

Complaint Policy

1. Introduction

In April 2009 the NHS Complaints Procedure was amended. The Secretary of State for Health approved the new regulations and they went before Parliament and were cited as the National Health Service (Complaints) Regulations and came into force on 1 April 2009. The new procedure applies to all NHS services which now includes Social Care and replaces all previous complaint procedures. It is a legal procedure, which all Trusts including Foundation Trusts have a duty to implement. This document is a step by step guide to dealing Complaints within this Trust.

2. Purpose

The purpose of this document is to advise staff of Peterborough and Stamford Hospitals NHS Foundation Trust of the procedure for handling complaints and criticisms. This procedure should be referred to by staff as and when the situation arises.

This is NOT a disciplinary procedure. Where complaints contain disciplinary issues, these should be passed to the appropriate manager and only the aspects unrelated to disciplinary issues should be investigated within the complaints procedure. This procedure does NOT deal with staff grievances.

3. Arrangements for the handling of complaints

The Complaints Procedure must be accessible to ensure that complaints are dealt with speedily and efficiently, and that complainants are treated courteously and sympathetically and as far as possible involved in decisions about how their complaints are handled and considered.

The Complaints Procedure must be accessible to any person who makes a request for one. However any request for copies of medical notes will be charged for in line with current policy.

4. Responsibility for complaints management

In line with the Regulations the Trust has appointed a Complaints Manager to take responsibility for ensuring compliance with the arrangements and to ensure that action is taken in light of the outcome of any complaint investigation

5. Who may complain

A complaint may be made by a person who is affected by or likely to be affected by the action, omission or decision of the Trust or by a person who receives or has received services from the Trust. A complaint may be made by a person acting on behalf of a patient where that patient has died, is a child, is unable by reason of physical or mental incapacity to make the complaint themselves or has requested the representative to act on their behalf.

If the patient or person affected has died or is incapable, the complainant (representative), must be in the opinion of the complaints manager, someone who had or who has a sufficient interest in the individuals welfare and is a suitable person to act as representative.

Where a person makes a complaint on behalf of a child the Trust to which the complaint is made must not consider the complaint unless it is satisfied that there are reasonable grounds for the complaint being made by a representative instead of the child.

This applies to a child or a person who lacks capacity within the meaning of the Mental Capacity Act 2005 and the responsible body to which the complaint is made is satisfied that the representative is not conducting the complaint in the best interests of the person on whose behalf the complaint is made.

If in any case the complaints manager is of the opinion that a representative does or did not have a sufficient interest in the patient's welfare or is unsuitable to act as a representative, they must notify that person in writing, stating the reasons.

Written consent should always be obtained from the patient when a complaint is made by a third party unless they fulfil the aforementioned criteria.

6. Matters excluded from the Complaints Procedure

- a) a complaint which has been made orally and is resolved to the complainant's satisfaction not later than the next working day after the day on which the complaint was made;
- b) a complaint made by an NHS body which relates to the exercise of its functions by another NHS body;
- c) a complaint made by an employee of an NHS body about any matter relating to his contract of employment;
- d) a complaint which is being or has been investigated by the Health Service Commissioner;
- e) a complaint arising out of an NHS body's alleged failure to comply with a data subject request under the Data Protection Act 1998(a) or a request for information under the Freedom of Information Act 2000;
- f) a complaint about which an NHS body is taking or is proposing to take disciplinary proceedings in relation to the substance of the complaint against a person who is the subject of the complaint.
- g) a complaint the subject matter of which has already been investigated and resolved.

- h) a complaint which relates to any scheme under section 10 (superannuation of persons engaged in health services etc) or section 24 (compensation for loss of office) of the Superannuation Act 1972[5] or to the administration of these schemes.

7. Duty to Co-operate

The Trust and the second organisation for example the Primary Care Trust (PCT) must co-operate with each other for the purpose:

- a) co-ordinating the handling of the complaint and
- b) ensuring that the complainant receives a thorough response to the complaint.

