

**ORG002**

# **COMPLAINTS**

## **Policy & Procedures**

### **Berkshire Healthcare**



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## POLICY DEVELOPMENT

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## INDEX

<b>Section</b>		<b>Page</b>
1.	Introduction	6
	1.1 Definition of a complaint and aim of this policy	7
	1.2 Who can complain?	7
2.	Confidentiality and consent	8
	2.1 Complaints from children and young people	8
	2.2 Complaints received on behalf of others	9
	2.3 Complaints brought by Members of Parliament (MP) on behalf of constituents	9
	2.4 Complaints brought by Commissioners on behalf of complainants	9
3.	Serious allegations and disciplinary investigations	10
	3.1 Complaints and legal action	10
	3.2 Obtaining legal advice	10
	3.3 Staff grievances	11
4.	Freedom of Information Act 200 and Data Protection Act 1998	11
	4.1 Freedom of Information Act	11
	4.2 Access to Health Records	11
5.	Time limits	11
6.	Complaints about services provided by other agencies	12
7.	Roles and Responsibilities	13
	7.1 Chief Executive	13
	7.2 Executive Team	13
	7.3 The Chairman and Non-Executive Directors	13
	7.4 Governors	13
	7.5 Clinical Directors and Locality Directors	13
	7.6 Managers (Service Managers/Nurse Consultants/Matron/Ward Managers)	14
	7.7 All staff	14
	7.8 The Complaints Office	14
	7.9 The Investigating Officer	15
	7.10 Special Cases	15
8.	Advocacy support	15
9.	Secondary complaints	15
10.	Cross locality complaints	15
11.	Support for staff involved in a complaint	16
12.	Complaint resolution meetings	16
	12.1 Prior to the meeting	16
	12.2 During the meeting	17
	12.3 After the meeting	17
	12.4 Recording complaint meetings	17
13.	Media interest	18

14.	Monitoring complaints	18
	14.1 Learning from complaints	20
	14.2 Internal evaluation of the complaints process	20
	14.3 External evaluation of the complaints process	29
15.	Training	21
16.	Complaints process	21
	16.1 Service level concerns	21
	16.2 Informal complaints - local resolution	22
	16.3 Formal complaints	22
17.	Habitual, vexatious and unreasonably persistent complainants	24
Appendix 1	Informal complaints flowchart	29
Appendix 2	Formal complaints flowchart	30
Appendix 3	Complaint file documentation	31
Appendix 4	Local resolution flowchart	32
Appendix 5	Example acknowledgement letter	33
Appendix 6	Advocacy contact details	34
Appendix 7	Guidance on the resolution of verbal/informal complaints for front line staff	35
Appendix 8	Guidance for Governors	38
Appendix 9	Investigating Officers Report	39
Appendix10	Guidance on completing an action plan on Datix	41
Appendix11	Consent flowchart for complaints and concerns	44
Appendix 12	Tabular Timeline	45
Appendix 13	Fishbone Diagram	46
	Comments/Feedback form	47
	Equality Impact Assessment	48

## 1. INTRODUCTION

The Patient Experience Team is led by the Head of Service Engagement and Experience and Director of Nursing and Governance. The Patient Advice and Liaison Service (PALS), Complaints Office and Patient and Public Involvement (PPI) Lead are at the forefront of gaining feedback and being a point of contact for our patients and their carers to seek advice and give their views.

The mission statement of the Patient Experience Team is to

*'To measure, report and improve the experience of your care. Working in partnership to enhance the services we provide to the community.'*

The Patient Experience Team actively seeks the views of patients and the public about the quality of our services and feeds back the information to Berkshire Healthcare staff and ensure appropriate action is taken to improve services. .

Berkshire Healthcare encourages compliments, comments, complaints and suggestions from patients, carers and the public . Should patients, carers or the public be dissatisfied with the care provided they have a right to be heard and for their concerns to be dealt with promptly, efficiently and courteously. Berkshire Healthcare is committed to ensuring that there is a culture where under no circumstances should patients, relatives or carers be treated negatively as a result of making a complaint or raising a concern.

We welcome all forms of feedback and use this to improve the service we provide.

The Local Authority Social Services & National Health Services Complaints (England) Regulations 2009 places an emphasis on personal contact with the complainant so that the complaint can be fully understood and that the response sought by the complainant can be identified. However, any agreed resolution must be proportionate to the content of the complaint, realistic and achievable.

The Complaints Office under the leadership of the Director of Nursing and Governance are to identify lessons learned from complaints and disseminate them through the organisation as part of 'shared learning'. All complaints are entered on the Datix system which generates reports that are shared on a quarterly basis through Patient Engagement and Experience Group. Recommendations and actions arising from complaints in one service are shared with other services through the Executive Quality Governance Group for discussion and action at Operational Team Meetings and Patient Safety and Quality Meetings to ensure learning from all complaints occurs across the organisation.

Berkshire Healthcare's vision for a successful complaints procedure is one that meets the need of our patients, staff and the organisation and follows the six principles of good complaint handling as set out by the Parliamentary and Health Service Ombudsman:

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeing continuous improvement

Berkshire Healthcare's main objective is to remedy complaints as soon as possible ensuring the individual is satisfied with the response and feels that they have been fairly treated.

The Parliamentary and Health Service Ombudsman's '*Principles for Remedy*' states that all appropriate remedies should be considered for complaints that have been upheld and this includes financial remedies.

## 1.1 Definition of a complaint and aim of this policy

A complaint is 'an expression of dissatisfaction requiring a response'.

The aims of this policy are to:

- Ensure that our complaints procedure is easy to understand and simple to use.
- Make sure that investigations are thorough, fair, responsive, open and honest.
- Demonstrate that we will learn from complaints and use them to improve the services for patients.
- Ensure that our service is accessible to everyone.
- Enable our staff to answer complaints in a timely manner.
- Demonstrate how we will respect individuals' rights to confidentiality.
- Ensure that complaint information is shared transparently with the Berkshire Healthcare Board to who are accountable for improving the quality of services.
- Enable staff to respond positively to complaints and endeavour to resolve issues locally as soon as possible.
- Satisfy complainants by giving our staff the tools to conduct a thorough investigation and provide a full explanation to concerns and complaints in a way agreed with the complainant.
- Ensure that patients, relatives and their carers are not treated differently as a result of making a complaint.

## 1.2 Who can complain?

- A person who receives or has received a service from Berkshire Healthcare.
- A person who is affected, or likely to be affected, by the action, omission or decision of Berkshire Healthcare.

A complaint may be made by a representative acting on behalf of a patient or any person who is affected by or likely to be affected by the action, omission or decision of Berkshire Healthcare, where that person:

- Has died.
- Is a child (refer to consent section re Fraser competencies).
- Is unable by reason of physical or mental incapacity (refer to Special Cases re Mental Capacity Act 2005) to make the complaint themselves.
- Who has requested the representative to act on their behalf and has given consent for this.
- Is a Member of Parliament acting at the request and on behalf of their constituents.

Where a patient or person affected has died or who is unable to raise concerns themselves, the representative must be a relative or other person who, in the opinion of the Complaints Office, has a sufficient interest in their welfare and is a suitable person to act as representative.

Advice will be sought from the Head of Service Engagement and/or Deputy Director of Nursing and clinical staff as required. The need to respect the confidentiality of the patient is the duty of all staff.

If in any case the Complaints Manager is of the opinion that a representative does or did not have a sufficient interest in the person's welfare or is unsuitable to act as a representative, that person is to be notified of this in writing and the reasons for the decision are to be provided.

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

Where it has been identified that the complainant or patient is a vulnerable adult or there are concerns around capacity, advice should be sought from the Safeguarding Lead. Reasonable adjustments are to be taken into consideration in line with this policy and advice sought from the Patient Experience Team in the first instance to enable the complaints process to meet the needs of the complainant.

## **2. CONFIDENTIALITY & CONSENT**

Complaint information is confidential, and will only be disclosed to those with a demonstrable need to know.

Complaints records will be kept separate from health records, subject to the need to record information which is strictly relevant to their health in the patient's health records.

Correspondence about complaints will not be included in patient's records. Informal discussions about concerns can be documented in the clinical records (RiO). Correspondence should be attached to the electronic complaint file held within Datix, with entries made in the progress notes section.

It is not necessary to obtain the patient's express consent to use personal information when investigating a complaint as the patient has implied their consent by asking Berkshire Healthcare to investigate the matter. However, Berkshire Healthcare's formal acknowledgement letter states that information from health records may need to be disclosed to those involved.

### **2.1 Complaints from children and young people**

Fraser Competences state that a child below the age of 16 can consent for their own medical treatment if they demonstrate sufficient understanding. This principle is adopted within the complaints process and therefore, there is no minimum age for a young person to raise concerns about the care they have received. The young person will be offered support by the Complaints Office, and signposted to any additional resources such as SEAP for Advocacy and the Carers Support organisations if required.

The treating clinician is responsible for determining whether a child who has had a complaint raised on their behalf is 'Fraser competent' and this will be determined on a case by case basis.

Competence is specific to a specific decision, i.e., it is not a general or universal competence. This means that in relation to a complaint by parent on a child's behalf, the specific consent required relates to whether they agree with the complaint made on their behalf bearing in mind the implication that their parents will access the young person's medical records as part of the process. If, however, there is clear evidence that the child is Fraser competent, then their express authority should be obtained before responding to the complaint as it will involve disclosing confidential patient information.)



Parents cannot overrule the child's consent when the child is judged to be 'Fraser competent'.

## **2.2 Complaints received on behalf of others**

Where a complaint is made on behalf of an existing or former patient, consent must be obtained from the patient to disclose personal health information and the results of any investigation in order to maintain and uphold the duty of confidentiality to the patient. The complainant will be asked to return a consent form to the Complaints Office.

The timescale to respond starts on day after the date of receipt of the completed consent form, however it is often in the best interest of all parties to proceed with the complaint investigation as soon as a level of information has been received to conduct an investigation appropriately.

In cases where consent is requested, the complainant will be informed that the response will not be sent without this being received. Awaiting consent will not be a determining factor in the investigating a complaint. Services have a duty to investigate concerns for service improvement purposes and to ensure learning.

Where a complaint is made on behalf of an existing or former patient who has not authorised the complainant to act on their behalf, care must be taken not to disclose personal health information without the patient's consent. Matters of a non-personal or non-clinical nature e.g. system processes such as general referral processes may be included within the response provided to the complainant.

All letters regarding the complaint will be marked 'private and confidential'.

By ensuring that all complaints are dealt with in the strictest of confidence the scope for patients, relatives or carers being treated differently as a result of the complaint will be minimised.

## **2.3 Complaints brought by Members of Parliament (MP) on behalf of constituents**

It is frequent practice for MPs in receipt of complaints about health services from members within their constituency to address personal letters to the Chairman or Chief Executive. These are acted upon in the same way as a letter of formal complaint.

Where a complaint has been made on behalf of a patient by a Member of Parliament (MP) it will be assumed that implied consent has been given by that patient. If however, the complaint relates to a third party, consent will need to be obtained from the patient prior to the release of personal information.

## **2.4 Complaints brought by Commissioners on behalf of Complainants**

Complainants may raise concerns with the Clinical Commissioning Group (CCG), Commissioning Support Unit (CSU) or NHS England. There is an expected response timescale of 15 working days, however there may be times when this is not possible due to the complexity of the complaint. This is ascertained on a case by case basis and the Commissioners will be informed of any potential delay as soon as possible and the timescale negotiated accordingly.

The CCG is able to intervene in the management of a complaint should they feel this is required.

### **3. SERIOUS ALLEGATIONS AND DISCIPLINARY INVESTIGATIONS**

The purpose of the Complaints Process is to thoroughly investigate complaints with the aim learning through experience and bringing a satisfactory resolution to complainants, whilst being fair to staff. This Complaints Process is separate to Berkshire Healthcare's operational policies around governing the Human Resources function, such as Berkshire Healthcare Performance Management and Disciplinary Policy (Incorporating incidents of Conduct and Capability) ORG0003.

