



## COMPLAINTS POLICY AND PROCEDURE

<b>DATE APPROVED:</b>	21 April 2016
<b>APPROVED BY:</b>	Quality Governance Committee
<b>IMPLEMENTATION DATE:</b>	21 April 2016
<b>REVIEW DATE:</b>	February 2020
<b>LEAD DIRECTOR:</b>	Medical Director
<b>IMPACT ASSESSMENT STATEMENT:</b>	No adverse impact on Equality & Diversity Impact Assessment Attached

<b>Reference Number:</b>	GOV – Policy - 002 (Version 6)
--------------------------	--------------------------------

**This complaints process can only be used by persons external to the Trust**

## Change Control

<b>Document Number</b>	GOV-Policy-002
<b>Document</b>	Complaints Procedure and Policy
<b>Version</b>	Six
<b>Owner</b>	Medical Director
<b>Distribution list</b>	All
<b>Issue Date</b>	21 April 2016
<b>Next Review Date</b>	April 2020
<b>Author</b>	Head of Patient Experience

## Change History

<b>Date</b>	<b>Change</b>	<b>Comments/Authorised</b>
Aug 2012	Sent to Executive Management Board for approval	Approved for general release
Feb 2016	Reviewed and amended by the Head of Patient Experience to update titles, duty of candour etc.	Agreed by the Deputy Director of Nursing & Quality
March 2016	Sent to Policy Review Group	Reviewed and changes made
	Added 1.4 refer for staff concerns 2.3 removed appendix 10 as this does not exist. 3.2 removed fully and added appointed before investigating officer 3.2 added appointed before investigating officer 4.3 added & Managers and timeframe description added 5.1 timeframe description added 5.2 remove are and add 'should be made' 6.4 added additional information 6.6 removed 'particular its provision of Healthcare' 6.8 and 6.9 now 6.8 and the following added or refer to the Patient Experience Team or Emergency Operations Centre. Remaining 6's re-numbered. 6.9 – added 'or poster within vehicle' 7.4 – added 'and/or' 7.5 change to wording now 'there is no obligation for them to communicate directly with complainants as part of the investigation process' 8.6 removed 'these timeframes maybe waived' added 'the Trust may consider investigating'. 8.7 removed 'trained' added 'appointed investigating' 8.11 remove 'all parties' 9.3 added appendix six (consent form) 10.2 added Capability Policy. 11.4 removed 'after the day on which the complaint was made.' 19.3 removed 'only in a particular way'	
21 April 2016	Sent to Quality Governance Committee	Approved for publication

WEST MIDLANDS AMBULANCE SERVICE NHS FOUNDATION TRUST  
COMPLAINTS POLICY & PROCEDURE

<b>Contents</b>	<b>PAGE</b>
1 Introduction .....	4
2 Policy Statement .....	4
3 Definitions .....	5
4 Aims .....	5
5 Objectives .....	6
6 Guidelines .....	6
7 Responsibilities .....	8
8 Complaint Management .....	9
9 Consent to disclose confidential information .....	11
10 Disciplinary Issues .....	12
11 Complaints excluded from the scope of the arrangements .....	12
12 Joint Complaint Co-ordination .....	13
13 Complaining to a Commissioner about the NHS provider .....	13
14 CQC .....	14
15 Redress .....	14
16 Communication .....	14
17 Making improvements as a result of concerns or complaints .....	14
18 Monitoring Effectiveness of this policy .....	15
19 Vexatious and/or Persistent Complainants .....	15
20 Monitoring Policy Compliance .....	15
21 References: .....	16
Appendix One - Principles when dealing with a complaint .....	17
Appendix Two – Summary of Complaints Process for Complainants .....	18
Appendix Three – Continual/Vexatious Complaints Process .....	19
Appendix Four - How to Triage a Complaint .....	21
Appendix Five - Joint Complaints Handling Process .....	22
Appendix Six - Sample Consent Form	

## 1 Introduction

- 1.1 West Midlands Ambulance Service's (The Trust) Quality Strategy describes the Trust's aims to maintain and improve quality and excellence through compliance with the Care Quality Commission (CQC) and Monitor Regulatory Authorities requirements.
- 1.2 A major element of Quality Governance is responding to adverse events. The Trust has systems in place to ensure that lessons are learnt and that appropriate action taken as a direct result of a complaint (see WMAS Quality Strategy).
- 1.3 The Trust is, therefore, committed to listening to patients, relatives, carers and the public and acting on their views and experiences. This policy has been formulated in the light of this on-going commitment, and to ensure that the Trust handles complaints to a satisfactory standard.
- 1.4 Any staff wishing to raise a complaint will fall outside of this Policy. Staff Members will be supported through this process and should refer to the Incident Reporting Policy.

## 2 Policy Statement

- 2.1 It is the policy of the Trust that complaints from patients, their representatives or the public, will be dealt with as quickly as possible, with due regard to the respect and dignity of the complainant. The Trust will ensure complaints are dealt with thoroughly and honestly, enabling the Trust to learn from complaints in order to improve services and, where warranted, to ensure that the concerns of the complainant are satisfied.
- 2.2 This policy reflects how the Trust will manage comments, suggestions, queries and complaints. It describes the value of queries and complaints in learning for individuals, teams and the organisation. It describes a process that includes a thorough investigation, which understands the root causes of the issue and the context in which it happened. It is important that all staff are familiar with the policy and procedure and the associated guidance.
- 2.3 Patients, their relatives and carers will not be treated differently as a result of raising a complaint or concern. This will be monitored through the follow up questionnaire
- 2.4 Guidance to support the Trust's implementation of this Policy and Procedure has been sourced from the available information from the Department of Health, The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (2009 No.309).