The duty to co-operate includes in particular a duty for each organisation involved:

- a) to seek to agree which of the organisations should take the lead on
 - i) co-ordinating the handling of the complaint
 - ii) communicating with the complainant
- b) to provide the other organisation information relevant to the consideration of the complaint which is reasonably requested by the other and
- c) to attend or ensure that organisation is represented at, any meeting reasonably required in connection with the consideration of the complaint.

8. How to make a complaint

Where a person wishes to complain they may make the complaint to the complaints manager or any other member of staff. A complaint may be made orally or in writing (including electronically) and where it is made orally, the complaints manager must make a written record of the complaint which includes the name of the complaint, the subject matter of the complaint and the date which it was made. When the complaint is made in writing the complaints manager must make a written record of the date on which it was received.

Where the complaint is made in writing it will be treated as being made on the date on which it was received by the complaints manager.

The Trust has a generic form that staff should complete when taking the details of a verbal formal complaint (Appendix 1). This is available to all staff on the Trusts Intranet under 'Forms'.

The complaints process is a confidential process and staff should be aware that patients, relatives and carers are not discriminated against just because they have complained.

9. Time limit for making a complaint

A complaint must be made within –

- a) twelve months of the date on which the matter which is the subject of the complaint occurred; or
- b) twelve months of the date on which the matter which is the subject of the complaint came to the notice of the complainant

The Complaints Manager may decide to go ahead and investigate a complaint outside of the aforementioned time limit if-

- a) having regard to the circumstances, the complainant had good reasons for not making the complaint within the period; or
- b) notwithstanding the time that has elapsed it is still possible to investigate the complaint effectively and efficiently.

10. The procedure

This procedure applies to clinical and non-clinical complaints and it has two formal parts. Firstly Local Resolution, which is performed by the Trust and following the conclusion of local resolution stage the complainant will be advised that if they remain dissatisfied, they can refer their complaint to the Parliamentary Health Service Ombudsman (PHSO).

10.1 Pre-formal complaints stage

Front-line staff receiving complaints should endeavour to resolve them on the spot. They should deal with the complaint rapidly in an informal, sensitive manner, apologising if necessary. If the complainant remains dissatisfied, the member of staff taking the complaint should advise the complainant of other staff that are within the Trust who maybe able to help resolve their concerns. For guidance see Appendix 2.

Front line staff should discuss the complaint with their departmental / ward manager or the Matron for that area to assist in the local resolution process. Alternatively the patient, relatives or carer should be given the opportunity to discuss their concerns with the Patient Advice and Liaison Service (PALS). PALS are there to deal with concerns rather than complaints and are able to facilitate answers in an informal setting.

The complainant does need to be aware that PALS do NOT register concerns as formal complaints against the Trust and if it is a formal complaint they wish to pursue they will need to contact the Complaints Department.

There are occasions when it is imperative that the Complaints Manager is contacted and these are;

- a) alleged breaches of confidentiality

- b) alleged verbal or physical assaults from staff to patients
- c) if serious harm has occurred to the patient or staff have acted inappropriately
- d) if the patient, relative or carer feels reluctant or unable to contact the Trust directly they can contact POhWER – the advocacy agency. POhWER (People Of Hertfordshire Want Equal Rights) is an independent body whose role is to offer advocacy support to people who wish to make a complaint about NHS services. This service is free, independent and confidential. POhWER can be contacted on telephone 0845 4561084 or email: pohwer@pohwer.net.

10.2 Local Resolution – Formal Stage

10.2.1 Procedure before the investigation

All formal complaints should be forwarded to the Complaints Manager **immediately** and the following action will be taken:

- a) where a complaint is made orally the Trust will make a written record of the complaint and provide a copy of the written record to the complainant.
- b) at the time it acknowledges the complaint , the Trust must offer to discuss with the complainant at a time to be agreed with the complainant;
 - i) the manner in which the complaint is to be handled and
 - ii) the period of time it will take for the investigation of the complaint will be likely to be completed and when the response will be sent to the complainant.
- c) if the complainant does not accept the offer of a discussion the Trust must determine the response period and notify the complainant in writing.