However, complainants may identify information about serious matters and Berkshire Healthcare may feel that it is appropriate to consider disciplinary investigation at any point during the complaints procedure. Consideration as to whether or not disciplinary action is warranted is a separate matter for Berkshire Healthcare. The information gathered during the complaint investigation may be made available for a disciplinary investigation. Berkshire Healthcare has a duty to maintain staff confidentiality and will not share information regarding action against staff with the complainant other than that Human Resources Policies have been followed unless through agreement with a member of the Berkshire Healthcare Executive Team.

Where a complaint indicates the need for a referral to the disciplinary procedure, one of the professional regulatory bodies e.g., NMC or a criminal office, the investigation under the complaints procedures will only take place if it does not compromise or prejudice the concurrent investigation.

#### **3.1 Complaints and legal action**

Complainants have the right to seek independent legal advice in terms of the care that has been provided, as with any other patient. A complainant advising that they wish to pursue their case through the legal route does not mean that the complaint investigation should immediately stop. The complaints process does not offer financial compensation as a form of resolution and the complainants are informed of this on a case by case basis and is explained on our public website.

Where a complaint is received and confirmed legal action is being taken or the police are involved a discussion Berkshire Healthcare will need to take place to determine whether progressing the complaint could prejudice legal or judicial action. The Complaints Office will discuss the case with the Deputy Director of Nursing who may liaise with the Crown Prosecution Service and Police. In cases such as this, the Complaints Office will contact the complainant informing them that their complaint has been put on hold.

Investigations and responses to complainants may be dealt with concurrently with both police and disciplinary proceedings unless to continue would impede one or both these investigations.

Staff should not be concerned that an apology is an admission of negligence. The National Patient Safety Agency provides guidance on the principles of 'Being Open' and Berkshire Healthcare Policy Open Communication ("Being Open") ORG072. The Patient Safety and Compliance Managers can also offer advice.

#### **3.2 Obtaining legal advice**

For complex complaints requiring specialist advice, legal assistance may be requested to aid staff in their decision making and response.

The Deputy Director of Governance is responsible for determining the need for such assistance and should be contacted in the first instance.

### **3.3 Staff grievances**

Staff grievances are not managed through the Complaints Process. Berkshire Healthcare has local procedures for handling staff concerns about health care issues through line management, Locality and HR support.

Berkshire Healthcare Staff can only use the complaints procedure if their complaint relates to their own health care or if they are acting on behalf of a third party (with the required consent). In both situations they are acting as a patient or member of the public and not a member of staff.

Should a member of staff have concerns about patient safety or 'whistle-blowing', there is a separate process for this. ORG013 Whistle blowing/raising issues of concern. Any potential patient safety concerns that come to attention of the Complaints Office will be escalated accordingly.

## **4. FREEDOM OF INFORMATION ACT 2000 AND DATA PROTECTION ACT 1998**

**4.1** The management of Freedom of Information requests are separate from the Complaints process. Requests should be forwarded to the Governance Administration Manager for processing and response within the legislative timescale.

The Deputy Director of Governance is ultimately responsible for co-ordinating any complaints about a failure to respond to FOI requests or breach of the Data Protection Act and for the investigation and response to any subsequent complaint investigations that are to be undertaken in relation to these.

Further information is available at: <http://www.ico.gov.uk/>

### **4.2 Access to Health Records**

Complainants may request access to or copies of their medical records under the Data Protection Act 1998. They can access their own medical records, a child's medical records (if they are a parent or guardian), or medical records of a deceased patient (if they are the next of kin, executive of the will, or have a claim arising from the death). Identification and supporting documentation is required.

The Governance Administration Manager is able to provide complainants with an Access to Medical Records Application Form. There may be a charge associated with the request and the form contains the option to request copies both electronic and hard copy medical records.

## **5. TIME LIMITS**

In line with The Local Authority Social Services & National Health Services Complaints (England) Regulations 2009 a complaint should be made within twelve months of the date on which the matter which is the subject of the complaint occurred or twelve months of the date on which the matter which is the subject of the complaint came to the notice of the complainant.

Where a complaint is made after these times, the Complaints Manager/Head of Service Engagement and Experience may investigate it if they are of the opinion that the complainant had good reasons for not making the complaint within that period and it is still possible to investigate the complaint effectively and efficiently.

Those who wish to complain should be encouraged to do so as soon as possible after an event so that the investigation can be most effective.

In any case where it is decided not to investigate a complaint on the grounds that it was not made within the time limit, the complainant will be informed in writing. The complainant will be advised of their right to contact the Parliamentary and Health Service Ombudsman to consider their complaint who may refer back to Berkshire Healthcare to attempt local resolution.

In accordance with the 'For the Record' guidance (Department of Health 1999/053), complaint files are to be kept for 10 years. Complaints files about babies and children where there is the possibility of future legal proceedings are kept until their 25th birthday. If the baby or child has died, the complaint file is kept for 10 years.

In line with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, the Complaints Manager will bring to the attention of the Chief Executive and Head of Service and Engagement any cases where a response has not been sent 6 months after the date of receipt.

Further actions to be taken (and not limited to) are:

- Notify the complainant in writing and explain the reasons for the delay.
- Send the complainant in writing a response as soon as reasonably practicable within a timescale with the complainant.

## **6. COMPLAINTS ABOUT SERVICES PROVIDED BY OTHER AGENCIES**

The Local Authority Social Services & National Health Services Complaints (England) Regulations 2009 recognise the importance of multi-agency fluidity within the complaints process and permit health and social care organisations to agree that one organisation should take the lead in the handling of a complaint which spans multiple agencies. Berkshire Healthcare will take the lead as appropriate and will work closely with the other agencies involved to ensure that the complaint is properly investigated and the issues complained about are addressed fully. Should the responses from the contributing organisations be disproportionately delayed after all reasonable steps have been made for its inclusion, a response containing the response from Berkshire Healthcare may be sent to the complainant advising them that there is information outstanding and that the alternate organisations have been reminded of their obligation to send this information to them directly.

Where Berkshire Healthcare is not leading and is contributing to another Trust's response, it will work to co-operate fully and within agreed timescales. The element of the complaint relating to Berkshire Healthcare will still require approval by the Chief Executive prior to sending to the lead organisation, and the Complaints Manager prepare the response in an agreed format with the lead organisation. Complaints which Berkshire Healthcare contributes to, and are led by an alternate body are not 'counted' in the number of formal complaints that Berkshire Healthcare receives. This is because they are being counted elsewhere and would result in duplicate reporting centrally. As Berkshire Healthcare is committed to learning from all forms of feedback and complaints, these complaints remain within the narrative of the monthly complaint monitoring and quarterly patient experience report.

If Berkshire Healthcare receives a complaint that is solely concerned with areas dealt with by another health body or by a body outside the NHS, the Complaints Facilitator will inform the complainant and forward the complaint to the correct body, with the permission of the

complainant. If there are any doubts over which body is responsible for handling the complaint, this must be resolved before the complaint forwarded.

## **7. ROLES AND RESPONSIBILITIES**

### **7.1 Chief Executive**

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

### **7.2 Executive Team**

The Director of Nursing and Governance has the delegated responsibility for ensuring the efficient and effective implementation of the Complaints Policy and for monitoring the effectiveness of Patient Experience for Berkshire Healthcare. The Executive Team will be receive a quarterly Patient Experience Report and monthly update on the number of formal complaints received, response rate and any outstanding issues or areas for concern. Information on open formal complaints will be made available to the Executive Team on a monthly basis for discussion and information.

The Deputy Director of Nursing is accountable for overseeing the operational management of the Patient Experience Team through the Head of Service Engagement and Experience. As part of the Formal Complaints Process, responses requiring approval for sign off will be escalated to the Deputy Director of Nursing where appropriate.

Complex cases will also be discussed with/ escalated to the Deputy Director of Nursing. The Deputy Director of Nursing will circulate a weekly whiteboard of open formal complaints to the Clinical Directors each Friday.

### **7.3 The Chairman and Non-Executive Directors**

The Chairman and Non -Executive Directors will receive the quarterly patient experience report, including complaints which will monitor the effectiveness of the Complaints process. The Chairman is responsible for ensuring that the Executive Team are working within the term of the NHS Constitution and where appropriate will respond to concerns about the Chief Executive's actions as part of this.

### **7.4 Governors**

Governors provide an important link between Berkshire Healthcare and the Localities they represent, enabling Berkshire Healthcare to reflect the interest of current and prospective service users. While welcoming ideas, suggestions and general comments, it is not the responsibility of Governors to deal with individual personal complaints about Berkshire Healthcare, or the care and treatment received. Governors have a duty to inform the Patient Experience Team of any patient concerns and complaints as swiftly as possible. Appendix eight contains guidance for governors on how to deal with a concern. The Governors will be sent a quarterly update on complaint activity and copies of two anonymous complaint files for review.

### **7.5 Clinical Directors and Locality Directors**

Clinical Directors and Locality Directors are responsible for the thorough investigation of complaints within their respective Localities. They are responsible for ensuring the investigation is carried out in line with this policy and where an action is identified it is implemented. They are responsible for monitoring action plans arising out of complaints through the monthly Patient Safety and Quality (PSQ) meetings and share learning with the wider organisation through updates to the Complaints Office. The designated signatory of either Locality or Clinical Director is to respond to the Complaints Office promptly with

approving responses, in line with this policy. The Locality and Clinical Directors have access to the complaint information held on Datix in regards to their Locality which is to be used as a tool to assist with monitoring complaint activity.

## **7.6 Managers (Service Managers/Nurse Consultants/Matron/Ward Managers)**

Managers are responsible for ensuring that staff in their area are aware of the complaints policy and procedures. They are to carry out a thorough investigation of a complaint as appropriate and give a full response. Managers are responsible for implementing changes identified through a complaint investigation and feeding this into the Locality PSQ meetings. Senior Managers are to encourage staff to meet with complainants at the earliest opportunity to resolve complaints locally. Managers are to offer support to staff in their areas both with investigating complaints and where they are named in complaints.

- To manage the resolution of verbal complaints made to 'front-line staff' by supporting the staff in the investigation and response to complaints that do not require a formal response.
- To act as a resource for staff who need advice and guidance in how to respond to simple complaints that can be resolved at the front line.
- To ensure that all serious verbal and written complaints are forwarded to the Chief Executive immediately on receipt.
- To act as an Investigating Officer for complaints.
- To provide the Chief Executive through the Complaints Manager with the Investigation report and a draft response to the complainant.

## **7.7 All Staff**

All staff have a duty to listen to concerns raised by patients and their carers, and to try to resolve these locally seeking advice from their operational management or the Patient Experience Team. They are to log informal complaints and concerns that have been resolved locally (at service level) onto the Datix system using the Local Resolution module. Guidance for staff on how to manage concerns can be found at Appendix seven.

## **7.8 The Complaints Office**

The Complaints Office consists of a Complaints Officer and Complaints Manager under the guidance and management of the Head of Service Engagement and Experience.

The role of the Complaints Office is to act as a point of contact to advise patient and their carers on the complaints process and to facilitate the administrative processes laid in statute within the complaint regulations. The Complaints Manager has been given delegated authority by the Chief Executive (as the Responsible Officer) to oversee the complaints process on a day to day basis.

The Complaints Office will liaise with complainant and Berkshire Healthcare staff in regards to complaints received by telephone and email to ascertain if local resolution is attainable or agreed.

The Complaints Manager will review the Investigating Officers report and draft response from the Locality to ensure that the complaint has been answered appropriately. They will seek clarification from Investigating Officers as necessary and prepare the final response for review and signature by the Chief Executive.