### 3 Definitions

#### 3.1 The Independent Complaints Advocacy Service (ICAS)

ICAS can help individuals make a complaint or express a concern about the Trust. Staff at ICAS can support individuals if they wish to make a complaint, and give advice about using the complaints process. They can also write letters on an individual's behalf, and attend meetings. Up to date Advocacy services are available at [www.wmas.nhs.uk/talktous](http://www.wmas.nhs.uk/talktous)

#### 3.2 Informal Complaints Process

An informal complaint will be investigated by an appointed Investigating Officer in line with this Policy and resolution will be fed back to the complainant in writing, by telephone or face to face meeting. All final resolution letters are signed by the an appropriate Manager

#### 3.3 Formal Complaints Process

A Formal complaint will be investigated fully by an appointed Investigating Officer in line with this Policy and resolution will be fed back to the complainant in writing, by telephone or face to face meeting. All final resolution letters are signed by the Chief Executive Officer or a nominated Director.

#### 3.4 'Upheld' Complaints

If any or all of a complaint is well founded then it should be recorded as "upheld locally." (ICC, 2012)

### 4 Aims

- 4.1 All staff, and the Trust, will demonstrate a culture of taking complaints seriously.
- 4.2 Where the standard of care is believed to be unsatisfactory by a patient or relative, complaints will be seen as an opportunity to review and improve service delivery.
- 4.3 To ensure that complaints are dealt with efficiently, fairly and in a timely manner in line with the 25 working days investigation timeframe or otherwise agreed timeframe. The complainant will be presented with all possible options for pursuing the complaint and the help available to them via the Patient Advice and Liaison Service Team, Head of Patient Experience and Independent Complaints Advocacy Service. Staff and Managers will be made aware, and encouraged, to adopt a culture of transparency with service users.

## 5 Objectives

- 5.1 Standard processes are used in the timely and effective handling of complaints in line with the 25 working days investigation timeframe or otherwise agreed timeframe.
- 5.2 The public, service users and carers should be made aware of how to complain and the help available to them.
- 5.3 The Trust learns and makes improvements where required.

## 6 Guidelines

### 6.1 Persons who may make complaints

#### 6.1.1 A complaint may be made by:

- a) A patient or their representative
- b) Any person who is affected by or likely to be affected by the action, commission or decision of the NHS body, which is the subject of the Complaint.

#### 6.1.2 A complaint may be made by a person acting on behalf of a person (Representative) in any case where that person:

- a) has died
- b) Is a child or minor
- c) Is unable by reason of physical or mental incapacity to make the complaint themselves
- d) Has requested the representative to act on their behalf

6.2 In the case of a patient or person affected who has died or who is incapable, the representative must be a relative or other person who, provides written confirmation to the Head of Patient Experience. The Head of Patient Experience should ensure that they have a sufficient interest in the patients welfare and is a suitable person to act as representative.

6.3 The Head of Patient Experience, in discussion with the Deputy Director of Nursing & Quality or Medical Director determine whether the complainant has 'sufficient interest' in the deceased or incapable person's welfare to be suitable to act as a representative. The question of whether a complainant is suitable to represent a patient depends, in particular, on the need to respect the confidentiality of the patient.

6.4 If the Head of Patient Experience has evidence to believe that a representative does not have a sufficient interest in the person's welfare or is unsuitable to act as a representative, they must notify that person in writing, stating the reasons. The complaint would be put on hold until sufficient information to act as a representative is provided. If sufficient information is not provided within 25 working days the case will be closed.

WEST MIDLANDS AMBULANCE SERVICE NHS FOUNDATION TRUST  
COMPLAINTS POLICY & PROCEDURE

- 6.5** In the case of a child (below 18yrs), 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.
- 6.6** A complaint to an NHS body may be about any matter reasonably connected with the exercise of its functions.
- 6.7** Where the complainant has stated in writing that he intends to take legal action discussions will take place with the Trust legal advisor and/or the police to determine whether progressing the complaint might prejudice subsequent legal or judicial action. If so, the complaint will be put on hold, and the complainant will be advised of this fact. If not, an investigation into the complaint should continue.
- 6.8** Often patients, carers, their representatives or other members of the public complain directly to ambulance crews regarding aspects such as patient care, and/or punctuality, whilst being treated by our Service. The response of staff to verbal complaints is critical. Staff are empowered to fully explain why an ambulance is delayed, or why care is below the level expected by the patient. The attitude towards patients making complaints will often determine whether a formal complaint is subsequently raised. Staff should listen sympathetically to complainants, and where possible, offer an explanation or refer to the Patient Experience Team or Emergency Operations Centre.

Potential and verbal complaints should be reported via a WMAS54/ER54.

- 6.9** Often, where patients, carers, their representatives or other members of the public are concerned about an aspect of the services provided by the Trust, a brief explanation and apology will be welcomed and the matter need progress no further. However, there will be occasions when a patient remains dissatisfied with the explanation of staff. In such cases the complainant should be referred to the Trusts PALS Leaflet, copies of which are carried on every ambulance or poster within the vehicle.
- 6.10** Should a complaint escalate outside of normal office hours, staff should advise the Duty Officer in the Emergency Operations Centre as soon as possible.
- 6.11** This policy will form part of Induction Training for all staff. Any training needs identified through the regular monitoring of complaints will be addressed as appropriate, either on an individual or collective basis.
- 6.12** Further guidance for staff receiving a complaint is given in Appendix One.

