




Complaints Policy

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Disclosable under Freedom of Information Act 2000	Yes	

Policy Context

This policy outlines the principles and framework for the management of complaints. The aim of this document is to ensure the Trust delivers the best possible service user experience, by responding to feedback in order to improve care, whilst complying with regulatory standards.

Policy Requirement (see Section 2)

Trust front line staff speak to people who use our service every day. During these interactions individuals may have requests, questions, worries, or concerns, that staff can help with immediately. We must encourage people to discuss any issues they have, as we may be able to sort the issue out to their satisfaction quickly and without the need for them to make a complaint.

If an individual wishes to escalate a concern as a complaint, staff must inform the Customer Relations Team on the same day. The Customer Relations Team must then acknowledge new complaints within 3 working days of receipt.

The Associate Director of Operations, Clinical Director, and Head of Nursing and Allied Health Professions, must approve all complaint responses for quality assurance; before Chief Executive Officer sign off.

All complaints must be responded to within a reasonable time frame, and in any case no later than six months from the date of them being first being received.

When opportunities for improvement are found as a result of a complaint investigation, appropriate actions will be agreed upon to ensure learning takes place, and to provide assurance that the chance of similar issues reoccurring has been reduced. Actions will be allocated to a named individual along with a specified timeframe, and evidence must be provided upon completion.

Rising themes and learning will be shared by the Customer Relations Teams with local and Trust clinical governance committees; the Quality, Patient Experience and Safety Committee; and with subject matter groups/committees where relevant.

Change Record

Date	Version	Author (Name & Role)	Reasons for review / Changes incorporated	Ratifying Committee
27/09/24	6	Emma Maynard – Interim Head of Customer Relations	<p>Significant changes made to the policy as a whole to bring it in line with PHSO's 'model procedure', and to be reflective of NHS Complaints Regulations.</p> <p>Appendix added for 'Management of Unreasonable or Vexatious Complainants' to provide a more robust process.</p>	CGC

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1. Introduction

1.1 Rationale

This policy sets out how Birmingham and Solihull Mental Health NHS Foundation Trust handles concerns and complaints, and the standards we need to adhere to. It follows the relevant requirements set out by the Local Authority, Social Services, National Health Service Complaint Regulations 2009, and the Health and Social Care Act 2008.

The Trust is committed to listening to and responding to service users, and encourages a culture that seeks feedback about peoples' experiences to make improvements. It is important that service users, family members, and carers, understand the process to raise complaints; and that staff members know what steps to follow to ensure complaints are responded to appropriately.

1.2 Scope

This policy applies to all staff working within Birmingham and Solihull Mental Health NHS Foundation Trust, inclusive of Temporary Staffing Solutions (TSS) and agency staff members working for the Trust.

This policy relates to management of all concerns and complaints from service users, carers or members of the public that relate to patient care.

This policy does not apply to medical negligence claims, or claims seeking financial compensation, which are managed by the Trust's legal department in accordance with the [Claims Handling Policy](#).

Central oversight of the complaints process is managed by the Customer Relations Team who ensure that complaints are responded to in accordance with regulatory standards, and that specified timescales are adhered to.

1.3 Principles

Staff must ensure that service users, carers, family members and members of the public are encouraged and enabled to provide feedback about their experience. It is essential that they receive information in an appropriate format and are offered communication support when required.

If service users, carers or families seek help in raising a concern or making a complaint then they must be made aware that they can do so without fear of repercussion, discrimination, or victimisation.

The Trust positively supports individuals with learning disabilities and ensures that no-one is prevented from accessing the full range of mental health services available. Staff will work collaboratively with colleagues from learning disabilities services and other organisations, in order

to ensure that service users and carers have a positive episode of care whilst in our services. Information is shared appropriately in order to support this.

2. The Policy

Trust front line staff speak to people who use our service every day. During these interactions individuals may have requests, questions, worries, or concerns, that staff can help with immediately. We must encourage people to discuss any issues they have, as we may be able to sort the issue out to their satisfaction quickly and without the need for them to make a complaint.

If an individual wishes to escalate a concern as a complaint, staff must inform the Customer Relations Team on the same day. The Customer Relations Team must then acknowledge new complaints within 3 working days of receipt.

The Associate Director of Operations, Clinical Director, and Head of Nursing and Allied Health Professions, must approve all complaint responses for quality assurance; before Chief Executive Officer sign off.

All complaints must be responded to within a reasonable time frame, and in any case no later than six months from the date of them being first being received.

When opportunities for improvement are found as a result of a complaint investigation, appropriate actions will be agreed upon to ensure learning takes place, and to provide assurance that the chance of similar issues reoccurring has been reduced. Actions will be allocated to a named individual along with a specified timeframe, and evidence must be provided upon completion.

Rising themes and learning will be shared by the Customer Relations Teams with local and Trust clinical governance committees; the Quality, Patient Experience and Safety Committee; and with subject matter groups/committees where relevant.

3. The Procedure

3.1 Complaints and Other Procedures

We recognise that staff cannot always resolve issues as they arise and that sometimes people will want to make a complaint. The NHS Complaint Standards define a complaint as “an expression of dissatisfaction, either spoken or written, that requires a response”. It can be about:

- an act, omission or decision we have made
- the standard of service we have provided.