The Complaints Office is responsible for monitoring the management of each complaint, maintaining complaint information held within Datix and providing activity reporting on a monthly and quarterly basis. The Complaints Manager will review and provide an open complaints log (weekly whiteboard) on a weekly basis to the Deputy Director of Nursing and Head of Service Engagement and Experience.

The Complaints Officer and Complaints Manager will facilitate training on how to use the Datix complaints modules, in addition to other training in regards to complaint management.

The Complaints Manager will also be responsible for liaison with the Ombudsman in the event of a complaint referred to their office and under the direction of the Head of Service Engagement and Experience provide any statistical data required by Government Departments.

### **7.9 The Investigating Officer**

The role of the Investigating Officer is to undertake an investigation into the issues raised by the complainant.

They are to speak with the complainant and relevant staff, obtain information from clinical records and document their findings in the Investigating Officer's Report and on Datix. The Investigating Officer is to compose a draft letter of response which is to be uploaded onto Datix within 15 working days with a copy of the Investigating Officer's Report.

They are to inform the complainant of any potential delays in the investigation at the earliest opportunity and renegotiate the timescale for response. This is to be documented on Datix.

### **7.10 Special Cases**

Where it has been identified that the complainant or patient is a vulnerable adult or there are concerns around capacity, advice should be sought from the Berkshire Healthcare Safeguarding Lead.

Where a complaint contains information which could potentially be a safeguarding concern this is additionally noted internally on the complaint system.

Where the complaint includes an aspect of end of life care this is also noted with a quarterly analysis of these specific complaints undertaken by the Deputy Director of Nursing and Head of Service Engagement and Experience.

## **8. ADVOCACY SUPPORT**

Berkshire Healthcare works closely with the providers of the NHS Complaints Service across Berkshire, SEAP Advocacy and Reading and Slough Healthwatch (for complainants with a Reading postcode). The Head of Service Engagement and Experience attends SEAP Team meetings to share local learning and experiences. As SEAP also provide of the IMHA (Independent Mental Health Advocacy), feedback from this specific area is also shared. Information on Advocacy is provided within the Complaints section of the Berkshire Healthcare website, on the Berkshire Healthcare Learning from Experience posters and leaflets and within the acknowledgment letters to Formal Complaints.

## **9. SECONDARY COMPLAINTS**

Secondary complaints may be received where the complainant either requests clarification on elements of the original letter or may not be satisfied with the response they have received. Complainants should again be offered the opportunity to meet with staff to discuss their concerns. The investigating locality need to be ensure that the complaint is answered in an understandable way and draft a response. The Complaints Office will review this as part of the quality assurance process. If complainants remain unsatisfied with the response, they may request a review by the Health Service Ombudsman.

## **10. CROSS LOCALITY INVESTIGATIONS**

Should an Investigating Officer be allocated a complaint for investigation which falls under a different Locality, they are to share the results of the investigation with the Service Manager. Whilst this should not change the outcome of the investigation, it gives context to the service specification and manages expectation in terms of recommendations given in the final response to the complainant.

## **11. SUPPORT FOR STAFF INVOLVED IN A COMPLAINT**

It is recognised that any incident, claim or complaint may be upsetting for staff, and that staff involved may need support.

Complaints may also be stressful for the team as a whole, requiring openness and sensitivity, and providing the opportunity to discuss the event.

Support should be offered to any staff member involved immediately. If possible this should be through the line manager or the most senior person available.

It is the duty of the manager of any staff member involved in an investigation to support those members of staff affected and to ensure that they are aware of all sources of immediate or ongoing support which they may access. These are as follows:

- Berkshire Healthcare's Occupational Health Services will be able to see staff who wish to self-refer for health advice or who are referred by their line manager.
- Trade union or professional organisation of which they are a member

Line Managers will continue to be a source of advice and support throughout the complaint process and will keep staff informed about the progress of the complaint. If the Complaints Office become concerned that staff are distressed during the process of the complaint investigation, this will be escalated to the Locality Director/Clinical Director.

If Line Managers are concerned that a member of staff is not coping well with the complaint process, they should discuss this with the member of staff in the first instance and refer to Occupational Health as appropriate.

Staff and their managers should refer to Org 069 Dealing Positively with work related and personal stress for further advice.

Support to staff will be monitored through supervision, Appraisal and PDP.

## **12. COMPLAINT RESOLUTION MEETINGS**

Complaint meetings can be effective to diffuse a potential complaint, resolving an ongoing complaint, or clearing up outstanding issues following a written complaint response. Meetings should be seen as a tool to assist resolution of the matter and lessen the likelihood of an escalation of the complaint.

### **12.1 Prior to the meeting**

It is important that the scope of the meeting is ascertained from the outset; is the meeting to understand the complaint or to feedback and is the complainant aware of this. To manage expectations it is important that all parties are aware of the limitations of the meeting; if the meeting is an initial discussion the complainant is unlikely to get all of the answers that they are looking for at that time. It is also important to understand who will be attending; if the complainant has an Advocate or friend coming with them, and if they are



acting on behalf of a patient have we received consent to discuss a complaint with the person.

The facilitator of the meeting (usually the Investigating Officer) is required to ensure that a dedicated note-taker is taken into the meeting. This person should not be connected to the complaint and ideally not a clinician. The recommendation is that this note-taker has attended the appropriate minute taking training, although it is not essential.

In terms of a venue, is a hearing loop or other requirement needed such as lift, people may not always inform you beforehand of access requirements unless you ask. There should be a meeting Chair with suitable autonomy to be able to bring the meeting 'back on course', in most cases this is the Investigating Officer, but this does not have to be. A timescale for the meeting should be agreed and suitable refreshments should also be made available. If there is a cost for parking consideration could be made for this to be waived – sending a permit in advance of the meeting and advising of any known issues with parking can help to reduce anxieties on the day.

## **12.2 During the meeting**

The chair will lead introductions and their understanding of the reasons for the meeting. This is a good time to explain how the meeting will be documented; by audio that will be made available to all parties or by non-verbatim notes transcribed during the meeting, to be typed and shared afterwards. If there are specific actions, some people find it useful to make a note of these separately as they can be referred to more clearly at the end of the meeting.

This is an opportunity for any queries to be clarified, particularly medical or nursing notes or terminology that the complainant may have questions about. It is better to have thought ahead and have the most suitable people in the room at the time rather than for there to be more questions than answers at the end of a resolution meeting.

Has a break been considered? What is the area like surrounding the meeting area? Whilst maintaining confidentiality, it is important to consider the overall environment and the effect this could have on the meeting.

If you agree actions in the meeting, ensure that these are confirmed at the end of the meeting so everyone is aware what is expected of them.

## **12.3 After the meeting**

Make a record of the meeting on the progress note section of Datix and any actions within the action plan section – you can also allocate actions to other staff from within Datix and means that this can be monitored,

If you have agreed timescales in the meeting, ensure that you stick to them. Regardless of whether the meeting is to scope the areas for investigation at the start of the process, or to feedback findings, it is imperative that we do what we say we will and keep complainants informed at all stages of the complaint process.

## **12.4 Recording Complaint Meetings**

Where a complainant wishes to make a recording of a complaint meeting, a formal request must be made in writing to the Complaints Office or the Investigating Officer, in advance of the meeting in order that the consent of all parties may be sought. All parties must consent to the audio recording being made before the request will be agreed.

If it is agreed that the meeting will be recorded, it is the responsibility of the Service to ensure that recording equipment is available for the meeting. The Service will produce a copy of the recording, which will be sent to the complainant with a covering letter outlining the key responses to the concerns raised. It needs to be made clear to the complainant (and their representatives) that the minutes will not be transcribed.

It is the responsibility of the Investigating Officer to arrange for any minutes of meetings to be taken and typed up. The complainant (and their representative) need to be informed that a summary of the discussions that took place will be sent, covering the key aspects of the complaint, and not a verbatim transcript.

### 13. MEDIA INTEREST

Staff should refer any media interest in a complaint to the Berkshire Healthcare Communications Team. The Head of Marketing and Communication is to be briefed where any complainant expresses their intention to contact the media.

### 14. MONITORING COMPLAINTS

The Berkshire Healthcare Board will receive written and verbal feedback from the Complaints Manager who will provide a report to the Executive Quality Governance Group and Patient Engagement and Experience Group on a quarterly basis. Progress against actions arising from complaints will be monitored through these committee and outcomes disseminated for shared learning across the organisation.

Action plans arising from Formal Complaints found to be Upheld by the Parliamentary and Health Service Ombudsman are shared and discussed at the Patient Experience and Engagement Group.

Measurable policy objectives	Monitoring/ audit method	Monitoring responsibility (individual/group /committee)	Frequency of monitoring	Reporting arrangements (committee/group to which monitoring results are presented)
The process for listening and responding to concerns/complaints of patients, their relatives and carers	Formal complaints database	Complaints Facilitator/ Complaints Manager	On-going	
	Patient Experience Report (internal)	Head of Service Engagement and Experience	Quarterly	Patient Experience and Engagement Group, Executive Committee, Berkshire Healthcare Board
	Patient Experience Report (Commissioners /LINKs)	Head of Service Engagement and Experience	Quarterly	Via Quality Schedule (Commissioners)  BHFT and Six LINKs meeting
	Quality Account	Head of Service Engagement and Experience	Quarterly	Quality Assurance Group, Executive Committee

Measurable policy objectives	Monitoring/ audit method	Monitoring responsibility (individual/group /committee)	Frequency of monitoring	Reporting arrangements (committee/group to which monitoring results are presented)
The process for how joint complaints are handled between organisations	Formal complaints database	Complaints Manager	On-going	
The process for making sure patients/carers are not treated any differently when making a complaint	Formal complaints database	Complaints Facilitator/ Complaints Manager. Working with Locality Directors	On-going	
The process by which the organisation aims to improve as a result of concerns/complaints being raised	Patient Experience Report	Head of Service Engagement and Experience	Quarterly	Executive Committee Berkshire Healthcare Board
	Complaint Training	Complaints Manager/Head of Service Engagement and Experience> Essential Skills for Managers Training	Adhoc basis	Monitored through quarterly Patient Experience Report
	Action Plans	Service Managers/Locality Directors  Complaints Facilitator/Complaints Manager	Monthly  Adhoc	Locality Performance Meetings Locality Patient Safety and Quality Meetings  Via diary management and scheduling of prompts for actions identified in complaints responses
The training process	Effectiveness is monitored through themes in the Patient Experience Report	Head of Service Engagement and Experience	Quarterly	Patient Experience and Engagement Group
The process by which action plans are followed up	Locality Patient Safety Meetings	Locality Directors/Clinical Directors	Quarterly	Locality Performance Meetings Locality Patient Safety and Quality Meetings

Measurable policy objectives	Monitoring/ audit method	Monitoring responsibility (individual/group /committee)	Frequency of monitoring	Reporting arrangements (committee/group to which monitoring results are presented)
Actions for managers or individuals to take if staff member involved with a complaint is experiencing difficulties associated with the complaint.	Audit  Formal Complaints database  Locality Directors to be informed in the event of Complaints Team becoming aware Locality staff experiencing difficulties.	Complaints Manager/Head of Service Engagement and Experience  External Auditors	Adhoc	

## 14.1 Learning from Complaints

Safety lessons will be shared with both internal and external stakeholders.

Internal: Safety lessons from Incidents, claims and complaints will be shared through a 'top down' approach. The higher level risk committees will share the learning points into the committees they report in to. Communication across Berkshire Healthcare, such as team brief and screensaver messages will be used to communicate to all persons and parties internally.

External: Safety lessons can be shared with external stakeholders through SIRI reporting to the CCGs and reporting through to NHS England, Claims being shared through NHSLA, NHS England and CCGs and complaints being shared through monthly CCG complaint reporting CCGs. Shared learning is also communicated externally through Central Alert Broadcasts, NPSA alerts, Estates and facilities alerts, DH alerts and inquiry reporting.