## 7 Responsibilities

### 7.1 Chief Executive Officer

The Chief Executive Officer (CEO) is accountable for the delivery of a safe, responsive and caring service and as such will ensure the delivery of this policy. The CEO or authorised Deputy will review and sign final written responses to all formal complaints received by the Trust.

### 7.2 Medical Director

The Medical Director, on behalf of the Chief Executive Officer, is responsible for the delivery of the Complaints Policy/Procedure and will monitor compliance.

### 7.3 Head of Patient Experience will;

- Oversee the process
- Be readily accessible and identifiable to the public and staff.
- Refer the complaint to an appropriate Manager for investigation and copy in the relevant local management team member.
- Provide guidance, help and support for the complainant and staff.
- Respond to/liaise with the complainant informing them of any results/actions taken and future improvements.
- Ensure this policy is kept under review for changes in legislation etc.

### 7.4 Managers will;

- Ensure staff are aware of the Complaints Policy and Procedure.
- Ensure complaints are thoroughly investigated.
- Ensure that staff are provided with relevant paperwork e.g. complaint letter(anonymised), and/or PRF at least 48 hours prior to interview.
- Advise and help patients or their representatives to make a complaint.
- Safeguard confidential documents
- Ensure that the full investigation report and draft response is returned, within mutually agreed timescales, to the Patient Experience Team.
- Keep staff well informed during the investigation and share with them the final resolution letter.
- Offer staff the opportunity to debrief.
- Advise staff of their right to seek advice and assistance from their Trade Union or professional organisation before making their formal response.

## 7.5 Individual Employees

Complaints are likely to be made verbally or in writing to any member of the Trust. The person receiving the complaint should make every effort to assist the complainant and resolve the complaint on the spot to the satisfaction of the complainant. Complainants should be advised of their right to make their complaint directly to the Patient Experience Team.

If a Staff member is involved in a complaint investigation there is no obligation for them to communicate directly with complainants as part of the investigation process.

## 8 Complaint Management

- 8.1 The Patient Experience Team will ensure a record of the complaint is made which to include the date, subject of the complaint and the name, contact details of the complainant. They will also note how and when the complainant would expect to receive a response.
- 8.2 The investigation process will be discussed and it will be mutually agreed whether to proceed as a formal or informal (PALS) complaint.
- 8.3 The handling of the complaint should be assessed on an individual basis and therefore the legislation does not detail a prescriptive process to be followed. However, a resolution should be agreed within a 6 month timeframe and where possible the Trust will aim to complete within 25 working days.
- 8.4 The questions that require addressing will be noted in the acknowledgement letter within 3 working days. The Complainant will then be given the option of contacting the Patient Experience Team if they feel that further questions also need to be addressed. A request is made that where possible any additional questions or changes to the noted questions are made within 5 working days to ensure the investigation covers all concerns. Information about help available to them from the local Independent Complaints Advocacy Service (ICAS) and a leaflet on the Trust Complaints Procedure will also be included.
- 8.5 The Duty Clinical Lead or Head of Patient Experience will rate the incident using the Trust Risk Matrix. However it is expected that if the Investigation Officer feels that the Risk Grade has changed once all information is collated that they re-grade the complaint.
- 8.6 Complaints will be investigated if they are made within 12 months of the incident, or within 12 months of the complainant becoming aware that a complaint ought to be lodged. In exceptional circumstances the Trust may consider investigating. Where it is decided not to investigate, the complainant will have the opportunity to approach the relevant Ombudsman.

- 8.7 All complaints will be investigated, as soon as practically possible, by an appropriately appointed investigating officer who will report the findings of the investigation, in writing, to the General Manager or nominated Officer who will review and rate the incident using the Trust Risk Matrix (see the Risk Management Strategy). The complaint will be investigated in line with the 2014 statutory Duty of Candour (refer to the Being Open/Duty of Candour Policy) and the Trust Investigation Policy.
- 8.8 The Investigation pack and draft response letter should be forwarded to the Patient Experience Team within mutually agreed timescales. If this timeframe can not be met the Head of Patient Experience should be advised immediately so that the complainant can be updated.
- 8.9 The Patient Experience Team will consider the findings of the investigation and prepare a draft written response for the consideration of the Chief Executive or nominated Director to forward to the complainant.
- 8.10 If resolution is in writing it will explain how the complaint has been considered, conclusions reached on the basis of the facts, and an explanation of what action, if any, the organisation intends to take as a consequence.
- 8.11 **Informal Complaints**  
Once are satisfied with the resolution of the complaint the complainant will receive resolution by the agreed means, whether that is by telephone, in writing or during a meeting. Resolution will be received from the most appropriate manager..
- Formal Complaints**  
Once all parties are satisfied with the resolution of the complaint the complainant will receive a telephone call from a Manager, Head of Patient Experience or a nominated person to give the complainant the option of discussing the investigation on the telephone, or at a separate meeting. If resolution is made in writing it will be signed by the Chief Executive Officer or nominated Director.
- 8.12 The response will include notification to the complainant of their right to refer the complaint to the Parliamentary NHS Ombudsman if they are not satisfied with the response.
- 8.13 The General Manager or nominated Manager will ensure that all recommendations (e.g. case reviews, Staff training, counselling, disciplinary hearings, staff notices) are completed and documented with a copy sent to the Head of Patient Experience for inclusion in the complaint file.
- 8.14 The entire procedure should be concluded within the agreed timescales outlined by the Head of Patient Experience on receiving the initial complaint. The Investigating Officer will take such steps as are reasonably practicable to keep the complainant informed about the progress of the investigation.

