause for complaint at the time it happened, the complaint should be made within 6 months of the complainant becoming aware that there was cause for complaint.

There is however discretion for the Patient Relations Manager in liaison with the Investigating Officer (nominated person within a Clinical Management Team (CMT)/Corporate/Operational Service, responsible for investigating the complaint), to extend these time limits where it is felt to be unreasonable for the complaint to have been made earlier and where it is still possible to investigate the facts of the case. Wherever possible, the complainant’s concerns should be addressed, while remaining fair to staff.

If it has been decided that an investigation of a complaint will not take place on the grounds it was not made within the time limit, the complainant can request that the Healthcare Commission consider it.

4.4 **Patient Confidentiality**

No member of staff should divulge information about the identity or medical condition of any patient to anyone who does not have a clear entitlement and need to receive it. This needs to be borne in mind if a complaint is received from someone other than the patient. Investigation of a complaint does not remove the need to respect a patient’s confidentiality. If anyone is in any doubt about whether or not information should be released, they should consult their line manager or alternatively the Patient Relations Manager at Trust Headquarters.

4.5 **Publicity**

The Trust has produced various publicity materials to alert members of the public and users of the Trust services to the complaints procedure and to give assistance as to how they can process a complaint should the need arise. There are posters, which also combine information about PALS. Complaints leaflets are available titled “How to make a complaint”, which can be provided in other languages and different formats on request. Complaint forms are available for anyone wishing to make a formal complaint. Posters, leaflets and complaints forms should be available on all wards and clinics throughout the Trust.

4.6 **Mixed Sector Complaints**

Where a complaint also involves another NHS provider or one or more outside bodies such as a Local Authority, there should be full co-operation in seeking to resolve the complaint through each organisation’s local complaints procedure with a view to addressing all matters of concern to the complainant. If a complaint is received which solely concerns the services provided by another health organisation, or body outside the NHS, the complaint should be referred to the Patient Relations Manager who will, in consultation with the complainant, ensure it is passed immediately to the correct organisation. (See Patient Relations Department Protocol for Managing Mixed Sector Complaints)

4.7 **Complaints from Members of Staff**

Members of staff are entitled to use the NHS complaints procedure in the same way as members of the public, but only as patients, not as employees of the Trust.
5. **HANDLING AND CONSIDERATION OF COMPLAINTS**

5.1 **Local Resolution within the Trust (first stage of the national complaints procedure)**

As far as possible, complaints will be concluded to the complainant’s satisfaction as part of local resolution, so that complainants don’t find it necessary to pursue their complaint to the second stage of the national complaints procedure, i.e. to the Healthcare Commission for an Independent Review.

5.2 **Complaints Arrangements**

A detailed document outlining the Trust’s Complaints Process is available from the Patient Relations Department. A guidance document outlining the process to be followed in a complaint investigation can be found in the Complaints Pack obtainable from the Patient Relations Department. Details of the complaints procedure is accessible on the Trust’s Quality website. A complete documentary record of the handling and consideration of each complaint will be kept centrally within the Patient Relations Department. Patient Relations Department staff will have access to all relevant records. Where the Trust makes arrangements for the provision of services with an independent provider, it will ensure that the independent provider has a complaints procedure in place that complies with the NHS (Complaints) Regulations 2004.

5.3 **Role of Designated Individuals Responsible For Handling Complaints**

5.3.1 **Nominated Trust Board Member** – will ensure compliance with arrangements made under the National Health Service (Complaints) Regulations 2004, for ensuring action is taken in the light of the outcome of any investigation and for ensuring the Board takes a monitoring role by considering a quarterly complaints report. (see 8.2).

5.3.2 **Chief Executive** – will have responsibility for signing all complaint response letters or, in his absence, this will be undertaken by a nominated Executive Director. The Chief Executive or his nominated Executive Director will also be responsible for determining necessary action in the case of vexatious or persistent complaints.

5.3.3 **Chief Nurse** – will have overall managerial responsibility for the complaints function.

5.3.4 **Patient Relations Manager** – will manage the procedures for handling and considering complaints and ensure appropriate staff training is carried out. The Patient Relations Manager will be accessible to both the public and members of staff in respect of any aspect of the Trust’s Complaints Procedure.

5.3.5 **Matrons and Heads of CMT/Corporate/Operational Service** – will take a leading role in the investigation process and be accountable for performance in relation to responding to a complaint. Specific areas of responsibility will be determined within each service area.

5.3.6 **Investigating Officer** – will be a nominated individual within the service area, who will conduct the actual investigation and provide a qualitative response to a complaint (this may be one of the individuals mentioned in 5.3.5 above).
5.3.7 **Risk Manager** – will support the Patient Relations Department by advising on potential risk management issues and requests for compensation.

5.4 **Involvement of Complainant**
The complainant will be provided with information to help them understand all possible options for pursuing their complaint and the consequences of following these options.