10.2.2 Investigation

- a) The Complaints Manager must investigate the complaint to the extent necessary and in the manner which appears to be most appropriate to resolve it speedily and efficiently.
- b) A copy of the complaint will also be sent to the General Manager for that specific Clinical Business Unit (CBU) listing the staff who have been contacted for statements.
- c) It is the responsibility of the General Manager or nominated deputy to arrange for support for those staff who are the subject of the complaint.

10.2.3 Responses

- a) The Complaints Manager must prepare a written response to the complaint which summarises the nature and substance of the complaint, describes the investigation and summarises its conclusions.
- b) There must be confirmation as to whether the Trust is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken.
- c) Where the complaint relates wholly or in part to the functions of a local authority, details of the complainant's right to take their complaint to a local Commissioner under the Local Government Act 1974(22); or to the Health Service Commissioner under the 1993 act.
- d) The formal response letter must be sent to the relevant General Manager for checking (and approval obtained from them) before the response is sent to the Chief Executive for signing.
- e) The response must be signed by the Chief Executive except in cases where he is not able to sign in which case a nominated deputy will sign the response.
- f) The response must notify the complainant of their right to refer their complaint to the Parliamentary Health Service Ombudsman (PHSO).
- g) A copy of the complaint response must be sent to anybody whose opinion was sought for the response and to the General Manager of the relevant CBU.
- h) A copy of the response will only be sent to third parties once appropriate consent has been received i.e. MP's or other relatives.
- i) The response will be sent first class to the complainant.
- j) Complaints about MDHU staff will be dealt with under this procedure and a copy of the written response will be forwarded to the local MDHU Commander.
- k) If the Trust does not send the complainant a response within the agreed timeframe, the Complaints Manager must notify the complainant in writing accordingly and explain the reason for the delay as soon as reasonably practicable after the original agreed timeframe
- l) Should the complainant remain dissatisfied with the response to the complaint, the Complaints Manager will commence further investigations and will respond in writing or if requested arrange for the relevant staff to meet with the complainant.
- m) If the complainant requests a meeting this will be arranged by the Complaints Manager. The Complaints Manager will contact the staff involved informing them that a meeting is taking place. Junior staff will be

represented by their managers, for example, in the case of nursing staff the Manager for the area will attend and for medical staff the Consultant will attend.

- n) These meetings will be chaired by the relevant General Manager and the Complaints Manager will ensure an accurate record of the meeting is taken.
- o) The Complaints Manager may, in any case where they think it would be appropriate to do so and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

A flow chart detailing time limits and the Local Resolution stage is attached (Appendix 3).

11. Role of the Health Service Commissioner (Ombudsman)

The Health Service Commissioner (Ombudsman) will be able to investigate clinical and non-clinical complaints. The Ombudsman will only investigate complaints made by or on behalf of individuals who claim to have suffered hardship or injustice as a result of the failure of a service.

Staff employed by the Trust now have a right to complain to the Ombudsman if they feel they have suffered hardship or injustice through the complaints procedure. They will be expected to have gone through established local grievance procedures prior to contacting the Ombudsman. This does not apply to any disciplinary matters, related or unrelated to the complaints procedure.

12. Patient confidentiality

Complaint documentation must not be filed in the patients' medical records. This is to ensure that the patient receives impartial treatment in the future and will prevent discrimination from occurring.

Care must be taken at all times during the complaints procedure to ensure that any information disclosed about the patient only relates to the episode of treatment complained about. The patient must be made aware, that their personal details will be disclosed to all personnel involved in the investigation of the complaint.

Where the complaint is made on behalf of a patient, care must be taken not to disclose personal health information unless the patient has consented to this in writing. This also applies to third parties who have given information or are referred to in the patients' medical records.

13. Possible claims for negligence

The complaints procedure can run in conjunction with legal action if it is deemed appropriate. The rationale for any decision not to consider a case or certain issues under the regulations, should be clearly documented. The focus needs to be on taking the matter forward in the way which will best meet the (reasonable/achievable) expectations or outcomes for the complainant. i.e. If they want to test for negligence or

pursue a large claim, then obviously this can only be achieved through the legal process. However, if they seek explanations, apologies or smaller ex gratia payments, then this is a possible outcome to a complaint and will be a considerably quicker outcome to achieve.