- 8.15** The Head of Patient Experience will ensure consideration has been given to the possibility of the complaint resulting in a claim. If there is a possibility of litigation the investigation can still proceed and on completion the NHSLA must be made aware of the findings prior to a resolution being given to the Complainant. A resolution is not permitted unless agreed by the NHSLA.
- 8.16** The Board of Directors will receive an annual complaints report as part of the Trust Quality Account. Quarterly high risk and trends and themes complaint reports will be received by the Board of Directors as part of the Learning Review Report.

## **9 Consent to disclose confidential information**

It is not necessary to obtain the patient's express consent for the use of their personal information to investigate their own complaint. Care must be taken at all times throughout the Complaints Procedure to ensure that any information disclosed about the patient is confined to that which is relevant to the investigation and should only be disclosed to those people who have a demonstrable need to know.

- 9.1** Patient authorisation is required whenever the complaint relates to treatment received by the patient and the complainant is not the patient
- 9.2** If the patient is unable to act to give their consent this is not a reason to deny an investigation into the issues raised on their behalf. However, it is good practice to ensure that consent is sought from the next of kin.
- 9.3** A Complaint Authorisation form will be sent out with an accompanying explanatory letter to the complainant to obtain authorisation from the patient or next of kin. (Appendix six)
- 9.4** If appropriate the investigation can commence. However, until the signed form with the signature of the patient or the next of kin is returned to the relevant department (PALS or Complaints) the formal investigation will not begin.
- 9.5** In transferring complaints between agencies (including the Parliamentary Ombudsman), it is particularly important to ensure that patient confidentiality is maintained at all times. Every effort should be made to obtain the patient's (or their representative's) consent before sharing confidential information with another body or organisation. This should, wherever possible, be done at the time the complaint is received, whatever its format. Consent should be obtained in writing wherever possible. If this is not possible, verbal consent should be logged and a copy sent to the complainant.
- 9.6** Where the patient or their representative does not want the details to be shared, the Ambulance Trust should advise them on the parts of the complaint it is able to deal with, adding that if they wish to pursue the remaining issues, they should approach the relevant party independently.

## 10 Disciplinary Issues

- 10.1 The purpose of the Complaints Policy and Procedure is not to apportion blame. It is to investigate complaints with the aim of satisfying complainants whilst being scrupulously fair to staff and to learn any lessons for improvement.
- 10.2 In the event of the investigation highlighting any staff disciplinary issues these will be dealt with outside of this procedure and in accordance with the Trust's agreed Disciplinary policy and procedure or Capability policy.

## 11 Complaints excluded from the scope of the arrangements

- 11.1 A complaint made by an NHS body which relates to the exercise of its functions by another NHS body:
- 11.2 A complaint made by a primary care provider which relates either to the exercise of its functions by an NHS body or to the contract or arrangements under which it provides primary care services;
- 11.3 A complaint made by an employee of an NHS body on any matter relating to their employment, contractual or pension issues.
- 11.4 A complaint which is made orally and is resolved to the complainant's satisfaction by the next working day.
- 11.5 A complaint being investigated by a Local Commissioner under the LGA 1974, or the Health Service Commissioner under the 1993 act.
- 11.6 A complaint arising out of an NHS body's alleged failure to comply with a data subject request under the Data Protection Act 1998 [12] or a request for information under the Freedom of Information Act 2000 [13];
- 11.7 A complaint the subject matter of which has already been investigated under these Regulations;
- 11.8 A complaint which relates to any scheme established under section 10 (superannuation of persons engaged in health services, etc or section 24 (compensation for loss of office, etc) of the Superannuation Act 1972 [5], or to the administration of those schemes.
- 11.9 On occasions other NHS Organisations or members of staff may want to raise a concern with the Trust which can not be investigated under this policy in such circumstances, the Investigation Policy and Incident Reporting Policy should be referred to.
- 11.10 The above would also apply if a complaint was received by a contracted service provider e.g. Gardening services to all Trust buildings.

- 11.11** If a complaint was received by a member of staff but did not fall within the Grievance Procedure or Disciplinary Procedure, the concern would need to be reported through the Incident Reporting policy.

Further guidance is available in 'The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009'. Available online from: [http://www.opsi.gov.uk/si/si2009/uksi\\_20090309\\_en\\_1](http://www.opsi.gov.uk/si/si2009/uksi_20090309_en_1)

A complaint can only be investigated once, under the Principle Regulations. There is, of course, nothing to prevent a complainant bringing a further complaint about a different incident.

## **12 Joint Complaint Co-ordination**

- 12.1** All Health and Social Care Organisations including primary, secondary and tertiary health care should work together to ensure co-ordinated handling and to provide the complainant with a single response that represents each organisation final response. Refer to appendix five.
- 12.2** Where a complaint relates in part, or wholly, to the service or care delivered by another organisation, the recipient should forward it to the Head of Patient Experience for immediate action. The Head of Patient Experience will ensure contact with the complainant for their agreement to copy the complaint to the organisation involved.
- 12.3** Where possible the complaint should be sent to the health and social care organisations involved in the complaint electronically and securely.