Following an incident, claim of complaint, Berkshire Healthcare encourages open and honest communication with other healthcare organisations, healthcare teams, staff and service users and/or their carers.

Berkshire Healthcare communicates to stakeholders by using the internal communication networks (team brief, Central Alert Broadcasts), Letters to affected parties, dissemination of information through appropriate committees and meetings, regional governance risk forums.

The Quarterly Patient Experience Report will be circulated to the six local Healthwatch organisations for comment and feedback.

## 14.2 Internal Evaluation of the Complaints Process

A monthly update of patient experience is supplied to the Performance Assurance Framework (PAF) by the Head of Service Engagement and Experience. This includes information on acknowledgement timescales, response rates, new complaints and closed complaints within the preceding month.

The report also details complaints involving the CQC and Parliamentary and Health Service Ombudsman and other patient experience information obtained including the Friends and Family Test.

A secure electronic database (Datix) is maintained for all complaint and PALS contacts. Records are also maintained for the number and outcomes of Parliamentary and Health Service Ombudsman requests and compliments.

Actions plans that arise from complaints are held within Datix and progress is monitored by the Locality Directors and Clinical Director.

Locality and Clinical Directors are responsible for ensuring that the Berkshire Healthcare's Complaints Process and Policy are followed.

### **14.3 External Evaluation of the Complaints Process**

The CCG have written into our Quality Schedule that they are able to intervene on the management of a complaint should they feel that this is required.

A quarterly Patient Experience Report and Annual Complaints Report detailing Berkshire Healthcare's handling and consideration of complaints will be published on the Internet. Quarterly reports are also shared with Commissioners and the six local Healthwatch organisations.

A central return, K041(B), is forwarded annually to the Department of Health and occasionally additional reports are sent to requesting organisations such as the Audit Commission.

A complainant survey will be commissioned to an external organisation for objectivity purposes, to monitor the effectiveness of the Complaints Process.

## **15. TRAINING**

Bi-annual training on how to use the Complaints Module of Datix will be facilitated across the organisation at scheduled 'drop in sessions' by the Complaints Officer and Risk Information Analyst.

Additional training on complaint management is available through the Essential Knowledge for New Managers Training which is available to new managers joining Berkshire Healthcare or an existing member of staff taking up a management position.

Berkshire Healthcare's expectation regarding staff training is managed and monitored through the processes described in the Workforce Development Policy (ORG067).

## **16. COMPLAINTS PROCESS**

### **16.1 Service Level Concerns**

The objective of local resolution is to listen, respond and improve the service we provide.

Patients and relatives should be encouraged to raise concerns or make complaints as soon as possible and directly to the staff involved or to the manager of the ward / department. It is the responsibility of the ward to look for any lost property associated with a complaint, and any reimbursements will be at the discretion of the Service in line with the Berkshire Healthcare Guidelines for the Safe Keeping of Patient's Property and Monies CCR 034.

The patient or complainant's concerns should be addressed constructively and where possible will be dealt with immediately by the staff member approached. The complainant will be cared for sensitively and in an open and constructive manner. If the staff member approached is unable to deal with the issue, they should promptly refer this to the more senior member of staff on duty at the time e.g. ward manager.

To enable staff to keep a log of the concerns which are resolved on a day to day basis, the Local Resolution complaints module within Datix was created. This enables this information to be held in one place to enable trend analysis against informal and formal complaints and easy access for CQC monitoring.

## **16.2 Informal Complaints - Local Resolution**

Not all complainants who contact the Complaints Office want to make a Formal Complaint.

It is in the interests of patients, carers, healthcare professionals and Berkshire Healthcare that patient and carers' concerns and complaints arising from their treatment are resolved as quickly, efficiently and professionally as possible.

Informal complaints can often be resolved 'on the spot' by front line staff. The process of responding to a complaint can often be as important to the complainant as the outcome of the process. The Local Authority Social Services & National Health Services Complaints (England) Regulations 2009 places an emphasis on personal contact with the complainant so that the complaint can be fully understood and that the response sought by the complainant can be identified. However, any agreed resolution must be proportionate to the content of the complaint, realistic and achievable.

With this in mind, should they become aware of a Complaint that they feel can be dealt with locally the Service Manager should contact the complainant directly and offer a consultation meeting where appropriate and manage the complainant's expectations accordingly. If the complainant is happy with the resolution from the meeting then the service will need to complete the 'Local resolution' form on the intranet uploading all supporting documentation. The Service Manager is to inform the Complaints Office upon resolution of the complaint. Should the complainant remain dissatisfied, the complaint can be escalated to a Formal Complaint.

## **16.3 Formal Complaints**

### **16.3.1 Acknowledging Formal Complaints**

In line with The Local Authority Social Services & National Health Services Complaints (England) Regulations 2009, the Complaints Office will (on behalf of the Chief Executive) acknowledge Formal Complaints to the complainant within three working days (excluding the date of receipt) into the Complaints Office. Each complainant, if not already represented by an independent advocate, will be provided with information on Advocacy Services with the acknowledgement letter. The Locality Manager responsible for the complaint area will be named within the acknowledgement letter as the person managing the complaint and the date the complainant should expect to receive their response from the Chief Executive (25 working days from receipt excluding the date of receipt) will be included to manage expectation from the outset.

### **16.3.2 Triage**

The Complaints Office on behalf of the Chief Executive will triage the complaint by assessing the seriousness of a complaint according to the Risk Assessment Matrix in Berkshire Healthcare's Risk Management Strategy and Process (ORG006). The formal

complaint will be entered on to Datix and an Investigating Officer assigned to the complaint by the Locality Manager. The Investigating Officer is to make verbal contact with the complainant as soon as possible to introduce themselves and clarify any points within the complaint prior to the investigation starting, unless there is a clear reason documented within the progress notes in the complaint record.

### **16.3.3 Investigation**

The Complaints Office is to identify the service responsible for the complaint and communicate with the Locality Manager through Datix to arrange for a full investigation to be undertaken within 15 working days from receipt of the complaint into the complaints office. All communication made during or as part of an investigation should be kept to form part of the investigation report. The progress note section within Datix is the location for day to day notes about the case and for documenting conversations with staff member and complainants. The Communication and Feedback areas of Datix is the preferred method of communication about individual complaint cases as this is an auditable process which forms part of the complaint record.

Copies of Statements and interview notes are to be uploaded onto the relevant Datix form as supporting documentation for the investigation along with the Investigating Officer (IO) report and draft service response letter. Any meeting or contact with the complainant (or lack of) is to be documented in the IO report.

Berkshire Healthcare continues to monitor an internal target of complaint resolution within twenty five working days. There is variation in the level and complexity of complaints and some may require longer to thoroughly conclude the investigation and provide a full response. If a longer response time is required due to the complexity of the complaint, this should be identified at the start of the investigation and should then be agreed directly with the complainant by the Investigating Officer and negotiated accordingly, advising the Complaints Office so the dates can be amended accordingly on Datix. The complainant should also be kept informed about the progress of the investigation at pre-agreed intervals with the Investigating Officer.

To aid in the investigation of complaints, a tabular timeline and fishbone diagram are recognised methodologies that should be used to support Investigating Officers in identifying root causes and the impacts of these. Templates can be found on Teamnet and as Appendix 12 and 13.

### **16.3.4 Response to the complaint**

The Investigating Officer is expected to provide a draft response letter to the complaint which is to be reviewed by the Complaints Manager. Following any amendments by the Complaints Manager the letter is to be sent to the designated approver within the locality, either the Locality Director or Clinical Director for their approval. Following receipt of this approval the letter is to be taken to the Chief Executive for signature.

If the designated approver does not respond to a request for approval within 48 hours of the request, the response will be sent for approval to the Deputy Director of Nursing. Once the Chief Executive is satisfied that this response answers the complaint, it will be signed and sent to the complainant.

As a guide the following points are useful to remember when compiling a response:

Correctly referenced, dated and marked 'Private & Confidential'  
Name of complainant/patient are correct throughout the letter  
Address of the complainant is correct

Original complaint received date correct  
Condolences are offered where applicable  
Checked for inconsistencies e.g. Dr Smith then Mrs Smith, husband/partner, mother/wife  
Questions are grammatically correct  
Questions have been answered appropriately  
You have the evidence to support your findings within your IO report and supporting documentation within Datix

The complaint response will ask that the complainant contacts Berkshire Healthcare in the first instance if they have any queries or are dissatisfied. Information will also be provided about the Parliamentary and Health Service Ombudsman. In cases where the complainant has received a second response to their complaint (a Secondary complaint) unless previously agreed with the complainant they will be referred to the Parliamentary and Health Service Ombudsman. Whilst we need to have a clear process in terms of complaint management, ongoing discussion between the complainant and the Investigating Officer may alter this.

### **16.3.5 Action Plans**

After the investigation any actions are to be entered onto the formal complaint record held within Datix. For guidance on how to create an action plan, see Appendix 10.

## **17. HABITUAL, VEXATIOUS AND UNREASONABLY PERSISTENT COMPLAINANTS**

Complaints about Berkshire Healthcare are dealt with in accordance with Berkshire Healthcare complaints procedures. During this process Berkshire Healthcare staff inevitably have contact with a small number of complainants who absorb a disproportionate amount of Berkshire Healthcare resources in dealing with their complaints.

The aim of this section is to define possible situations where the complaint might be considered to be habitual, vexatious or unreasonably persistent and to provide a framework for managing these complainants.

It is emphasised that identifying complainants as habitual, vexatious or unreasonably persistent should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the Berkshire Healthcare complaints procedures, for example through local resolution, conciliation, or involvement of advocacy services as appropriate. Judgement and discretion must be used in applying the criteria to identify potential habitual, vexatious or unreasonably persistent complainants and in deciding action to be taken in specific cases.

It can be difficult for staff to respond to or deal with these complainants and support may be needed.

### **17.1 Who are Habitual, Vexatious and Unreasonably Persistent Complainants?**

Unreasonably Persistent complainants are those that raise the same or similar issues repeatedly, despite having received a full response to all the issues they have raised. Habitual complainants may raise several complaints, either in series or contemporaneously, which may or may not have similar issues raised. Vexatious complainants can cause frustration, worry or actual concern for staff welfare.

These terms are not mutually exclusive and a complainant may be any combination of the three or indeed all three.



Actions which may indicate a complainant **might** be considered habitual, unreasonably persistent or vexatious include:

- Persisting in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
- Changing the substance of a complaint or continually raise new issues or seeking to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. (Care must be taken not to discard new issues which are significantly different from the original complaint. These might need to be addressed as separate complaints.)
- Being unwilling to accept documented evidence given as being factual, e.g. drug records, nursing records or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Not clearly identifying the precise issues which they wish to be investigated, despite reasonable efforts of BHFT staff and, where appropriate, advocacy services to help them specify their concerns, and/or where the concerns identified are not within the remit of Berkshire Healthcare to investigate.
- Focusing on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. (It is recognised that determining what is a 'trivial' matter can be subjective and careful judgement must be used in applying this criteria.)
- Threatening or using actual physical violence towards staff at any time - this will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication. All such incidences should be documented as an incident on the Datix incident module as well as in the Complainants file and the Berkshire Healthcare Security Management Service contacted.
- Having in the course of their complaint had an excessive number of contacts with Berkshire Healthcare and thus placing unreasonable demands on staff. A contact may be in person or by telephone, letter, email or fax. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case.
- Harassing or being personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint. Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety, or distress and should make reasonable allowances for this. They should document all incidents of harassment as an incident on Datix as well as in the Complainants file and the Berkshire Healthcare Security Management Service contacted.
- Use unacceptable language, bearing in mind that some people do use swear words as part of their everyday conversation.
- Being racially abusive or showing any other kind of discrimination.
- Recording meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved, in contravention of the Data Protection Act 1998.
- Displaying unreasonable demands or patient/complainant expectations and failing to accept that these may be unreasonable, such as insisting on responses to complaints

being provided more urgently than is reasonable, demanding staff dismissal, or providing a “penalty” for non-compliance with their wishes.