14. Mixed sector complaints

When the Trust receives a complaint that involves both the Trust and another part of the local authority or the NHS the two agencies must work together with a view to providing the complainant with a co-ordinated response to the complaint. The duty to co-operate includes a duty to co-ordinate the handling of the complaint and

- a) to seek to agree which of the two organisations should take the lead on
 - i) co-ordinating the handling of the complaint
 - ii) communicating with the complainant
- b) to provide the other organisation information relevant to the consideration of the complaint which is reasonably requested by the other and
- c) to attend or ensure that the other organisation is represented at, any meeting reasonably required in connection with the consideration of the complaint.
- e) agree a plan to provide information relevant to the consideration of a complaint which is reasonably requested
- f) attend any meeting reasonably required in connection with the consideration of a complaint

15. Private patient complaints

The complaints procedure covers any complaint made by a private patient about the Trust's staff or facilities relating to care in the Trust's private pay beds. It does not include the private medical care provided by the consultant outside the NHS contract.

16. Monitoring

The Trust Board of Directors will receive a quarterly complaints report highlighting trends in complaints to enable them to consider any lessons which can be learnt from complaints for service improvement. This report will also be discussed at the Clinical Governance Committee.

Each CBU will receive a copy of the report for their area and they must discuss the content at their Clinical Management Team meetings or their Clinical Governance Meetings.

The reports must—

- a specify the numbers of complaints received;
- b identify the subject matter of those complaints and the location;
- c what time frame was agreed with the complainant

- d summarise the outcome of the investigations; and
- e identify any complaints where the recommendations of the Parliamentary Health Service Ombudsman were acted upon or if the recommendations were not acted upon, give the reasons why not.

The Complaints Manager will liaise with CBU's to ensure that lessons are learnt and actioned, where appropriate. This is followed up by the use of Action Monitoring Forms which are completed by the Complaints Manager for every complaint.

Each Trust must prepare an annual report for each year which must:

- a) specify the number of complaints received
- b) specify the number of complaints upheld
- c) specify the number of complaints the Trust has been informed have been referred to:
 - i) The Parliamentary Health Service Ombudsman
 - ii) The Local Commissioner
- d) summarise
 - i) The complaint received
 - ii) Any matters of general importance arising from the complaint or how it has been handled
 - iii) Any matters where actions have been taken

NHSLA require that we regularly monitor compliance of practice against process. The table below outlines how this will be achieved in relation to the Complaints Policy

Process to be monitored	How will compliance with the outlined process be monitored?	Frequency	By who?	If compliance gaps have been identified, who is responsible for creating an action plan, and ensuring implementation of required changes?
Duty against Statutory requirements, complaints management process including internal & external communications & collaborations with other bodies, procedure to prevent discrimination on those who have raised complaints and process by	Through the Complaints, Litigation, Adverse Event and PALS Report	Quarterly	Assistant Director – Patient and Public Experience and Clinical Governance Committee	Assistant Director – Patient and Public Experience and CBU General Managers / Clinical Leads

which the organisation aims to make changes as a result of formal complaints				
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17. Publicity

The Trust will publicise its complaints arrangements and will undertake training for staff in the Complaints Procedure.

The Trust will provide leaflets for patients wishing to complain advising them of how to contact the complaints manager and outlining the process involved when a complaint is made.

These should be available on all wards / departments in the leaflet racks and a laminated copy has been distributed to all areas for display to the patients and the public.

This leaflet can be found on the Trusts intranet via the Patient and Public Experience site. A copy is also attached (Appendix 4)

The Trust will also make available to patients the Parliamentary Health Service Ombudsman booklet and the POhWER leaflet. These can be obtained from the complaints department on ext. 4234.

18. Staff training

A representative from each ward / department (ideally the Ward Manager) will be required to attend training on the new Complaints Procedure. It is then the responsibility of the Manager to ensure that the information is cascaded to other staff. A copy of the Complaints Procedure is available on the Trusts intranet and staff are encouraged to keep a copy in the ward / department.