## **13 Complaining to a Commissioner about the NHS provider**

- 13.1** Complainants can lodge complaints with the Commissioners rather than the provider of a service.
- 13.2** If a complaint lodged with the provider organisation is not resolved locally, the complaint cannot then be referred to the Commissioners, although it can still be referred to the Health Service Ombudsman.
- 13.3** Where the Commissioner receives a complaint about an organisation providing NHS services, it will agree with the complainant how to handle the case.
- 13.4** In some cases, the complainant may agree that the organisation providing the services is best placed to deal with the case. In other cases, the Commissioner may decide that it is best placed to handle the complaint itself.

- 13.5** When the commissioning body receives a complaint about a provider organisation, it will contact the complainant to see if they have lodged the complaint with the provider. If so, the commissioning body should dismiss handling with the provider body and the complainant. In all cases, the commissioning body will be expected to retain an overview of how the complaint is handled. A complaint cannot be properly investigated unless the provider has the opportunity to respond.

## **14 CQC**

The Care Quality Commissions(CQC) provides guidance to achieving and maintaining compliance with the Health and Social Care Act 2008 (Regulated Activities). The CQC can not investigate individual complaints but do like to hear of patients experiences and may advise the Trust of concerns raised with them for investigation.

## **15 Redress**

- 15.1** The Trust will endeavour to provide appropriate redress to those who have an upheld complaint, and to those who may have been affected in the form of an apology or other means deemed appropriate by a member of the Executive Team.

## **16 Communication**

- 16.1** The procedure will be communicated to all staff through the Trust document control system and Trust intranet site.
- 16.2** Leaflets and posters explaining the PALS service will be available on all Trust vehicles an in appropriate public places such as GP waiting rooms and hospitals.

## **17 Making improvements as a result of concerns or complaints**

- 17.1** The **Learning Review Group** is responsible for ensuring the Trust recognises the benefits of learning from its untoward events.

It provides assurance that the Trust is investigating, reviewing and learning from high risk adverse events and trends and themes arising from clinical and non-clinical Serious Incident (SIs), Complaints, PALS, Coroners' inquiries and claims to ensure continuous improvement in quality of service provision..

## 18 Monitoring Effectiveness of this policy

18.1 As part of its Quality Account the Trust will publish report containing details of:

- How many complaints have been received
- A summary of subject matter
- Whether the complaint was upheld or not
- Complaints referred to the Parliamentary Ombudsman
- A narrative on significant issues identified through the handling of complaints

Regulation 18 of the 2009 complaints regulations places a statutory obligation on all NHS organisations to collect the number of complaints upheld and make it available:

18.2 The Care Quality Commission (CQC) undertakes a regular inspections of Trusts which includes review of complaints management.

## 19 Vexatious and/or Persistent Complainants

19.1 Regardless of the manner in which the complaint is made and pursued, its substance should be considered carefully to ensure all issues are identified and have been addressed.

19.2 Complaints should be approached objectively and without any assumption that they are bound to be frivolous, vexatious, or unjustified.

19.3 Particularly if a complainant is abusive or threatening, it is reasonable to require the individual to communicate. In writing and not by telephone, or solely with one or more designated members of staff; but it is not reasonable to refuse to accept or respond to communications about a complaint until it is clear that all practical possibilities of resolution have been exhausted.

19.4 It is good practice to make clear to a complainant their unreasonably, persistent or vexatious way in which his or her behaviour is unacceptable, and the likely consequences of refusal to amend it, before taking drastic action.

19.5 Decisions to treat a complainant as unreasonably persistent or vexatious will be taken at the Executive Management Board. (See appendix three)

## 20 Monitoring Policy Compliance

20.1 Once resolution has been achieved a four week timeframe will be given for a complainant to contact the Trust if they are still dissatisfied with how their complaint was handled.

- 20.2** A Complaint Handling Questionnaire and Ethnicity Form will be sent to the complainant. The Ethnicity Form has been reviewed in line with the Equality Act 2010 and the Equality Delivery System.
- 20.3** If additional concerns are raised and/or there is an indication that a complainant has been treated differently, i.e. negatively following the conclusion of their complaint it will be reviewed at a senior management level.

## 21 References:

ICC, 2012. The Information Centre for Health & Social Care '*KO41(b) – General Practice (including Dentist) Written Complaints*' [online] available from <http://signposting.ic.nhs.uk/?k=well+founded+complaint>

*Principles of Good Complaint Handling*. The Health Service Ombudsman in England [online] available from <http://www.ombudsman.org.uk/>

The Local Authority Social Services & National Health Service Complaints Regs 2009 [online] available from <http://www.legislation.gov.uk/uksi/2009/309/contents/made>

Care Quality Commission How CQC regulations (2015), NHS and Independent Ambulance Services available from <http://www.cqc.org.uk/>

West Midlands Ambulance Documents available from the Trusts Intranet and Website

<http://www.wmas.nhs.uk/>

Quality Strategy

Risk Management Strategy

Being Open/Duty of Candour Policy

Incident Reporting Policy

Investigation Policy

Equality, Diversity and Inclusion Strategy

## **Appendix One - Principles when dealing with a complaint.**

A complaint is usually where someone expresses concern or dissatisfaction in relation to the services we provide. We can all make mistakes and complaints often arise from differences of understanding, perceptions and belief and are more often about organisational matters than individuals.

Service users have a right not only to complain but to challenge decisions without fear of unpleasant consequences.