There may be occasions when it may not be possible to achieve a relevant outcome through the complaint process on its own. When this happens, the Customer Relations Team will inform the person making the complaint and give them information about any other process that may help address the issues. This can happen at any stage in the complaint handling process and may include identifying issues that could or should:

- trigger a patient safety incident response
- trigger our safeguarding procedure
- involve a coroner investigation or inquest
- trigger a relevant regulatory process, such as fitness to practice investigations or referrals
- involve a legal issue that requires specialist advice or guidance.

When another process may be better suited to cover other potential outcomes, the Customer Relations Team will provide clear information to the individual raising the complaint. We will make sure the individual understands why this is relevant and the options available. We will also signpost the individual to sources of specialist independent advice where appropriate.

If we consider that a staff member should be subject to remedial or disciplinary procedures, or requires referral to a health professional regulator, we will advise the person raising the complaint. We will share as much information with them as we can while complying with data protection legislation. If the person raising the complaint chooses to refer the matter to a health professional regulator themselves, or if they subsequently choose to, it will not affect the way that their complaint is investigated and responded to. We will also signpost to sources of independent advice on raising health professional fitness to practise concerns.

If we consider that a complaint (or any part of it) does not fall under this procedure we will explain the reasons for this. We will do this in writing to the person raising the complaint and provide any relevant explanation and signposting information. For more information about the types of complaints that are and are not covered under the 2009 Regulations please see [The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#).

3.2 Who Can Make a Complaint

As set out in the 2009 Regulations, any person may make a complaint if they have received or are receiving care and services from our organisation. A person may also complain to us if they are not in direct receipt of our care or services but are affected, or likely to be affected by, any action, inaction, or decision by the Trust.

If the person affected does not wish to deal with the complaint themselves, they can appoint a representative to raise the complaint on their behalf. There is no restriction on who may represent the person affected. However, they will need to provide us with their written consent so that we can share the complaint response, as it will likely contain personal information. If we do not receive consent we will still investigate in order to identify if there were any areas for improvement, and share the findings internally.

If the person affected has died, is a child, or is otherwise unable to complain because of physical or mental incapacity, a representative may make the complaint on their behalf. There is no restriction on who may act as representative but there may be restrictions on the type of information we are able to share with them. This will be based upon guidance regarding 'right of access', as set out in the [Data Protection Act 2018](#).

If at any time we see that a representative is not acting in the best interests of the person affected, or that responding to a complaint might negatively impact a service users mental health, we will assess whether we should stop our consideration of the complaint. This decision will be made by the Head of Customer Relations in discussion with the service users Lead Clinician, and we will share our reasons in writing with the person who raised the complaint.

We may also receive an anonymous or general complaint that would not meet the criteria for who can complain. In this case we may still take a closer look into the matter to identify if there is any learning for our organisation, but we will be limited on the type of information we are able to share with them as feedback.

3.3 Timescales for Making a Complaint

Complaints must be made within twelve months of the date that the incident being complained about happened, or the date the person raising the complaint found out about it, whichever is the later date.

If there are good reasons for not having made the complaint within the above timeframe, and if it is still possible to investigate the complaint effectively and fairly, the Trust may decide to still consider the complaint.

If we do not see a good reason for the delay or we think it is not possible to properly consider the complaint (or any part of it) we will write to the person making the complaint to explain this. We will also explain that, if they are dissatisfied with that decision, they can complain to the Parliamentary and Health Service Ombudsman.

3.4 Confidentiality of Complaints

We will maintain confidentiality and protect privacy throughout the complaints process in accordance with UK General Protection Data Regulation and the Data Protection Act 2018. We will only collect and disclose information to those staff who are involved in the consideration of the complaint.

Documents relating to a complaint investigation are securely stored and kept separately from medical records or other patient records. They are only accessible to staff involved in the consideration of the complaint.

Complaint outcomes may be anonymised and shared within our organisation and may be published on our website to promote service improvement.

3.5 How to Raise a Complaint

People do not have to use the specific term 'complaint' in order to have their concerns looked into. We will acknowledge the language chosen by the service user, or their representative, when they describe the issues they raise (for example, 'issue', 'concern', 'complaint', 'tell you about'). We will

always speak to people to understand the issues they raise and how they would like us to consider them.

We will make sure that everybody who uses (or is impacted by) our services (and those that support them) know how they can make a complaint by having our complaints procedure and/or materials that promote our procedure visible in public areas and on our website. We will provide a range of ways to do this so that people can do this easily in a way that suits them.

We will make sure that our service users' ongoing or future care and treatment will not be affected because they have made a complaint.

Complaints can be made by:

- Raising them directly with the clinical team
- Calling the Customer Relations Team on: 0800 953 0045
- Emailing the Customer Relations Team at: bsmhft.customerrelations@nhs.net
- Writing to the Customer Relations Team at: Customer Relations Team, The Barberry Centre, 25 Vincent Drive, Birmingham, West Midlands, B15 2FG
- Filling in an online contact form at: www.bsmhft.nhs.uk/contact-us/
- Filling out a Customer Relations booklet (which will be on display within clinical areas) and handing it to a member of staff, putting it in the locked box provided in inpatient areas, or posting it to the above address.