- Sending indecent or offensive items to staff or their families in the post, or hand-delivering indecent or offensive items to staff or their families.
- Contacting staff members by any means outside of work – for example, ringing their home phone number or waylaying them in the street.
- refusing to adhere to previously agreed communication plans sent to the complainant.

Please note this list is not exhaustive.

The Complaints Manager will flag up to the Head of Service Engagement and Experience any complainants he or she feels may be a concern. Together they will determine the point at which a specific complainant will be considered to be habitual, unreasonably persistent and/or vexatious. They will also agree on the appropriate course of action. This will vary on a case-by-case basis

It may be that one course of action is taken when the patient is identified as being habitual, persistent and/or vexatious and has then to be followed by others should the initial action prove unsuccessful.

Whatever the action to be taken, complainants should be informed of their right to go to the Ombudsman.

Possible courses of action that may help to manage these complainants include, but are not limited to:

- Placing time limits on telephone conversations and personal contacts.
- Restricting the number of calls, letters or emails that will be taken or made.
- Requiring contact to be made with a named member of staff.
- Requiring contact to be made through a third person, such as an advocate.
- Limiting the complainant to one mode of contact e.g. in writing only
- Requiring any contact takes place in the presence of a witness.
- Refusing to register and process further concerns or complaints about the same matter.
- Informing the complainant that future correspondence will be read and placed on file, but not acknowledged. In this case the complainant should receive a letter from the Chief Executive stating they have responded fully to all points raised and have tried to resolve the complaint, but there is nothing more to add and continuing contact on the matter will serve no useful purpose.
- Advising that the organisation does not deal with correspondence that is abusive or contains allegations that lack substantive evidence. Request that the complainant provides an acceptable version of the correspondence or make contact through a third person to continue communication with the organisation.
- Advising that irrelevant documentation will be returned or filed.
- Drawing up a signed ‘agreement’ with the complainant (if appropriate, involving an advocate) which sets out a code of behaviour for the parties involved if Berkshire Healthcare is to continue processing the complaint.

- Inform the complainant that in extreme circumstances Berkshire Healthcare reserves the right to pass unreasonable or vexatious complaints to Berkshire Healthcare's solicitors.
- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance from the Parliamentary and Health Service Ombudsman, or other relevant agencies.
- Advising the complainant in writing that they may be classified as an unreasonably persistent complainant and advise them to take account of the criteria in any further dealings with Berkshire Healthcare.
- If the complainant's contact is considered to be abusive and/or threatening, the Police may be contacted. Berkshire Healthcare's Local Security Management Specialists are to be contacted in the first instance in such cases and will offer advice about the long term management of complex cases. If there is a threat of physical harm, the Police will be contacted.

Once a restriction is decided on, a report should be written by the Complaints Manager stating why the patient is being deemed vexatious, unreasonably persistent and/or habitual, along with supporting rationale.

The Complaints Manager will also draft a letter to the complainant to inform them about the decision and what it means for their future contact with the organisation; how long those restrictions will remain in place; and advised that they have the right to go to the Parliamentary and Health Service Ombudsman. It may also be appropriate for a final response letter to be sent listing every point the complainant has ever raised and Berkshire Healthcare's answer to it; this will be at the discretion of the Complaints Manager

Both the letter and the rationale will be given to the Chief Executive, or nominated deputy, who will have the final say in whether he accepts the rationale and signs the letter.

This notification may be copied for the information of others already involved in the complaint, e.g. GPs, Independent Complaint Advocacy Services and Members of Parliament. A record must be kept for future reference, in the complaint file of the reasons why a complainant has been classified as unreasonably persistent. This will not form part of their medical records, electronic or paper.

The Complaints Manager is responsible for ensuring the rest of the Complaints team, including PALS officers, and any relevant clinicians are informed.

An individual shall not be eligible for Berkshire Healthcare membership if they have been confirmed by Berkshire Healthcare to be a habitual, vexatious or unreasonably persistent complainant.

Note that if a complainant is to have limits made on their contact with Berkshire Healthcare by phone or in person, or has been advised that staff will not be discussing matters with them, it may be helpful for staff to have an agreed, prepared statement available to be used at such times. This must be shared with relevant administrative staff.

## **17.2 Withdrawing Habitual, Unreasonably Persistent or Vexatious Status**

Once complainants have been deemed habitual, unreasonably persistent or vexatious there needs to be a mechanism for withdrawing this status, should the complainant subsequently demonstrate a more reasonable approach.

In the first instance, it will be the decision of the Complaints manager as to whether the status is withdrawn; this is because he or she has full knowledge of how that complainant has acted in the past and would be aware of any previous periods of compliance by the complainant which were later followed by non-compliance. Should the status be withdrawn, it would always be with the provision that it could be re-instituted at any time. This would be on the decision of the Complaints Manager alone, who would prepare a letter for the Chief Executive to sign but would not need to provide further rationale.

### **17.3 New Complaints from Habitual, Vexatious and/or Unreasonably Persistent complainants**

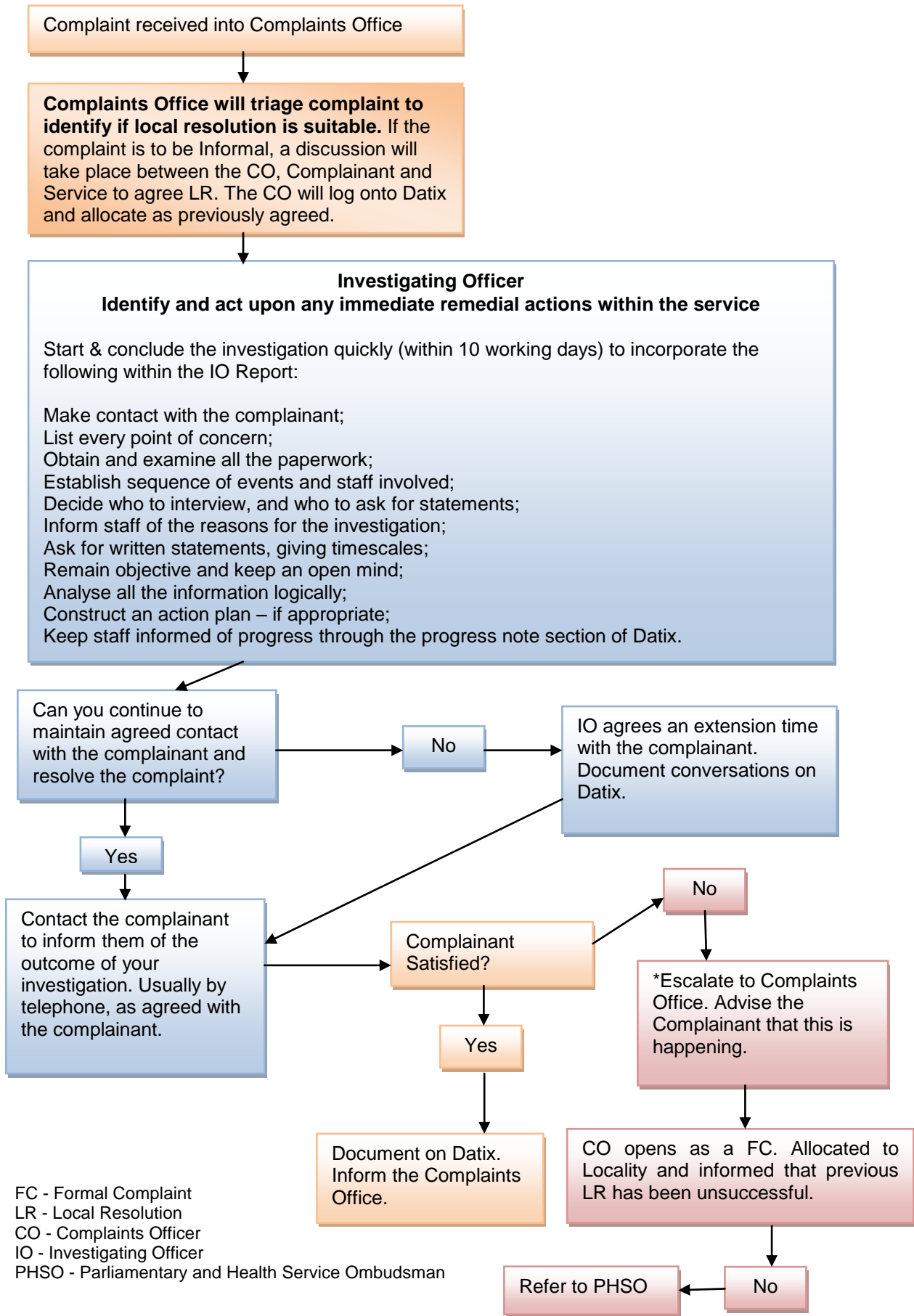
It is important to remember that new complaints from these complainants will still need to be investigated should the Complaints Manager decide they are indeed new complaints and not the same complaint but coming from a different angle. If the complainant is a habitual complainant, that is, complaining of many new issues, the Complaints Manager will discuss the issue with the Head of Service Engagement to decide whether the new complaint should be responded to. It may be more appropriate to investigate the matter but not to respond to the complainant, so that any concerns are looked at fully.

However, restrictions placed on how a complainant may maintain contact with Berkshire Healthcare might still be considered appropriate in the management of any new issues

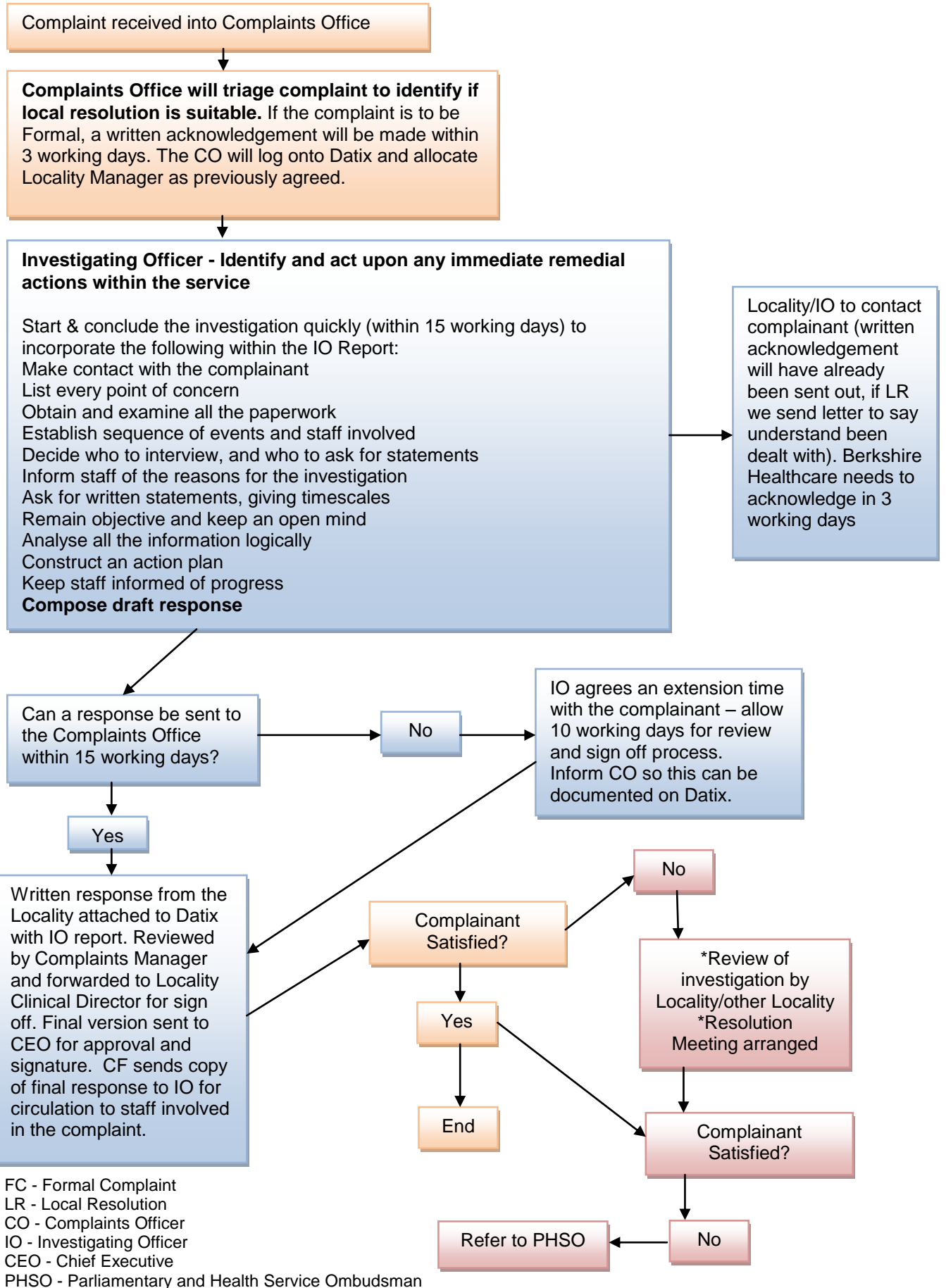
Implications of the Human Rights Act have been taken into account in the formulation of this document and they have, where appropriate, been fully reflected in its wording.