Complainants want something they perceive to be wrong put right and this should be done as quickly as possible. Delays are likely to fuel complainant's feelings of injustice. Where possible the complaint should be resolved on the spot.

People who are complaining may be hurt, frightened, distressed, angry and vulnerable even when they are not showing those feelings

Listen to find out what level of response the complainant is looking for and, if possible apologise and give that response. Do not rush into an answer - ask questions to find out as many facts as possible.

Feed back the main points to confirm understanding but avoid interrupting. Try to see things as the complainant sees them.

Effective communication is the key to handling complaints well without allowing them to escalate unnecessarily. Effective listening and 'tuning in' to someone who complains is central to effective communication. Part of 'tuning in' is allowing oneself to understand the priorities and needs of the complainant even when we disagree.

If immediate resolution cannot be achieved the complaint should be handled in such a way which reduces the complainant's distress or anger, and be referred to the Patient Experience Team or the Duty Officer.

Staff may feel defensive in the face of a complaint, but it is best not to respond in a defensive way. Good listening and a ready, courteous response will work better whether responsibility is accepted or not.

Stay calm - this is even more important where the complainant is angry or upset, and do not take the complaint personally.

Give a rational and considered response.

## Appendix Two – Summary of Complaints Process for Complainants

If you need help through this process or wish to discuss your complaint and how to take it forward you can contact the Patient Advice and Liaison Service (PALS) at [pals@wmas.nhs.uk](mailto:pals@wmas.nhs.uk) or telephone number 01384 246370. Alternatively you can contact your local Independent Complaints Advocacy Service; details can be found in your acknowledgment letter or on our website [WWW.WMAS.NHS.UK](http://WWW.WMAS.NHS.UK).

	<b>Main Feature</b>	<b>Action to be taken by you</b>
<b>Making a Complaint</b>	<p>Your complaint should be made:</p> <ul style="list-style-type: none"> <li>• Within 12 months of the event/incident or</li> <li>• Within 12 months of realising you have a complaint</li> </ul> <p>In exceptional circumstances these times limits may be waived.</p>	<p>You can make your complaint in a number of ways:</p> <ul style="list-style-type: none"> <li>• Raise it directly with the person concerned or their manager who will try to sort things out straight away.</li> <li>• Raise it by telephone with the organisations Patient Experience Team who will look into the matter for you.</li> <li>• Raise it by email by sending your concern to <a href="mailto:complaints@wmas.nhs.uk">complaints@wmas.nhs.uk</a></li> <li>• Put your complaint formally to the Chief Executive</li> </ul>
<b>Local Resolution</b>	<p>The organisation will look into your complaint and offer a response.</p> <p>This may include one or more of the following:</p> <ul style="list-style-type: none"> <li>• Immediate 'frontline' response</li> <li>• Meeting with staff</li> <li>• Conciliation</li> <li>• Full Investigation</li> <li>• A response agreed between you and the Trust whether it be written, verbal or via a meeting</li> </ul> <p>If the complaint is not answered immediately, you will receive an acknowledgment within 3 working days and a full written response within a timescale agreed between both parties normally 25 working days of the Trust receiving the complaint or consent if required</p>	<p>Try and keep control of the local resolution process, if you can, e.g.</p> <ul style="list-style-type: none"> <li>• Ask for a meeting if you would like one</li> <li>• Chase up the organisation if they are taking a long time to respond</li> <li>• If you are not happy with their initial response, tell them why and what you would like them to do next.</li> </ul> <p>Keep a record of all correspondence, phone calls and meetings during local resolution.</p> <p>If you are not happy with the outcome of the local resolution you can request an independent review.</p>
<b>Requesting an Independent Review</b>	<p>If you remain dissatisfied with the response to your complaint we would value the opportunity of discussing any outstanding issue that you may have.</p> <p>However, if we are not able to resolve the matter to your satisfaction, you do have the right to ask the Parliamentary and Health Service Ombudsman to review your case. This should be done within twelve months of becoming aware of your complaint.</p>	<p>You can contact the Parliamentary and Health Service Ombudsman on:</p> <p>Telephone Number: 0345 015 4033</p> <p>or write to:</p> <p>Parliamentary and Health Service Ombudsman Millbank Tower, Millbank, London, SW1P 4QP</p> <p>or visit their website at <a href="http://www.ombudsman.org.uk">http://www.ombudsman.org.uk</a></p>

## Appendix Three – Continual/Vexatious Complaints Process

### 1 Purpose of the Process

The process should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the NHS Complaints Procedure, i.e. through local resolution or conciliation.

The process should only be implemented in exceptional circumstances and then only with the approval from Executive Management Board.