5.5 **Possible Legal Action**
In the likelihood of legal action, or if a complaint reveals a *prima facie* case of negligence, Patient Relations Department staff will inform and seek advice from the Trust’s Risk Management Team. It will not be inferred that the complainant has decided to take formal legal action, even if their initial communication is via a solicitor’s letter and this will not delay a full explanation of events and, if appropriate, an apology. In such circumstances the complaint investigation will continue in the normal way unless a member of the Patient Relations Department staff informs the Investigating Officer differently.

If, however, the complainant has either instigated formal legal action, or notified in writing their intention to do so, the complaints procedure will be stopped, with the complainant and person identified in the complaint, being advised appropriately in writing. It will be the responsibility of Patient Relations Department staff to carry out these procedures in such circumstances and keep those investigating the complaint informed accordingly.

5.6 **Possible Disciplinary Proceedings**
This complaints procedure is concerned only with resolving complaints and not with investigating disciplinary matters and the purpose is not to apportion blame amongst staff. Consideration as to whether or not disciplinary action is warranted is a separate matter for management and is subject to a separate process of investigation. However, information gathered during the complaints procedure may be made available for a disciplinary investigation. Should disciplinary action be taken, as part of the separate process of investigation, there is no obligation to share the outcome with the complainant.

If a member of staff is unhappy with the way they have been treated during a complaint investigation, they are able to raise this through the Trust’s grievance procedure in the first instance, but retain the right to take such a complaint to the Ombudsman.

5.7 **Staff Training**
In order to make the complaints process more effective and to enable staff to understand the complaints procedure, training for Trust staff will be available. This will be at three different levels – ‘An Introduction to Complaints’; ‘Complaints Handling’; and ‘Complaints Investigating’. Patient Relations Department staff will run the training courses and details of the courses are available from the Trust’s Training and Development Directory.

6 **MAKING A COMPLAINT**
A complaint may initially be made to any member of Trust staff, and the first responsibility of a recipient of a complaint is to ensure the patient’s immediate
health care needs are being met which may require urgent action before any matters relating to the complaint are tackled.

If the complaint is an informal/PALS query, this should be resolved as quickly as possible according to PALS guidance. A person wishing to make a formal complaint may do so orally, in writing, or electronically. The complaint should be directed immediately to the Trust’s Patient Relations Manager or Chief Executive, to enable a timely response to the complainant in order to comply with national standards. Where the complaint is made in writing it will be treated as being made on the date it is received within the Trust. In the case of an oral complaint, a written transcript will be made of the complaint and confirmed by the complainant. Such complaints will be treated as being made, on the date the complainant confirms the written transcript. In the case of electronically received complaints, responses will be made in writing to avoid any possible breaches of confidentiality.

6.1 Acknowledgment and recording of Complaint
Once received within the Patient Relations Department, a written acknowledgement of the complaint will be sent and will comply with the national standard of responding within 2 working days. The acknowledgement letter will advise complainants of the complaints process, including an expected response date from the Chief Executive. This response date will comply with national standards. Information will also be given about the possible disclosure of patient information in order to undertake an investigation. Complainants will also be informed of their right to assistance from the Independent Complaints Advocacy Service. The complainant will be kept informed of progress of their complaint and, if appropriate, given reasons for any delay in responding, together with a revised timeframe.

6.2 Investigation
Responsibility for undertaking an investigation of the complaint will be with the nominated Investigating Officer within the appropriate CMT/Corporate/Operational Service. All Matrons have a significant responsibility in respect of investigating and responding to complaints. A ‘Complaints Pack’ has been compiled which contains guidance on the process to follow in such an investigation. An essential part of such an investigation is to ensure that all relevant information, including records of staff interviews/statements, is recorded and kept in a central case file. This is particularly important if the complaint progresses to Independent Review or to the Ombudsman.

Investigating Officers will consider each complaint with an open mind, being fair to all parties. They will ensure that all involved with the complaint are aware of support services that are available to them. It is not intended for this process to be in any way adversarial and must uphold the principles of fairness and consistency, with a view to listening, learning and improving. It may be appropriate at some stage during the investigation to try to resolve the complaint by way of a face-to-face meeting with the complainant.

Where the complaint involves clinical issues, the findings and response must be shared with the relevant clinicians to ensure factual accuracy.
6.3 **Conciliation and Mediation**  
In certain situations, it may be appropriate to make arrangements for conciliation, mediation or other assistance for the purpose of resolving the complaint. In such circumstances, the Patient Relations Manager will, in consultation with the complainant, make the necessary arrangements. It is understood that Conciliators should never be required to report to the Trust, the detail of complaints in which they have been involved.

6.4 **Response to a Complaint**  
A written response to the complaint will be compiled by the Investigating Officer and sent to the complainant with an accompanying letter from the Chief Executive. In situations where more than one service area is involved, the response letter will be compiled by Patient Relations Department staff in the name of the Chief Executive. In certain circumstances when the Chief Executive is unable to sign such letters, this will be done by his nominated Executive Director.