3.6 Advocacy and Support to Raise a Complaint or Concern

Advocacy agencies and other independent groups are available to assist individuals to raise their concerns with the Trust. '**POhWER**' provide NHS complaints advocacy for complainants residing within the Birmingham area. For complainants who are residing within the Solihull area, the advocacy service available is '**Solihull First Advocacy**'. The Trust will work with all recognised advocates and their agencies, providing written consent has been provided by the service user.

The Trust recognises that some complainants may not use English as their first language or may have other communication or learning difficulties. In these circumstances the Trust will ensure that such complainants have access to adequate support to enable them to fully participate in the complaints process. The Customer Relations Team will make the necessary arrangements on an individual case-by-case basis, after discussion with the complainant or their advocate or representative.

3.7 Multi-Organisational Complaints

If we receive a complaint that involves other organisation(s) (including cases that cover health and social care issues) we will make sure that we investigate in collaboration with those organisations. The people handling the complaint for each organisation will agree who will be the 'lead organisation' responsible for overseeing and coordinating consideration of the complaint.

The lead organisation will be responsible for making sure the person who raised the complaint is kept involved and updated throughout. They will also make sure that the individual receives a single, joint response.

3.8 Receiving a Complaint

We want service users, their family members, and carers to have a good experience while they use our services. If somebody feels that the service received has not met our standards, we encourage them to talk to staff who are dealing with them and/or to contact the Customer Relations Team to see if we can resolve the issue promptly.

We encourage all staff to proactively respond to service users and their representatives and support them to deal with any complaints raised at first point of contact. Staff who have contact with service users (or those that support them) must handle complaints and concerns in a sensitive and empathetic way. Staff will make sure people are listened to, get an answer to the issues quickly wherever possible, and any learning is captured and acted on.

All Trust staff are expected to:

- Listen to the service user to make sure they understand the issue(s)
- Ask how they have been affected
- Ask what they would like to happen to put things right
- Carry out these actions themselves if they can (or with the support of others)
- Explain why, if they cannot do this, and explain what is possible
- Capture any learning to share with colleagues and improve services for others.

3.9 Acknowledging Complaints

The Customer Relations Team will acknowledge all new complaints (either verbally or in writing/email) within three working days and will respond to any subsequent correspondence within a reasonable timeframe. When we provide an acknowledgement, we will also discuss with the person making the complaint how we plan to respond.

3.10 Complaints that Can be Resolved Quickly (Local Resolution)

Trust frontline staff often handle complaints that can be resolved quickly at the time they are raised. We encourage our staff to do this as much as possible so that people get a quick and effective answer to their issues.

When the Customer Relations Team receive a complaint, we aim to make sure it is addressed and resolved at the earliest opportunity. The team are trained to identify any complaints that may be resolved at the time they are raised or very soon after. These cases will be managed by part of the Customer Relations Team, known as the Patient Advice and Liaison Service (PALS).

PALS aim to support service areas in order to resolve concerns locally within in a matter of days. We will always discuss with those involved what we will do to help resolve the complaint and how

long that will take. Resolution will be provided by the clinical service and can be done in person, over the telephone, or in writing (by email or letter).

3.11 Formal Complaints

Not every complaint can be resolved quickly and sometimes we will require a longer period of time to take a look into the issues and carry out a formal investigation. In these cases, we will make sure the complaint is allocated to an appropriate member of staff (known as an Investigating Officer), who will take a closer look into the issues raised. This will involve undertaking a detailed and fair review of the issues to determine what happened, and what should have happened.

3.12 Clarifying the Complaint and Explaining the Process

Upon receipt of a formal complaint, a member of the Customer Relations Team will:

- Engage with the person raising the complaint and make sure they fully understand and agree:
 - the key issues to be looked at
 - how the person has been affected
 - the outcomes they seek
- Signpost the person to support and advice services, including independent advocacy services.
- Share the complaint with the service area so that managers can address any immediate concerns and offer support to any individual members of staff who may have been named in the complaint.
- Explain the complaint process and when the person can expect to hear from an investigating officer.
- Agree how they will keep the person regularly informed and engaged throughout.

3.13 Carrying out the Investigation

We will make sure staff involved in carrying out investigations are properly trained to do so. We will also make sure they have:

- the appropriate level of authority and autonomy to carry out a fair investigation.
- the right resources, support and time in place to carry out the investigation, according to the work involved in each case.

Wherever possible, complaints will be looked at by someone who was not directly involved in the matters complained about. If this is not possible, we will explain to the person making the complaint the reasons for this in order to address any perceived conflict of interest.

Once an investigating officer has been allocated, they will contact the complainant within five working days to explain how they will carry out the investigation, including what evidence they will seek out and consider, who they will speak to, how they will decide if something has gone wrong or

not. They will follow the conversation with a letter in writing to the complainant, to introduce themselves and provide a projected date for the final complaint response.

The investigating officer will make sure the investigation clearly addresses all the issues raised and will give a clear and balanced explanation of what happened and what should have happened. They will reference relevant legislation, standards, policies, procedures and guidance to clearly identify if something has gone wrong as well as obtaining information from the person raising the complaint and from any staff involved or specifically complained about.