All new staff will attend training on the Complaints Procedure at Induction. A copy of the Trust Complaints Procedure will be made available to all medical staff at Induction.

A discussion will also take place with all new Consultant appointments, during their induction, on the procedure.

Author: Samantha Wright, Complaints Manager & Lesley Crosby, Assistant Director Patient and Public Experience

Date: 19 May 2009

Date for Review: 19 May 2012

Endorsed by: Clinical Governance Committee.

VERBAL COMPLAINT

PATIENT DETAILS:

Name		Address	
Hospitals Number		Department or Ward	

COMPLAINANT DETAILS:

Name		Address	
Telephone Number		Relationship to Patient	

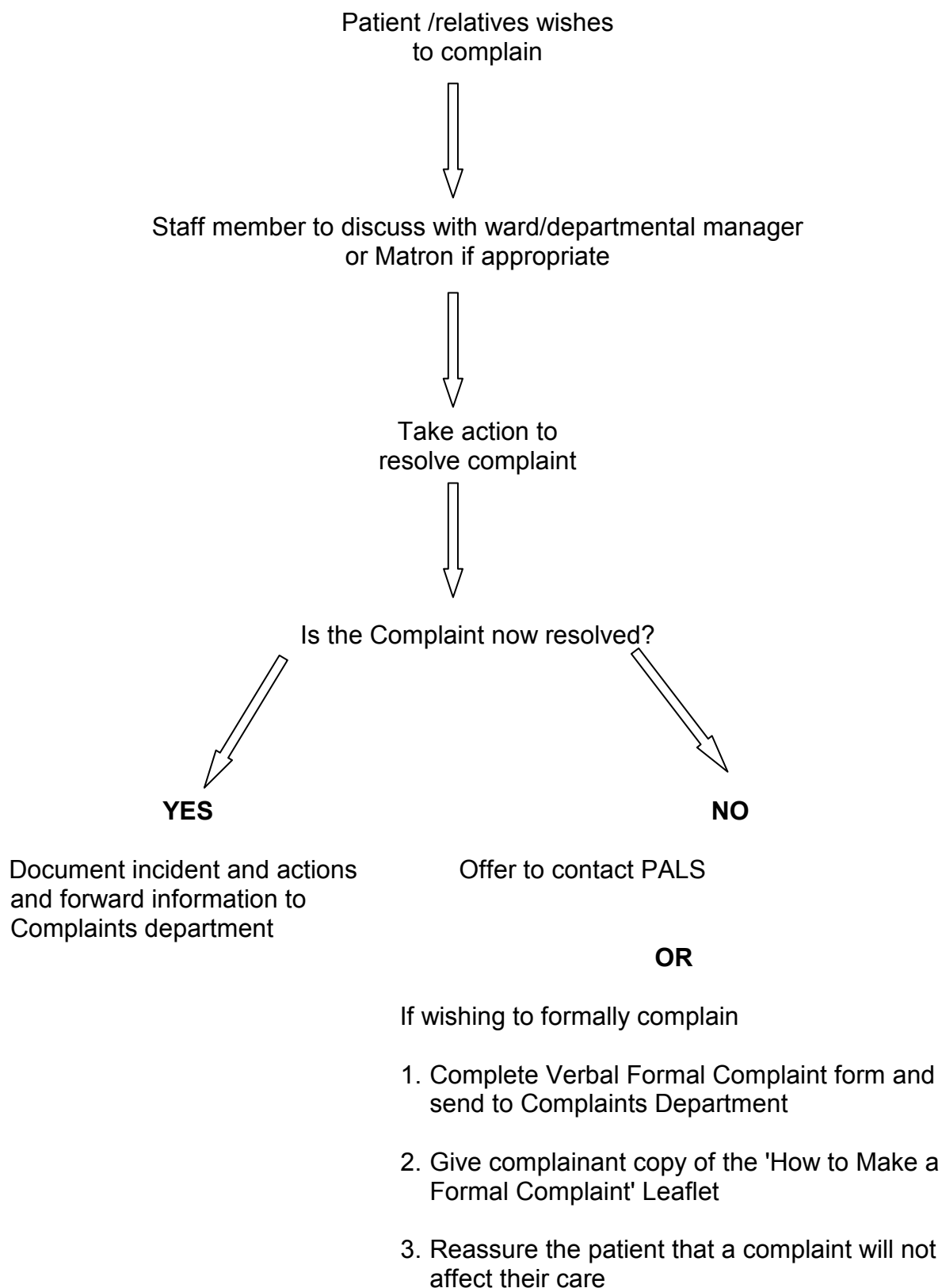
SUMMARY OF COMPLAINT (include agreed actions)