### Definition of a Continual/Vexatious Complaint

### 2 Definition

Complainants (and/or anyone acting on their behalf) may be deemed to be continual or vexatious complainants where previous or current contact with them shows that they meet TWO OR MORE of the following criteria:

#### **Where the complainant:**

- 2.1 Is in frequent contact with the Patient Experience Team. They make contact every day, and in some cases, more frequently, either by telephone or by physically calling into the department.
- 2.2 Persist in pursuing a complaint where the NHS Complaints Procedure has been fully and properly implemented and exhausted.
- 2.3 Changes the substances of a complaint or continually raises new issues, or seeks 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 that are significantly different from the original complaint. These might need to be addressed as separate complaints)
- 2.4 Challenges written documentation by claiming that the records have been altered. Refuses to accept contemporaneous notes, even though different people have made them.
- 2.5 Receives a response from the organisation and immediately responds by either raising new concerns, or presenting an old problem differently.
- 2.6 Seeks an unrealistic outcome and intends to continue until that outcome is achieved. Examples could include expecting a staff dismissal.
- 2.7 Tries to manipulate the complaint by:
  - 2.7.1 Complaining about the member of staff dealing with the complaint

- 2.7.2 Dictating who they will and will not speak to, e.g. wanting speak directly to the Chair of the Trust, or the Chief Executive
- 2.7.3 Stating they wish to meet with a person, and then either refusing the arrange a date, or not turn up after the meeting has been arranged
- 2.7.4 Making the same, or slightly different, complaint to other people e.g. the press, the local Member of Parliament, the Health Secretary, etc.

Or

If a complainant (patient, carer, visitor) threatens or uses actual physical violence towards staff at any time, contact with the complainant and/or their representatives will be discontinued. Thereafter, the complaint will only be pursued through written communication and advice from the Trust's senior clinical and security teams will be sought to determine if legal parameters have been breached by the complainant.

### **3 Handling Continual/Vexatious Complainants**

3.1 The Executive Management Board should agree that the complainant falls in to the category of a continual/vexatious complainant. The decision should be recorded and the reason for the decision noted.

3.2 To check that the complainants concerns have been investigated fully, the complainant should be encouraged to request an independent review by the Parliamentary and Health Service Ombudsman.

3.3 If the complainant is not prepared to request a review, or insists on raising the same issue again, they should be advised that as the Chief Executive has responded fully to the points raised, the matter is now closed.

The following should be advised:

- No further correspondence will be entered into unless the complaint is new.
- Staff will no longer deal with the complainant over the telephone.
- Complainants have the right to contact the Health Service Ombudsman if they remain dissatisfied

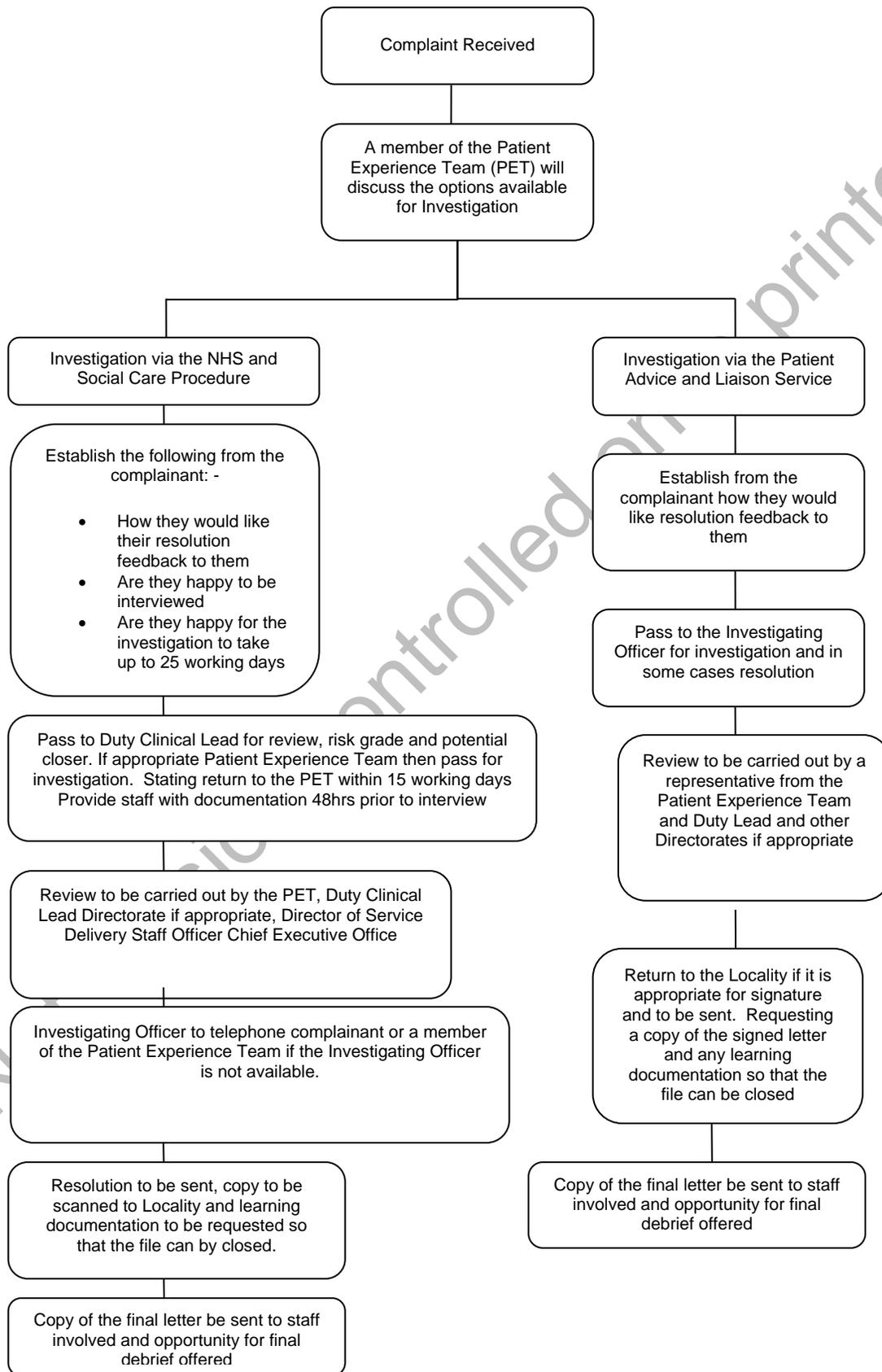
3.5 If a complainant writes again, the response will only state the letter was received and the contents noted. A copy of the original response letter will be enclosed with a statement to the effect that there is nothing further to add.