If the complaint raises clinical issues, they will obtain a clinical view from someone who is suitably qualified. Ideally, they should not have been directly involved in providing the care or service that has been complained about

Final response timescales are decided upon depending on the content and complexity of the complaint. The timescale will factor in how many people an investigating officer might have to speak to, and the work that is likely to be involved. Each response time is unique to the case, however in any case will never be beyond six months. If a complaint response does breach the six-month time frame, we will write to the complainant to apologise and explain the reason for the delay. We will also be transparent within our internal reporting structures with regards to any breaches.

We will aim to complete our investigation within the timescale shared with the person making the complaint at the start of the investigation. Should circumstances change we will:

- notify the person raising the complaint immediately
- explain the reasons for the delay
- provide a new target timescale for completion

3.14 Providing a Resolution

Following the investigation, if the person investigating the complaint identifies that something has gone wrong, they will seek to establish what impact the failing has had on the individual concerned. Where possible they will put that right for the individual and any other people who have been similarly affected. If it is not possible to put the matter right, they will decide, in discussion with the individual concerned and relevant staff, what action can be taken to remedy the impact.

There is a wide variety of steps that can be taken to put things right, although not an exhaustive list, this might include:

- An acknowledgement, explanation, and a meaningful apology for the error
- Expediting outstanding actions
- Sharing learning with the teams involved in the individuals care to allow them to reflect on the impact that was caused
- Changing policies or procedures to prevent the same mistake(s) happening again and to improve our service for others
- Providing feedback to relevant subject matter experts or committees in order for it to be considered in any ongoing improvement work

3.15 Final Written Response

As soon as practical after the investigation is finished, the Investigating Officer will co-ordinate a written response. This will be approved by the relevant directorates' Associate Director, Clinical Director, and Head of Nursing and Allied Health Professions; before being signed off by the Chief Executive. The response will be sent this to the person raising the complaint and any other interested parties. It will include:

- A reminder of the issues investigated, and the outcome sought.
- An explanation of how the complaint was investigated.
- The relevant evidence that was considered.
- An explanation of whether or not something went wrong, that sets out what happened compared to what should have happened, with reference to relevant legislation, standards, policies, procedures, and guidance.
- If something went wrong, an acknowledgement of the impact it had.
- An explanation of how that impact will be remedied for the individual.
- A meaningful apology for any failings.
- An explanation of any wider learning we have acted on/will act on to improve our service for other users.
- An explanation of how we will keep the person raising the complaint involved and updated on how we are taking forward all systemic learning or improvements relevant to their complaint.
- Confirmation that we have reached the end of our complaint procedure.
- Details of how to request further concerns to be looked into, and how to contact the parliamentary and health service ombudsman if the individual is not satisfied with our final response.

3.16 If the Complainant is Unhappy with the Response

We understand that on occasion a complainant may feel that the response we provided has not answered their concerns, or that they may have further questions that they wish to be investigated.

Should any complainant express dissatisfaction with the outcome of the complaint, there may be the opportunity to discuss further options available including a second opinion of the outcome and/or a mediation meeting. Complainants can contact the Customer Relations department who will be able to advise on any further action which can be taken by the Trust to resolve any outstanding concerns. This must be done within three months of receipt of the complaint response, in order to allow opportunity for fair and effective re-investigation where required.

In our response to every complaint, we will clearly inform the person raising the complaint that if they are not happy with the outcome of our investigation, they can take their complaint to the Parliamentary and Health Service Ombudsman.

If the complaint is about detention under the Mental Health Act, or a Community Treatment Order or Guardianship we will inform the person making the complaint that if they are not happy with the outcome, they can also take their complaint to the Care Quality Commission.

3.17 Management of Unreasonable or Vexatious Complainants

We recognise that some people who contact us may have reason to feel aggrieved, upset or distressed. Our team are trained to handle difficult situations appropriately and are expected to understand the causes of challenging behaviour. However, it is unacceptable if this frustration turns into aggressive or abusive behaviour towards staff. When this happens, we will take action to protect our staff and maintain our ability to do our work and provide a service to others.

Our resources must be used reasonably and proportionately in order for us to provide positive outcomes for all of our service users. This might mean that we cannot respond to every issue in the way an individual might wish, if in doing so it would take up what is regarded as being a disproportionate amount of time and resources.

We will treat all the users of our service with respect, empathy, and dignity. In return we expect that our staff are treated with respect and courtesy, and that individuals engage with us in a way that does not impact on our ability to carry out our work effectively and efficiently for the benefit of all individuals interacting with our organisation.

3.17.1 Reasonable Adjustments

We understand that some individuals may have difficulty expressing themselves or communicating clearly and/or appropriately. Where there is an indication this may be the case we will consider the needs and circumstances of the individual before deciding on how best to manage the situation, including applying any necessary reasonable adjustments. However, this does not mean we will tolerate abusive language, shouting, and unacceptable behaviour or actions.

We understand that on occasion unacceptable behaviour may be exhibited as a result of an individual's mental health condition. In these circumstances we will work closely with the individual's clinical team to ensure they are receiving the support they need. It may be that we still use some of the approaches outlined within this procedure in order to safeguard the service user and the staff involved, however we will do so in a compassionate manner with the individual's best interests in mind.