**APPENDIX 1**

**Informal Complaint (IFC) Process**



FC - Formal Complaint  
 LR - Local Resolution  
 CO - Complaints Officer  
 IO - Investigating Officer  
 PHSO - Parliamentary and Health Service Ombudsman



FC - Formal Complaint  
 LR - Local Resolution  
 CO - Complaints Officer  
 IO - Investigating Officer  
 CEO - Chief Executive  
 PHSO - Parliamentary and Health Service Ombudsman

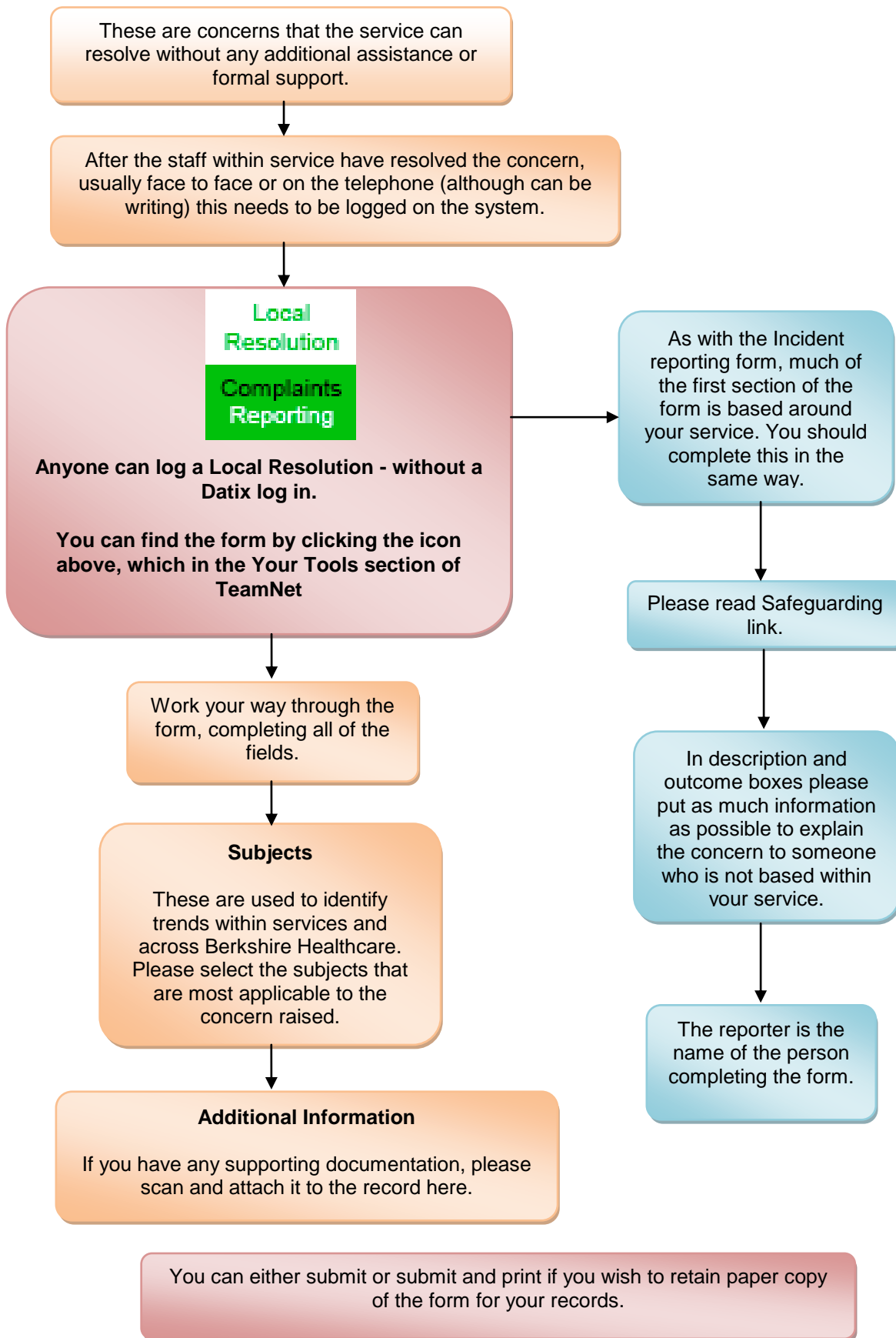
**APPENDIX 3**

**Example of documentation contained within an electronic complaint file**

Stage	Required
Acknowledgement	Patient/complaint contact details
	Initial Complaint (letter, email etc)
	Completed triage
	Completed consent (if applicable)
	Complaint notification to Locality for investigation
	Acknowledgement letter
Investigation	Progress notes: <ul style="list-style-type: none"> <li>• telephone conversations or face to face conversations regarding the progress of the complaint</li> <li>• any meetings held about the complaint or with the complainant</li> </ul>
	A fully legible copy of the relevant sections of the clinical records, including the results of investigations, records of nursing care, drug charts, observation records and communication sheets
	Records of investigation including staff statements and interviews with staff.
	Record of re-negotiation – in progress notes and drop down
	Uploaded into document section, any other written correspondence including email between Berkshire Healthcare and the complainant and with any other person or organisation about matters related to the complaint.
	Uploaded into document section – minutes of any meetings held with the complainant
	Completed Investigating Officers Report
	Actions entered and allocated within Datix
Response	Locality draft response
	Complaints Office review version of draft response
	Chief Executive final signed letter
Learning	Evidence of learning (e.g. - Minutes of meetings /emails/ revised leaflets)
	Review and progress against identified actions.
As required	Links to any reported Incidents relating to the complaint
	Links to any previous formal complaints (Secondary Complaints)
	Links to any PHSO complaints

**APPENDIX 4**

**Local Resolution concern reporting Process**





**Healthcare**  
from the heart of  
your community

**PRIVATE AND CONFIDENTIAL**

Berkshire Healthcare   
NHS Foundation Trust

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9<sup>th</sup> August 2016  
Our ref: 2016/XX-XXXX

Tel: 01344 415600

Fax: 01344 415627

[bhct.complaints@berkshire.nhs.uk](mailto:bhct.complaints@berkshire.nhs.uk)

Dear

I am writing on behalf of Julian Emms, Chief Executive, to acknowledge receipt of your **XXX** received on **DATE**. I am sorry that you have had cause to complain regarding **XXXXXX**. I confirm I have asked that your concerns be investigated as a formal complaint to be dealt with in accordance with the Local Authority and NHS Complaints (England) Regulations 2009.

#### **What happens next**

An Investigating Officer will be assigned to your complaint and will collate all information relevant to the issues you have raised. The investigation is a fact-finding exercise making sure that Berkshire Healthcare is open, honest, thorough, fair and responsive. The Investigating Officer may be in contact with you as part of their investigation.

#### **Responding to your complaint**

We try to resolve issues quickly and effectively and Mr Emms aims to send a written response to you by **DATE**. Sometimes our investigations may take longer than expected and, if this were to happen, the investigating officer will contact you to advise you of any reasons for the delay and agree a date with you of when you should expect to receive a response.

#### **Independent advice and support**

If you would like assistance with any part of your complaint, SEAP is able to offer complainants independent advice and support to guide you through the NHS Complaints Procedure. Their website is: [www.seap.org.uk](http://www.seap.org.uk)

Yours sincerely

Complaints Manager

## **APPENDIX 6**

### **Advocacy Contact Details**

The NHS Complaints Advocacy Service is provided across Berkshire (excluding those with a Reading postcode) by SEAP (Support, Empower, Advocate, Promote). SEAP also provide the IMHA (Independent Mental Health Advocacy).

SEAP: 0330 440 9000  
[Berkshire@seap.org.uk](mailto:Berkshire@seap.org.uk)  
[www.seap.org.uk](http://www.seap.org.uk)

SEAP c/o Pingemead House, Pingemead, Reading, Berkshire, RG30 3UR

Healthwatch can help individuals raise important issues and give feedback about services they have received. There are six Local Healthwatch organisations across Berkshire :

West Berkshire  
Tel: 01635 886 210  
[contact@healthwatchwestberkshire.co.uk](mailto:contact@healthwatchwestberkshire.co.uk)  
[www.healthwatchwestberkshire.co.uk](http://www.healthwatchwestberkshire.co.uk)

Reading – *ALSO COMMISSIONED AS THE NHS COMPLAINTS ADVOCACY SERVICE FOR PATIENTS WITH A READING POSTCODE*  
Tel: 0118 902 3912  
[info@healthwatchreading.co.uk](mailto:info@healthwatchreading.co.uk)  
[www.healthwatchreading.co.uk](http://www.healthwatchreading.co.uk)

Bracknell  
Tel: 01344 266 911  
[enquiries@healthwatchbracknellforest.co.uk](mailto:enquiries@healthwatchbracknellforest.co.uk)  
[www.healthwatchbracknellforest.co.uk](http://www.healthwatchbracknellforest.co.uk)

Wokingham  
Tel: 0118 4181418  
[enquiries@healthwatchwokingham.co.uk](mailto:enquiries@healthwatchwokingham.co.uk)  
[www.healthwatchwokingham.co.uk](http://www.healthwatchwokingham.co.uk)

Windsor, Ascot and Maidenhead  
Tel: 01753 851725  
[info@healthwatchwam.co.uk](mailto:info@healthwatchwam.co.uk)  
[www.healthwatchwam.co.uk](http://www.healthwatchwam.co.uk)

Slough  
Tel: 01753 325 333  
[www.healthwatchslough.co.uk](http://www.healthwatchslough.co.uk)

## Patient feedback - what to do if a patient raises a concern or complaint

### Introduction

Berkshire Healthcare welcomes feedback from patients about their care so that we can learn how to improve the way we do things and put things right if we get them wrong. We actively encourage patients and services users to raise issues or concerns if they have them and we want staff across Berkshire Healthcare to feel empowered to deal with any issues a patient may raise during their time under our care.

Often patients will not know who or how they can raise an issue so that it gets dealt with. Equally as a member of staff you may be unfamiliar with what you should do if a patient raises an issue which needs resolving. Resolving an issue quickly and feeding back to the person concerned what you have done in response to their concern is often enough for it to stop it becoming a formal complaint. It also helps the patient feel as if their views are taken seriously.

This brief guide explains the part you can play in dealing with issues or complaints raised by patients...