The response will be sent within the nationally determined timeframe, or where this is not possible, as soon as is reasonably practicable. Advice and guidance on compiling a response is contained within the Complaints Pack available from the Patient Relations Department. All staff involved in a complaint investigation and those named in a complaint, should receive a copy of the final response letter.

If the complainant remains unhappy with the response and it is felt that local resolution has been totally exhausted, the complainant will be informed of their right to refer the complaint to the Healthcare Commission, to ask for an Independent Review. Full detail of how to contact the Healthcare Commission will be given to the complainant.

If a complainant is unhappy about the decision of the Healthcare Commission, they may refer their complaint to the Health Service Commissioner (Ombudsman). Information about the role of the Ombudsman and an individual’s right to complain to her should they remain dissatisfied with the outcome of their complaint will be contained in the complaints leaflet that is given to each complainant, along with their acknowledgment of complaint letter.

7. **FOLLOW UP ACTION**  
It is the responsibility of each CMT/Corporate/Operational Service to ensure that appropriate action is taken as a result of a complaint, to review procedures, learn lessons and improve the quality of services. (see 8.4)

The Patient Relations Department will record follow-up action taken, or intended, as notified by the CMT/Corporate/Operational Service. Each of these service areas must keep the Patient Relations Department informed of all follow up actions so that details of service improvement/lessons learned and trends can be shared across the Trust. This process links to the Trust’s Clinical Governance and Quality Agenda.
8. MONITORING AND REPORTING

8.1 Quarterly Report to the Trust Board
A report will be prepared and presented to the Trust Board on a quarterly basis and will:
- specify the numbers of complaints received
- identify the subject matter of those complaints
- summarise how complaints have been handled and the outcome of the investigations
- identify any complaints where the recommendations of the Healthcare Commission have not been acted upon, giving reasons why not

8.2 Annual Report to the Trust Board
An annual report on the Trust’s handling and consideration of complaints will be agreed by the Trust Board and copies sent to the West Yorkshire Strategic Health Authority and the Healthcare Commission.

8.3 Quarterly Report to West Yorkshire Strategic Health Authority
Quarterly reports will be presented to West Yorkshire Strategic Health Authority providing information as requested and in respect of:
- total number of complaints received
- number of complaints resolved within the deadline
- number of complaints resolved out of time
- number of complaints still under investigation
- reasons for delayed responses/problems experienced
- top five themes emerging from complaints
- examples of actions taken to address complaints
- status of Independent Review requests

8.4 Local Monitoring
Heads of CMT/Corporate and Operational Services and Matrons will ensure review mechanisms are in place to monitor that complaints procedures are working effectively, that promised actions are carried out and that lessons learned are widely disseminated. It will also be the responsibility of Heads of CMT/Corporate and Operational Services as part of the investigation process, to establish the root cause of a complaint in order to address any risks that may have been identified and ensure lessons are learnt, thus avoiding similar events from recurring. (See Leeds Teaching Hospitals NHS Trust Incident Reporting and Investigation Procedure).

The Trust’s Incident Impact and Assessment Group will be responsible for monitoring trends highlighted from complaints and reporting areas of concern for action, to the Integrated Quality Committee on a quarterly basis.

9. VEXATIOUS OR PERSISTENT COMPLAINTS

There are occasions when complaints can become vexatious and/or persistent, causing undue stress for staff and resulting in a disproportionate use of resources. In dealing with such situations the Patient Relations Manager will ensure the complaints procedure has been correctly implemented and that no material element of a complaint has been overlooked or inadequately addressed. It will be taken into
consideration that any vexatious or persistent complaints may have aspects, which contain genuine substance.

At all times, if the complainant is a patient, their health care needs will continue to be addressed. Any complainants who are patients will not be discriminated against in any way in terms of health care needs, even though it may have been decided to regard them as a vexatious or persistent complainant.

It is important, however, to identify the stage at which a complaint has become vexatious or persistent and for action to be taken accordingly. A separate procedural document is appended to this complaints procedure, to aid this process.

10. REVIEW DATE

This procedure will be reviewed every three years, or sooner should there be any amendment to the NHS (Complaints) Regulations in the intervening period.

11. OTHER PROCESS AND PROCEDURAL DOCUMENTS APPENDED TO THE COMPLAINTS PROCEDURE

(i) Leeds Teaching Hospitals NHS Trust – Procedure for Handling Vexatious or Persistent Complaints
(ii) Patient Relations Department (PRD) - Complaints Process/Pathway
(iii) PRD – Complaint Pack (Guidance documentation)
(iv) PRD – Protocol for taking Verbal Complaints
(v) PRD – Protocol for Checking and Reviewing Response Letters
(vi) PRD – Protocol for Managing Mixed Sector Complaints
(vii) PRD – Protocol for Complaints Meeting Procedures
(viii) PRD – Protocol for Obtaining Copies of Medical Records

Complaints/policies/complaintsprocedure
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