If the concern becomes that a person's illness is the root cause of the complaint and responding to it would adversely affect their wellbeing, the Head of Customer Relations will discuss this with the person's Lead Clinician. A joint decision will then be made whether it is in the person's best interest not to respond. In cases such as this the complainant can resume the complaints process once suitably well to do so.

3.17.2 Unreasonable, Persistent or Vexatious Behaviour

On rare occasions some complainants may attempt to pursue the complaints procedure in a manner which is deemed to be unreasonably persistent, abusive, or vexatious. Some examples of what we consider to be unacceptable behaviour and/or actions are provided below, although this is not an exhaustive list:

- Unacceptable demands for the nature or scale of our service:
 - requesting responses in unreasonable timescales
 - insisting on speaking with senior colleagues or escalating to senior colleagues when not getting the desired answer
 - making repeated approaches about the same issue without raising new information
 - vexatious requests for information
 - repeatedly changing the substance of a complaint
 - raising unrelated concerns or refusing to accept a decision where explanations for the decision have been given
 - insisting the complaint be dealt with in incompatible ways with our process, or aren't good practice

- Unacceptable levels of contact including:
 - continually contacting us in the process of looking at the issue or complaint
 - numerous calls or emails in one day or excessive contact over a short period of time
 - repeatedly sharing information that has already been shared
 - continually reframing the issue or complaint in such a way that it makes it difficult for us to do our job effectively.
 - demanding to see or speak to a particular member of staff when it is not possible, reasonable or necessary

- Refusal to co-operate:
 - refusing to provide information and/or evidence
 - not providing a reasonable summary of their concerns
 - not providing comments or responses to reasonable deadlines
 - not agreeing to a defined complaint scope within a reasonable timescale
 - making unjustified complaints about staff dealing with the issues, and trying to have them replaced

- Aggression, rudeness, abuse and threats
 - Excessive swearing (generally or directed at a member of staff), persistent interruption, name calling or general discourtesy
 - Shouting
 - Threatening to make further complaints or report individual members of staff without justification, in order to have needs met
 - Insulting or making disparaging remarks or comments

3.17.3 Approaches That May Be Taken as a Result of Unacceptable Behaviour

We will always try to ensure any action we take is proportionate, and we will consider any relevant personal circumstances including the severity of the complaint and the needs of the individual.

Our Trust operates a Zero Tolerance approach with regards to abuse or discrimination against our staff. On an occasion that there is the threat of violence, verbal abuse or harassment towards a

member of staff, the incident will be managed in line with the [Management of Unacceptable Behaviour Policy](#). Staff members may also make the decision to report such actions to the police.

In the event that an individual becomes aggressive, abusive, or offensive during a phone call; the member of staff will tell the caller that their behaviour is unacceptable and will end the call if the behaviour persists. The staff member who terminates the call will report this to management, and a written note of the telephone conversation will be made and recorded in the caller's complaints case file.

We will not respond to any written correspondence that contains statements that are abusive or threatening. This will be saved to the complaints case file.

Each case will be addressed on an individual basis, but some of the other approaches we may implement are:

- Limit telephone contact to set times on set days.
- Restrict contact to a nominated employee who will deal with all future calls or correspondence.
- Restrict contact to in writing only.
- Restrict the issues we will correspond on.
- Ask that any contact is made through a third party only, such as an advocate, which the individual will need to arrange

3.17.4 Restricting Contact

When we believe a complainant is becoming unreasonable, persistent or vexatious we will give them the opportunity to change their behaviour or action before a decision is taken to completely restrict contact. We will let them know in writing what behaviour it is that they need to change, and what they can do to adjust it.

If an individual continues to behave in a way that is perceived as unreasonable, persistent or vexatious as outlined within this procedure, we may take the decision to restrict their contact with the Customer Relations Team. This decision will be made in consultation with the Executive Director responsible for the Customer Relations Service, along with the Chief Executive Officer.

If the decision is made to restrict an individual's access to the Customer Relations Team, we will write to them and explain:

- The steps we have taken so far to avoid the need for restricting contact
- Why the decision was made, and who by
- The length of time the restrictions will be in place
- When the restriction will be reviewed
- What arrangements for contact, if any, have been put in place

Restricted contact will normally be for an initial period of six months and will be reviewed by the Head of Customer Relations once this time has passed. Where the restriction is continued the individual should be informed in writing if felt appropriate to do so.

In exceptional cases we reserve the right to refuse to accept a complaint or future complaints from an individual.

If no further contact has been received from the complainant over a period of six months, consideration may be given to cancelling the restrictions. However, urgent assessment will be necessary to re-introduce them if behaviour which led to the original decision recommences.

3.17.5 Not Adhering to Restricted Contact

Where an individual does not follow the restriction put in place, Customer Relations staff may discontinue contact at the point that it is made. For example, if the individual telephones the service, the staff member will remind the individual of the restriction and terminate the phone call.

If an individual continues to ignore the restriction, consideration may be given to blocking phone numbers and email addresses. There may also be further consultation with the Trust Legal team in how to approach ongoing difficulties.

3.17.6 Appealing Against a Decision to Restrict Contact

The decision to restrict contact will only be made once it is felt that we have exhausted all other routes in order to support an individual's needs. As this decision will be made with approval from an Executive Director and the Chief Executive Officer there will be no further internal route to request an appeal.