3.6 In extreme cases, where abusive behaviour continues, complainants may have to be informed that Trust solicitors may be involved..

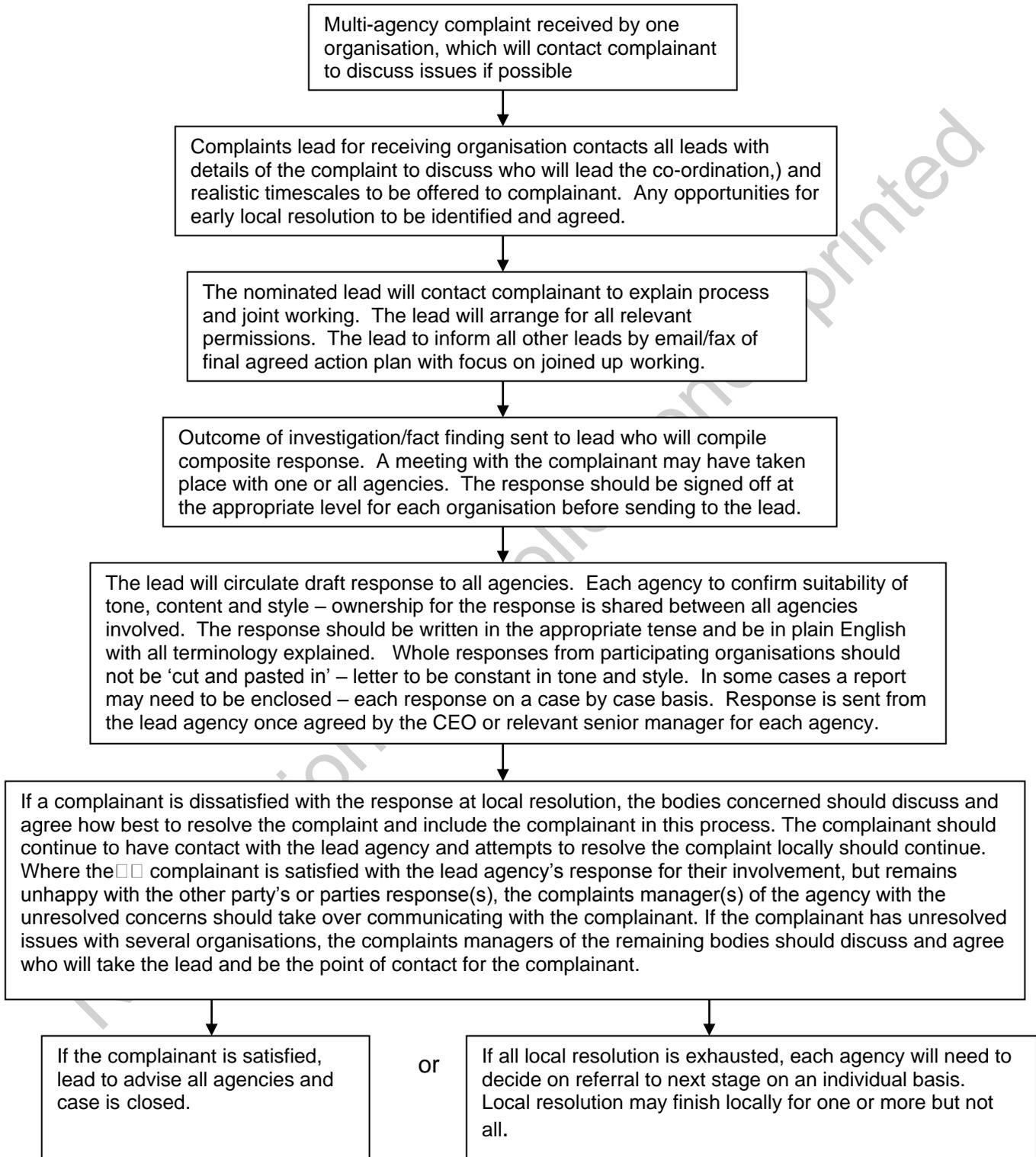
### **4 Withdrawing Continual or Vexatious Status**

Once Complainants have been determined as 'continual or vexatious' the decision for withdrawing this status at a later date rests with the Executive Management Board.

Appendix Four - How to Triage a Complaint



## Appendix Five - Joint Complaints Handling Process





**Appendix Six – Consent Form**

Ref No. **A**

I, (print name)

....., of(address)  
 .....  
 .....

Confirm that I am the next of kin

of(name).....of

(address).....

.....  
 .....

Their relationship to me was: .....

Please address further correspondence to:

Name.....

Address.....

.....

Tel No.....

Signed \_\_\_\_\_

Date \_\_\_\_\_

Please return to: Patient Experience Team  
**FREEPOST**  
 West Midlands Ambulance Service NHS Foundation Trust  
 Regional Ambulance Headquarters  
 Millennium Point  
 Waterfront Business Park  
 Brierley Hill  
 West Midlands  
 DY5 1LX