### What to do if a patient or service user raises a concern?

- Take personal responsibility for dealing with the issue. Many issues raised by patients are a result of a misunderstanding or a miscommunication therefore sitting and talking to the patient and understanding their views can help resolve those issues.
- Ideally many of the issues raised will be things that can be put right quickly so that we solve the problem whilst they are still with us and they can see how we have made things better.
- If the issue the patient raises is one that will take some time to resolve, keep them informed about how you are getting on with dealing with the problem they have raised to demonstrate how it is being taken seriously.
- Sometimes a patient might be worried about providing feedback as they may feel this might affect their care. Be as open as possible in welcoming feedback and encourage the patient's relative and visitors to provide feedback to you and the Ward Manager or Head of Department.
- Despite your best efforts, if the patient is still unhappy or the issue you are dealing with is too complex, seek advice and support from your Ward Manager or Head of Department (or equivalent) and give the patient the chance to talk to them direct.
- The vast majority of issues and concerns should be easily solved at ward or department level and very few will need the input of the Patient Advice and Liaison Service (PALS) or Complaints Team but if you have tried to resolve the issue and the patient still requests to make a complaint it is at this stage you should seek advice from PALS.

## Who are the Patient Advice and Liaison Service (PALS)?

The PALS Team are based at the Prospect Park Hospital in Reading. PALS assist patients and carers from across Berkshire Healthcare with the following:

- Listen to any problems patients may have in relation to their health care or the health care of a loved one or friend
- Help them ask questions about their health services
- Tell them about help and support groups for the patient or their carer
- Provide information on NHS services
- Help sort out problems quickly on behalf of the patient or relative
- Use their feedback to help improve future services

## Who are the Complaints Team?

The Complaints Team can provide support to you as a member of staff if you are trying to resolve a complaint or issue from a patient and should be contacted only where all other attempts at resolution have been explored.

## How to contact the Complaints Team

If you have tried to resolve the issue or complaint through the route described above but without success and the patient still wishes to make a Formal Complaint, they can write to the team or call them on:

Complaints Department  
Berkshire Healthcare  
2<sup>nd</sup> Floor, Fitzwilliam House  
Skimped Hill Lane  
Bracknell  
Berkshire  
RG12 1BQ

[BHCT.Complaints@berkshire.nhs.uk](mailto:BHCT.Complaints@berkshire.nhs.uk)

Telephone: 01344 415662

## What happens then?

On receiving a formal complaint the Complaints Team will begin the investigation process and assign the complaint to the appropriate Locality. This will then be sent to an appropriate Manager (Investigating Officer or IO) within the service, or in some cases outside of the service outside of the service the complaint is about. This IO will look at all the information, speak to staff and look at records before preparing the information for a full response. An Investigation Pack is then to be completed alongside a draft response. After this has been reviewed and checked by the Complaints Office, it is sent to the Locality Director and/or Clinical Director for internal approval. The approved response is forwarded to the Chief Executive who will read and sign the response which should detail the outcome of the investigation, what issues have been found and, where appropriate, what actions have been taken to improve systems or processes in the future. The Chief Executive does seek clarification on aspects of the response and complaint investigation where appropriate.

Berkshire Healthcare is required to respond to formal complaints within a maximum of 25 working days unless agreed otherwise with the complainant. The internal deadline for a response from the IO is 15 working days. It can take some time to investigate a complaint and prepare a thorough

response for the complainant therefore it is always more preferable to try to resolve issues locally way before it reaches this stage. It is the responsibility of the Locality to maintain contact with the Complainant and re-negotiate a revised timescale for completion as necessary.

### **Need help or advice?**

PALS Manager: 01189 605027 or 07917138965

Complaints Officer: 01344 415662

Complaints Manager: 01344 415835

Head of Service Engagement and Experience: 01344 415827

**Governor Guidelines on how to deal with a complaint or concern**

Governors provide an important link between Berkshire Healthcare and their constituents, enabling Berkshire Healthcare to reflect the interest of current and prospective service users.

While welcoming ideas, suggestions and general comments, it is not the responsibility of Governors to deal with individual personal complaints about Berkshire Healthcare, or the care and treatment received by those who access it's services.

As a Governor, you may receive complaints from a number of different sources and it is important that you listen to individuals' account of events rather than responding to complaints. This may include being given access to confidential patient information. This information should be kept confidential and not disclosed without the written consent of the individual. It is important to be empathetic whilst remaining objective.

There are many issues that patients raise about their or their relatives care that can be resolved without going through the Formal Complaints process. Patients or their families/carers should be referred to ward or service in the first instance, or to the Patient Advice and Liaison Service (PALS) as quickly as possible.

It is important that you acknowledge what is being said and make good eye contact. Make a note of preferred contact details and advise the person who is raising a concern that a member of PALS staff will be in contact as soon as possible.

If you are contacted by telephone, don't forget to ask for a contact telephone number. Pay particular attention to the tone of your voice and try to be accurate with the words that you use. Don't be afraid to say 'sorry', it does not commit you in a legal sense and explain that you will be asking someone from PALS to look into their concerns.

You can contact Trevor Lyalle, PALS Manager on:

Tel: 0118 9605027

NHS Choices Website: this is monitored by PALS who liaise directly with the Service Managers as appropriate. Feedback posted on NHS Choices is reported in the quarterly Patient Experience Report.

There may be circumstances or issues of concern that governors do not feel able to raise at a Governors Council meeting or committee meeting. It is important that governors feel able to raise any issues of concern and such issues can be raised with Company Secretary and Head of Service Engagement and Experience.

Individual concerns and complaints should be raised with PALS as swiftly as possible, and should not be held until a Governors meeting for sharing.

**INVESTIGATING OFFICER'S REPORT**  
(To be uploaded to Datix with draft response)

Name of Patient:

Complaint No:

Service User ethnicity:

Date final response due:

Service User GP Surgery (including Town):

<b>At the start of the investigation</b>		
Contact the complainant to hear more about the concerns and introduce yourself as Investigating Officer.		
Offer to meet with the complainant, if appropriate.		
Do you feel you fully understand the nature of the complaint?		
Ask for statements from staff or make plans to meet with them, ensuring they are clear on the deadline date.		
<b>Brief summary of complaint and key issues raised.</b>		
1.		
2.		
3.		
4.		
5.		
<b>Provide brief details of any meetings held with complainant: (Include date, who attended)</b> <b>Please attach notes/minutes of the meeting</b>		
<b>IF YOU HAVE NOT CONTACTED THE COMPLAINANT - PLEASE DETAIL WHY?</b>		
<b>Independent Clinical Advice taken</b>	<b>YES/NO</b>	
<b>Details of Advisor &amp; advice provided</b>		
<b>During the investigation</b>	<b>Y</b>	<b>N</b>
Are you confident you can continue to maintain agreed contact with the complainant and you can meet the deadline? If not, you need to negotiate a date with the complainant <i>allowing 10 days for the final sign off process.</i>		
Are you keeping the complaints team updated of progress either through Datix or by email?		
Are you keeping the complainant updated as agreed?		

<b>Once the investigation has been concluded</b>	Y	N
Are you confident that each aspect of the complaint has been satisfactorily resolved?		
Has there been a full explanation and apology offered as appropriate?		
Has there been a full explanation of any changes, improvements and actions?		
If the complaint concerns a member of staff, have they been supported appropriately?		
If the complaint concerns a member of staff, have they seen the response?		
<b>Action taken as part of investigation:</b> <b>(e.g., statements from staff, documentation reviewed)</b> <b>Please list full names of any staff including their job role and attach notes/minutes/statements</b>		
<b>Conclusions of Investigating Officer: (ensure each number listed in key issues has been addressed)</b>		
<b>Actions recommended to prevent recurrence: (to include responsible Manager and timescale)</b> <b><u>These will ALL be shared with the complainant</u></b>		
<b>Documentation</b>	Y	N
Have you uploaded the following <ul style="list-style-type: none"> <li>• IO report</li> <li>• Draft response</li> <li>• Staff statements (where applicable)</li> </ul>		

**If you have answered NO to any of the questions, please explain why.**

**Investigating Officer**

**Name:**

**Date:**

**Job Title**

**Locality/Area**



**APPENDIX 10**

**Completing an Action Plan on Datix**

**Step One:** To create a new action select Actions from the left hand navigation panel with the complaint record;

Complaints Management Form (COM2)	
<b>Reference</b>	<b>Reference</b>
Complainants	ID
Other contacts	Lead Organisation
Details of Complaint	★ Approval status after save
Progress notes	★ Your Organisation
Subjects	★ First received (dd/MM/yyyy)
KO41	★ Patient Name
Details of investigation	Ref
Communication and feedback	★ Complaint Severity
Actions	★ Complaints Source
Documents	★ Is this a secondary complaint?
Linked Records	
Print	
Audit trail	

**Step Two:** You will then be navigated to the Actions section of the form. To create a new action, click 'Create a new action'

Actions
No actions.
<a href="#">Create a new action</a>
Documents

**Step Three:** You will then be navigated to the Actions Form, fill in ALL details, with exception of the 'Done date' field. Special attention should be paid to the 'Due date' and the 'Responsibility to' fields. If these are completed an e-mail notification will be sent to the person responsible informing them of the action. The system will also inform the person responsible if the action is overdue if a due date is selected. Once finished click 'Submit Action'.

Action Details	
Action ID	
Module	
Record	
Linked record ID	1593
Priority	<input type="text"/>
Trust	<input type="text"/>
Service	<input type="text"/>
Business Group BHFT Locality	<input type="text"/>
* Title	<input type="text"/>
Due date (dd/MM/yyyy)	<input type="text"/>
Done date (dd/MM/yyyy)	<input type="text"/>
* Responsibility ('To')	<input type="text"/>
Completed by	
Synopsis	<div style="border: 1px solid #ccc; height: 40px; width: 100%;"></div>
Completion Details	
Completion Notes	
<input type="button" value="Submit action"/> <input type="button" value="Cancel"/>	

When logging into a Complaint where you have been assigned an action, the action details will appear in the actions section.

Actions										
ID	Responsibility ('To')	Assigned by ('From')	Module	Description	Due date	Priority	Progress	Done date	Completed by	Done date
2910	Matt Kino-Wylam	Kate Harte	Risk	TEST	08/04/2014	Low Priority				<input type="button" value="Complete"/>
<a href="#">Create a new action</a>										