If an individual is unhappy with the decision to restrict contact or the way their complaints have been handled, they can contact Parliamentary and Health Service Ombudsman (PHSO). The Ombudsman can carry out independent investigations into complaints about poor treatment or service provided through the NHS in England, and makes final decisions on complaints that have not been resolved by the NHS, government departments and some other public organisations. Complaints can be taken to the Ombudsman by visiting www.ombudsman.org.uk/making-complaint, emailing phso.enquiries@ombudsman.org.uk or calling 0345 015 4033. It is important that complaints are made as soon as our final response has been received as there are time limits for the Ombudsman to look into complaints. The Ombudsman's services are free.

3.18 Complaints Files

In accordance with [Department of Health Guidance](#), complaints records must be kept separate from health records. Complaints correspondence should not be filed within a service user's health record unless specifically requested by the service user.

Managers should ensure that in all cases complaints correspondence which contains service user identifiable and confidential information, are only shared in the groups/directorates on a need-to-

know basis. It is not necessary for managers to keep complaints files once a complaint is closed, as the main copy of the complaint will be retained by the Customer Relations Team electronically and securely on the in-house database.

- Requests for copies must be made in writing to the Customer Relations Lead clearly stating the reason for the request.
- Complaints files may be disclosed should a legal claim be made to the organisation following the outcome of a complaint.
- Complaints files will be kept by the Customer Relations Team for 10 years from date of closure of the complaint.
- A compliance audit will be completed throughout the year, to ensure good record keeping is being adhered to.

3.19 Learning from Complaints

Concerns and complaints provide the organisation with valuable feedback from service users, family members and carers. As well as learning points and actions from individual complaints, there is also substantial learning that can be taken from thematic data collected over time. The Customer Relations Team will take the following steps to ensure that learning points are identified and escalated through the most appropriate routes:

- Ensuring that where necessary, appropriate remedial actions are identified, along with ongoing monitoring to ensure actions are completed.
- All final complaint responses are approved by the relevant directorate Associate Director, Clinical Director, and Head of Nursing and Allied Health professionals.
- All complaint responses approved and signed by the Chief Executive Officer.
- Complaints themes reported on to local and trust clinical governance committees; the Quality, Patient Experience and Safety Committee; and with subject matter groups/committees where relevant.
- Satisfaction questionnaires will be provided to all complainants once the final response is provided; feedback will be collated, reported on monthly, and used for further service development
- Patient safety and safeguarding concerns are escalated to the respective teams.
- Deep dives reviews to be completed when rising themes or areas of concern are identified.
- An annual thematic report will be completed to identify themes across a longer period of time, and to set out plans for improvement over the coming year

4: Responsibilities

This should summarise defined responsibilities relevant to the policy.

Post(s)	Responsibilities	Ref
All Staff	<p>Ensure complaints and concerns are responded to in an open and honest manner and within timescales set out in this policy.</p> <p>To be aware of the complaints and concerns processes and attend relevant complaints and customer care training sessions as part of induction and as made available.</p> <p>Ensure no service user, carer, relative or visitor to the Trust is treated differently as a result of raising a concern or making a complaint.</p> <p>Ensure that documentation related to complain investigations are kept separately to patient records.</p>	
Service, Clinical and Corporate Directors	<p>Ensure all staff are aware of their responsibilities and that they are adhering to the relevant procedures.</p> <p>Oversee any investigations undertaken in line with the complaints policy and approve final responses prior to submission to the CEO.</p> <p>Ensure any recommendations identified as a result of complaints received by their service areas are implemented and monitored to ensure that lessons can be learned, and the standard of care and treatment afforded to service users, carers and relatives improves.</p> <p>Ensure any recommendations made following Independent Review by the Parliamentary Health Service Ombudsman are appropriately actioned and are discussed at Local Clinical Governance Meetings.</p> <p>To ensure and understanding of complaints received within their area and to take appropriate action address any themes.</p>	
Matrons and Ward/Team Managers	<p>Ensure that all members of staff are confident in how to deliver effective customer care and handle difficult situations in order to minimise the number of concerns and formal complaints received and to ensure local</p>	

	<p>resolution of concerns and complaints takes place efficiently, wherever possible.</p> <p>Ensure that staff are aware of what action to take if a service user, relative, carer or visitor wishes to raise a concern or make a formal complaint to the Trust.</p> <p>Contribute towards the completion of complaint investigations and development of action plans where relevant; and if appointed as an Investigating Officer ensure that the correct process is followed and adhered to.</p> <p>Ensure appropriate action is taken to ensure service improvement and minimise the risk of recurrence of issues raised in a concern or complaint.</p> <p>Ensure complainants are not treated differently as a result of raising a concern or making a complaint</p>	
<p>Head of Customer Relations & Customer Relations Lead</p>	<p>The Customer Relations Lead has day to day management of the Customer Relations (Complaints & PALS) Team.</p> <p>Both the Customer Relations Lead and Senior Complaints Officer assess the severity and significance of the issues contained in complaints and concerns and escalate information appropriately.</p> <p>Ensures the Customer Relations Department is managed efficiently.</p> <p>Ensures the administration of the Complaints process is carried out appropriately and in a timely fashion, including dealing with enquiries and concerns and responding to formal complaints.</p> <p>Ensures formal written responses to complaints are of an acceptable standard.</p> <p>Ensures training on Complaints handling is delivered to Investigating Officers.</p> <p>Ensures the Customer Relations Team liaises with appropriate managers in order to initiate and monitor a thorough investigation of matters raised.</p>	