Is the patient aware of the complaint? Yes / No

Staff Member who received complaint: Date:

Please send completed form to Complaints Department, Patient & Public Experience or if you need help and advice contact the Complaints Team directly on extension 4234 or 8786.

**PROCEDURE FOR RESOLVING COMPLAINTS
WHEN COMPLAINT IS FIRST RAISED (PRE FORMAL)**



PROCEDURE FOR RESOLVING COMPLAINTS
LOCAL RESOLUTION - STAGE ONE

Complaint received in Complaints Department
and registered



Contact the complainant and agree a reasonable plan in order to be able to respond to the complaint. This needs to include a mutually accepted agreement as to whether a written response or a face-to-face meeting is suitable and what the response time frame should be. Then acknowledge the complaint within 3 working days of receipt.



Complaints Manager requests statements
from all staff involved in complaint within a reasonable time frame depending on the
complexity of the case



Statements received in Complaints Department



Complaints Manager drafts written response



Written response sent to General Manager
of business unit for approval giving 3 working
days to respond



Approval from General Manager



Written response re-dated and amended (if necessary)



Chief Executive to read complaint and agree response prior to signing.
Written response sent to complainant



Copy of written response sent to
all staff who provided statements

MAKING A FORMAL COMPLAINT

Peterborough and Stamford Hospitals NHS Foundation Trust values the comments that are made about the service its users receive. Whilst we pride ourselves in providing a good service sometimes we accept that we cannot always meet users expectations. When this happens users may wish to formally complain.

You can write in with details of your complaint, send your complaint electronically via email or register it verbally either by telephone or in person.

If you are reluctant or unable to contact the Trust directly you can contact the Independent Complaints Advocacy Service (ICAS) – an independent body whose role is to offer advocacy support to people who wish to make a complaint. This is a free and confidential service. ICAS can be contacted on:

Cambridgeshire, Norfolk and Suffolk Helpline: 0845 456 1084

**Leicestershire, Lincolnshire, Rutland, Northamptonshire, Nottinghamshire, Derbyshire
Helpline: 0845 650 0088**

Once the complaints staff receive your complaint they will contact you to discuss your complaint and agree a timeframe for answering your complaint. Your letter will be acknowledged within three working days. A full investigation will then take place. We will respond to complaints within the mutually agreed timeframe. Once the investigation is complete the Chief Executive will write to you with a detailed response.

If on receipt of this response you remain dissatisfied we encourage you to contact us again so that we can either write to you again or arrange a meeting for you to discuss your concerns in person. If the meeting fails to resolve your concerns you are at liberty to contact the Parliamentary Health Service Ombudsman (PHSO). They are responsible for reviewing formal complaints about the NHS. A leaflet explaining the role of the PHSO can be obtained from the Complaints Department on 01733 874234.

We hope that this information has explained how you can make a complaint and what will happen when it is received. If you would like a copy of the NHS Complaints Procedure, which is in place within the Trust, this can be provided free of charge by contacting the Complaints Department.

The Complaints Department details are as follows:

Phone: 01733 874234 or 01733 874000 ext. 8786

Fax: 01733 874266

In writing: Complaints Department

Peterborough District Hospital
Thorpe Road
Peterborough
PE3 6DA

Email: complaints@pbh-tr.nhs.uk

**ALL COMPLAINTS ARE TREATED CONFIDENTIALLY AND ALL COMPLAINTS
CORRESPONDENCE WILL BE KEPT SEPARATE TO THE PATIENTS MEDICAL NOTES SO AS
TO AVOID THE WORRY OF DISCRIMINATION.**