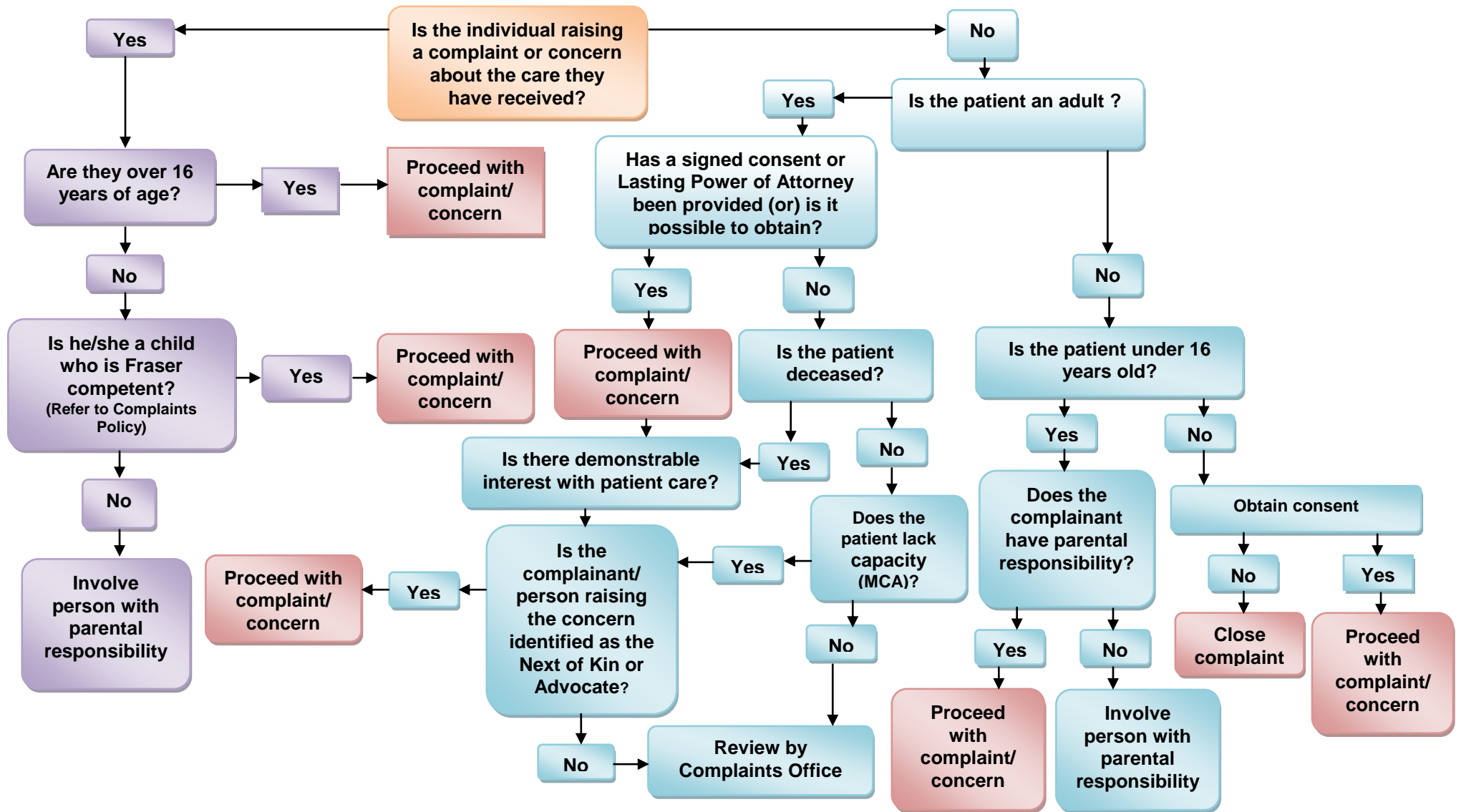
**Step Four:** Complete the action by clicking on the complete button and fill in the Progress box.

Done date  
Complete

After completing the action, save the form. When you return to the form, the 'Completed by' and 'Done date' and 'Progress' boxes will be populated with your name, date the action was completed and progress detail.

Actions									
ID	Responsibility ('To')	Assigned by ('From')	Module	Description	Due date	Priority	Progress	Done date	Completed by
2910	Matt Kino-Wylam	Kate Harte	Risk	TEST	08/04/2014	Low Priority	Action Completed	01/04/2014	Kate Harte

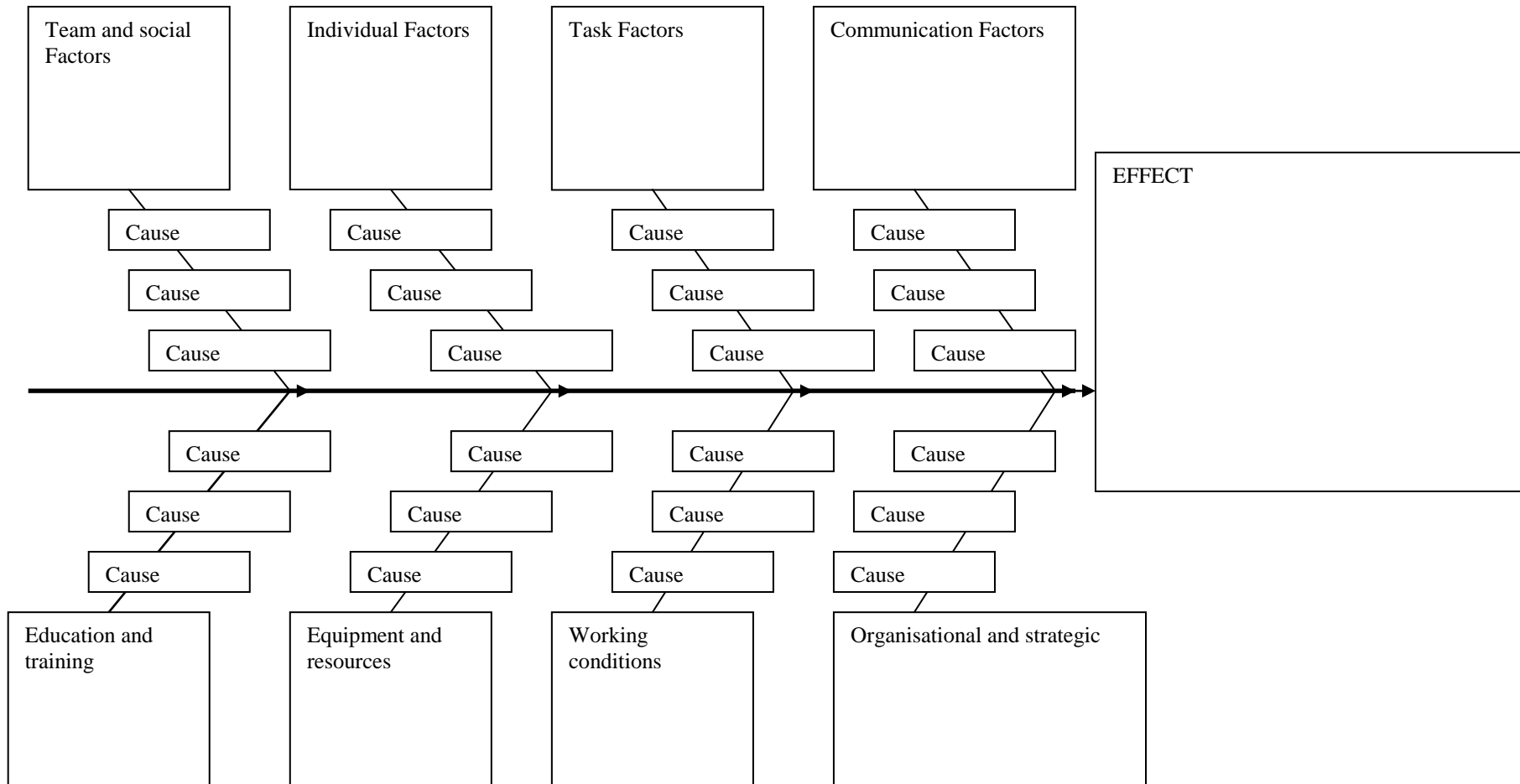
Consent Flowchart for Complaints and Concerns



**Tabular Timeline**

Date and Time									
Event									
Alleged event as stated in complaint									
Staff Involved									
Details									
Additional Information Required									
Good Practice									
CDPs/SDPs									

**Fishbone - Diagram**



**COMMENTS / FEEDBACK (This form can be photocopied as needed)**

**ORG002 - Complaints Policy**

Name \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_

Return comments for consideration three months prior to review date of policy to the Designated Lead or to the Patient Safety & Compliance Facilitator, 3rd Floor, Fitzwilliam House, Skimped Hill Lane, Bracknell, Berks, RG12 1BQ. Tel: 01344 415623.

Page:  Paragraph:	
Page:  Paragraph:	
Page:  Paragraph:	
General comments:	

**Equality Analysis – Template**  
*‘Helping you deliver person-centred care and fair employment’*

<p><b>1. Title of policy/ programme/ service being analysed</b></p> <p>COMPLAINTS POLICY</p>	
<p><b>2. Please state the aims and objectives of this work and what steps have been taken ensure that Berkshire Healthcare has paid <u>due regard</u> to the need to eliminate discrimination, advance equal opportunities and foster good relations between people with protected characteristics.</b></p> <p>This policy outlines the revised Complaints procedure issued in April 2009 and provides guidance to staff and complainants on Berkshire Healthcare’s approach in dealing with complaints from service users and relatives.</p> <p>Updated following revision with internal processes.</p>	
<p><b>3. Who is likely to be affected? e.g. staff, patients, service users</b></p> <p>This policy is intended to provide information and guidance to staff and complainants.</p>	
<p><b>4. What evidence do you have of any potential adverse impact on groups with protected characteristics?</b></p> <p><b>Include any supporting evidence e.g. research, data or feedback from engagement activities</b></p>	
<p><b>4.1 Disability</b> <i>People who are learning disabled, physically disabled, people with mental illness, sensory loss and long term chronic conditions such as diabetes, HIV)</i></p>	<p><i>Consider building access, communication requirements, making reasonable adjustments for individuals etc</i></p> <p>No adverse impact identified.</p>
<p><b>4.2 Sex</b> <i>Men and Women</i></p>	<p><i>Consider gender preference in key worker, single sex accommodation etc</i></p> <p>No adverse impact identified.</p>
<p><b>4.3 Race</b> <i>People of different ethnic backgrounds, including Roma Gypsies and Travelers</i></p>	<p><i>Consider cultural traditions, food requirements, communication styles, language needs etc</i></p> <p>No adverse impact identified.</p>
<p><b>4.4 Age</b> <i>This applies to people over the age of 18 years. This can include safeguarding, consent and child welfare</i></p>	<p><i>Consider access to services or employment based on need/merit not age, effective communication strategies etc</i></p> <p>No adverse impact identified.</p>
<p><b>4.5 Trans</b> <i>People who have undergone gender reassignment (sex change) and those who identify as trans</i></p>	<p><i>Consider privacy of data, harassment, access to unisex toilets &amp; bathing areas etc</i></p> <p>No adverse impact identified.</p>



<p><b>4.6 Sexual orientation</b> This will include lesbian, gay and bi-sexual people as well as heterosexual people.</p>	<p>Consider whether the service acknowledges same sex partners as next of kin, harassment, inclusive language etc</p> <p>No adverse impact identified.</p>
<p><b>4.7 Religion or belief</b> Includes religions, beliefs or no religion or belief</p>	<p>Consider holiday scheduling, appointment timing, dietary considerations, prayer space etc</p> <p>No adverse impact identified.</p>
<p><b>4.8 Marriage and Civil Partnership</b> Refers to legally recognised partnerships (employment policies only)</p>	<p>Consider whether civil partners are included in benefit and leave policies etc</p> <p>No adverse impact identified.</p>
<p><b>4.9 Pregnancy and maternity</b> Refers to the pregnancy period and the first year after birth</p>	<p>Consider impact on working arrangements, part-time working, infant caring responsibilities etc</p> <p>No adverse impact identified.</p>
<p><b>4.10 Carers</b> This relates to general caring responsibilities for someone of any age.</p>	<p>Consider impact on part-time working, shift-patterns, options for flexi working etc</p> <p>No adverse impact identified.</p>
<p><b>4.11 Other disadvantaged groups</b> This relates to groups experiencing health inequalities such as people living in deprived areas, new migrants, people who are homeless, ex-offenders, people with HIV.</p>	<p>Consider ease of access, location of service, historic take-up of service etc</p> <p>No adverse impact identified.</p>
<p><b>5 Action planning for improvement</b></p> <p>5.1 Please outline what mitigating actions have been considered to eliminate any adverse impact?</p> <p>5.2 If no mitigating action can be taken, please give reasons.</p> <p>5.3 Please state if there are any opportunities to advance equality of opportunity?</p> <p>An Equality Action Plan template is appended to assist in meeting the requirements of the general duty</p>	
<p><b>Sign off</b></p>	
<p>Name of person who carried out this analysis: Head of Service Engagement and Patient Experience</p>	
<p>Date analysis completed: November 2016</p>	
<p>Date analysis was approved by responsible Director: Ratified by the Safety, Experience and Clinical Effectiveness Group on 4<sup>th</sup> January 2017</p>	