	Ensure that actions identified are transferred into a robust action plan, with clear timescales and appropriate leads for monitoring purposes.	
Customer Relations (Complaints/PALS) Team	<p>Ensures all concerns, compliments and complaints are registered on the database (Safeguard), and that documentation is kept up to date and available.</p> <p>Respond to and manage day to day enquiries and concerns received via the team inbox, post and telephone.</p> <p>Keep complainants updated with regard to the progress of their concern or complaint.</p> <p>Provide support and advice to clinical services looking to ensure effective local resolution.</p> <p>Provide acknowledgement letters to complainants within the specified time scale of 3 working days.</p> <p>Ensure that the complaints process is carried out effectively and appropriately.</p>	
Investigating Officers	<p>To contact the complainant within 5 working days of being allocated a complaint to investigate.</p> <p>To undertake formal investigations as required. Providing a detailed, comprehensive response that addresses all the issues raised in the complaint and includes learning identified and actions required for improvements.</p> <p>To ensure responses are provided in a timely manner and keep the Customer Relations Team updated regarding the process of the investigation.</p>	
Deputy Director of Governance, IPC and Patient Safety	Has senior managerial responsibility for the Customer Relations functions and ensures that complaint handling is carried out in accordance with the policy.	
Chief Nursing Officer	Has overall responsibility for the Customer Relations Team (Complaints and PALS)	
Chief Executive	<p>The Chief Executive of Birmingham and Solihull Mental Health NHS Foundation Trust has overall accountability for Complaints.</p> <p>The Chief Executive is made aware of significant issues and approves and signs the final responses</p>	

	to formal complaints and action taken as a result of the issues raised	
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5: Development and Consultation

Consultation summary		
Date policy issued for consultation	September 2024	
Number of versions produced for consultation	1	
Committees / meetings where policy formally discussed	Date(s)	
Where received	Summary of feedback	Actions / Response

6: Reference Documents

- [BSMHFT Adult Safeguarding Policy](#)
- [BSMHFT Claims Handling Policy](#)
- [BSMHFT Management of Unacceptable Behaviour Policy.](#)
- [BSMHFT Patient Safety Incident Response Framework \(PSIRF\)](#)
- [Data Protection Act 2018](#)
- [General Data Protection Regulation \(GDPR\)](#)
- [Health and Social Care Act 2008](#)
- [Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#)
- [Records Management Code of Practice](#)

7: Bibliography

- [Independent Review of Greater Manchester Mental Health NHS Foundation Trust](#)
- [Mid Staffordshire NHS Trust public inquiry](#)

- [NHS Complaints Standards](#)
- [NHS Patient Safety Incident Response Framework](#)
- [PHSO Model Complaints Handling Procedure](#)
- [Regulation 20: Duty of Candour](#)

8: Glossary

All the terminology used within this policy is explained at the point of use.

9: Audit and Assurance

Element to be monitored	Lead	Tool	Frequency	Reporting Committee
Complaints to be responded to within given timeframe, and in any case no longer than 6 months	Head of Customer Relations	Safeguard (Ulysses Complaints Database)	Monthly	Trust Clinical Governance Committee
Complainant investigations give a fair and balanced account of what took place, identify when things have gone wrong, and provide suitable actions to remedy the issue and demonstrate learning for the service/organisation.	Head of Customer Relations	Internal quality assurance process, satisfaction questionnaires, monitoring of returned complaints and PHSO investigations.	Monthly	Trust Clinical Governance Committee
Actions completed within given timeframe	Head of Customer Relations	Customer Relations Actions Monitoring Tool	Monthly	Trust Clinical Governance Committee
Themes resulting from complaints are collated and reported on for learning and improvement	Head of Customer Relations	Data collected from Safeguard (Ulysses Complaints Database) as well as manual thematic review	Quarterly	Trust Clinical Governance Committee

10. Appendices

Appendix 1 – Equality Impact Assessment.

Appendix 2 – Customer Relations - Management of Unreasonable or Vexatious Complainants.

Appendix 1

Equality Analysis Screening Form

A word version of this document can be found on the HR support pages on Connect

<http://connect/corporate/humanresources/managementsupport/Pages/default.aspx>

Title of Policy	Complaints Policy		
Person Completing this policy	Emma Maynard	Role or title	Interim Head of Customer Relations
Division	Corporate	Service Area	All
Date Started	09 January 2024	Date completed	09 August 2024
Main purpose and aims of the policy and how it fits in with the wider strategic aims and objectives of the organisation.			
To provide all policy users clear objectives and expectations of the complaints process, in line with NHS regulations and external guidance such as Parliamentary Health Service Ombudsman (PHSO) and our Care Quality Commissioners (CQC).			
Who will benefit from the proposal?			
<ul style="list-style-type: none"> - Service users - Families - Friends - Carers - All Trust staff 			
Does the policy affect service users, employees or the wider community?			
Add any data you have on the groups affected split by Protected characteristic in the boxes below. Highlight how you have used the data to reduce any noted inequalities going forward			
<p>In our trust, service user demographics vary:</p> <ul style="list-style-type: none"> • Age 16 or less: Less than 2% • Age 25-34 and 45-54: Highest • Age 85 and plus: Approximately 4.9% • Just over 50% are women • 59.73% of our service users are white • 16.91% Asian • 7.1 % Black/Black British • 4.2% reported disability 			

We report quarterly on our complaints data to see if people with protected characteristics are disproportionately affected. This is both with a view of access to the complaints procedure, and regarding themes around complaints raised.

Does the policy significantly affect service delivery, business processes or policy?
How will these reduce inequality?

Complaints data feeds into wider learning streams for the Trust, and identifies areas for improvement.

Does it involve a significant commitment of resources?
How will these reduce inequality?

The Customer Relations Team require a review of staffing establishment, as it has not been reviewed in a number of years despite the growth of service user caseloads, thus an increase in complaints. This will allow for more timeliness in complaint responses, and more effective monitoring of learning (including monitoring inequalities).

Does the policy relate to an area where there are known inequalities? (e.g. seclusion, accessibility, recruitment & progression)

It covers all areas therefore allows for deep dives into areas of concern

Impacts on different Personal Protected Characteristics – Helpful Questions:

<p><i>Does this policy promote equality of opportunity? Yes</i></p> <p><i>Eliminate discrimination? Yes</i></p> <p><i>Eliminate harassment? Yes</i></p> <p><i>Eliminate victimisation? Yes</i></p>	<p><i>Promote good community relations? Yes</i></p> <p><i>Promote positive attitudes towards disabled people? Yes</i></p> <p><i>Consider more favourable treatment of disabled people? Yes</i></p> <p><i>Promote involvement and consultation? Yes</i></p> <p><i>Protect and promote human rights? Yes</i></p>
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Please click in the relevant impact box and include relevant data

Personal Protected Characteristic	No/Minimum Impact	Negative Impact	Positive Impact	Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics.
Age			x	Monitoring of complaints raised by age group
Including children and people over 65 Is it easy for someone of any age to find out about your service or access your policy? Are you able to justify the legal or lawful reasons when your service excludes certain age groups				
Disability			x	Monitoring of complaints raised by those with a disability
Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability?				

Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families?				
Gender			x	Monitoring of complaints raised by gender
This can include male and female or someone who has completed the gender reassignment process from one sex to another Do you have flexible working arrangements for either sex? Is it easier for either men or women to access your policy?				
Marriage or Civil Partnerships			x	Monitoring of complaints raised by marital status
People who are in a Civil Partnerships must be treated equally to married couples on a wide range of legal matters Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnerships?				
Pregnancy or Maternity			x	Monitoring of complaints related to pregnancy/perinatal care
This includes women having a baby and women just after they have had a baby Does your service accommodate the needs of expectant and post natal mothers both as staff and service users? Can your service treat staff and patients with dignity and respect relation in to pregnancy and maternity?				
Race or Ethnicity			x	Monitoring of complaints raised by ethnicity
Including Gypsy or Roma people, Irish people, those of mixed heritage, asylum seekers and refugees What training does staff have to respond to the cultural needs of different ethnic groups? What arrangements are in place to communicate with people who do not have English as a first language?				
Religion or Belief			x	Monitoring of complaints raised by religion
Including humanists and non-believers Is there easy access to a prayer or quiet room to your service delivery area? When organising events – Do you take necessary steps to make sure that spiritual requirements are met?				
Sexual Orientation			x	Monitoring of complaints raised by sexual orientation
Including gay men, lesbians and bisexual people Does your service use visual images that could be people from any background or are the images mainly heterosexual couples? Does staff in your workplace feel comfortable about being 'out' or would office culture make them feel this might not be a good idea?				
Transgender or Gender Reassignment			x	Monitoring of complaints related to gender identity
This will include people who are in the process of or in a care pathway changing from one gender to another				

Have you considered the possible needs of transgender staff and service users in the development of your policy or service?				
Human Rights			x	Monitoring of complaints related to human rights
Affecting someone's right to Life, Dignity and Respect? Caring for other people or protecting them from danger? The detention of an individual inadvertently or placing someone in a humiliating situation or position?				
If a negative or disproportionate impact has been identified in any of the key areas would this difference be illegal / unlawful? I.e. Would it be discriminatory under anti-discrimination legislation. (The Equality Act 2010, Human Rights Act 1998)				
What do you consider the level of negative impact to be?	High Impact	Medium Impact	Low Impact	No Impact
				x
If the impact could be discriminatory in law, please contact the Equality and Diversity Lead immediately to determine the next course of action. If the negative impact is high a Full Equality Analysis will be required.				
If you are unsure how to answer the above questions, or if you have assessed the impact as medium, please seek further guidance from the Equality and Diversity Lead before proceeding.				
If the policy does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the Equality and Diversity Lead .				
Action Planning:				
How could you minimise or remove any negative impact identified even if this is of low significance?				
N/A				
How will any impact or planned actions be monitored and reviewed?				
N/A				
How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic.				
N/A				

Please save and keep one copy and then send a copy with a copy of the policy to the Senior Equality and Diversity Lead at bsmhft.edi.queries@nhs.net. The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis

