

# **Complaints and Compliments Policy**

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## Document control sheet

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	Give reasons for exemption if no:

## Version control

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2.0	September 2018	Jodeigh Phelps	Updating Acceptable Behaviour section
3.0	September 2018	EMT - Approved	

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## **1. Introduction**

This policy sets out the way in which NHS Kernow handles complaints and compliments made regarding the decisions it makes and the actions taken by staff. This is in line with the 2009 NHS Complaints Regulations.

## **2. Purpose**

- To inform people how NHS Kernow will deal with complaints made to the organisation.
- To inform staff of the complaints policy and process.
- To ensure the organisation is compliant with statutory complaints regulations.

## **3. Responsibilities**

3.1 It is the responsibility of NHS Kernow in handling complaints to ensure that complaints are:

- dealt with efficiently,
- properly investigated;

and that complainants:

- understand how to make a complaint,
- are treated with respect,
- receive advice on where they may obtain complaints advocacy or assistance,
- receive a timely and appropriate response,
- are told the outcome of their complaint,
- are assured that action is taken if necessary, in light of the outcome.

3.2 All staff are responsible for responding to requests for information from Investigating Officers and ensuring they are aware of this policy.

3.3 All managers are required to cooperate fully with the Complaints Manager in relation to the investigation of complaints and to ensure that all staff are aware of the Complaints Policy and Procedures, of their responsibility in the local resolution of complaints and for maintaining a culture whereby service users feel confident in complaining without fear of jeopardising their care.

- 3.4 The Complaints Manager has overall responsibility for the day-to-day conduct and control of all complaints and associated processes.
- 3.5 The Complaints Manager will report to Workforce Committee to ensure they are made aware of any themes regarding complaints raised against the organisation.
- 3.6 The Chief Officer retains overall accountability for complaints within NHS Kernow.
- 3.7 The Chief Officer may delegate responsibility for the management of complaints to a Director or Senior Officer.

## **4. Aims and objectives**

- 4.1 The main objective of the policy is to deal with complaints as quickly, appropriately and as close to the source of the problem as possible.
- 4.2 This policy aims to achieve:
  - Ease of access for complainants (including publicity and meeting the requirements of the NHS Accessible Information Standard, making arrangements for those with particular communication needs).
  - A rapid, open, conciliatory response which, as far as possible, meets the needs of the complainant whilst being fair to staff.
  - A flexible, person-centred approach to problem solving.
  - A high profile for complaints within the organisation.
  - A means of providing information to management in order that, where appropriate, services can be improved or experience enhanced.
  - Compliance with statutory requirements and national standards.

## **5. Definition of a complaint**

- 5.1 The NHS complaints procedure, as set out in the regulations, is for people who are users of services and is not for staff grievances. A clear definition of what is excluded from this policy is set out in the Statutory Instrument 2009 No. 309.
- 5.2 It is not intended that every minor concern will warrant a full scale complaints investigation. Rather, the spirit of the complaints procedure is that staff are empowered to resolve minor problems immediately and informally. The organisation will therefore seek to distinguish between requests for assistance in resolving a perceived problem and an actual complaint. The former will be dealt

with in a flexible manner which is appropriate to their nature and the latter will be dealt with in accordance with the complaints regulations and this policy.

- 5.3 A complaint investigation is a 'learning from experience' process and not a disciplinary process. If there are immediate health issues or concerns for an individual then these must be addressed in the first instance.
- 5.4 If the informal resolution of a complaint takes more than 24 hours, legislation requires that the complaint be recorded formally. In this case, staff must immediately inform the Complaints Manager.
- 5.5 Feedback which is not in the form of a complaint but which suggests cause for concern will be the subject of investigation and response of the same quality as a formal complaint, whether or not the informant has indicated a desire to have the matter dealt with as such. Comments or complaints which describe events amounting to an adverse or serious incident will trigger an investigation in line with serious incident reporting.

## **6. Local resolution procedure: Stage 1 of the complaints process**

- 6.1 All staff must ensure that:
  - Any complaint is forwarded immediately to the Complaints Manager, ideally through scanning and secure emailing.
  - The person's health needs are a priority and should be met before any matters relating to their complaint are addressed.
  - A person's healthcare is not affected by their making of a complaint.
  - Records of complaints must not be stored on any records held by NHS Kernow which may impact care, such as continuing health care or individual funding requests.
  - Staff approach is non-adversarial, but rather supportive and understanding.
  - The person is equipped to make their complaint by giving them information about the health complaints advocacy service (seAp) if desired.
  - The person is equipped to make their complaint by giving them information in appropriate formats, e.g. in another language.
  - Any subsequent action required to address a complaint, including the provision of a draft response, must be treated as a priority task to ensure procedural timescales are met.

- 6.2 Complaints can be made in writing or orally. Oral complaints will be recorded in writing and the complainant invited to confirm accuracy. Where appropriate the complainant will be offered help in making a written statement with the option to do this through the health complaints advocacy service (seAp).
- 6.3 Complaints should be raised within 12 months of the event which has given rise to the complaint, or within 12 months of becoming aware that there was cause for complaint. This time limit shall not apply if NHS Kernow is satisfied that the complainant had good reason for not making the complaint within the time limit, and if it is still possible to investigate the complaint effectively and fairly.
- 6.4 The Complaints Manager will contact the complainant (where possible) to discuss and agree a plan for handling the complaint.
- 6.5 It is considered that 25 working days is a reasonable length of time in which to investigate a complaint. Should NHS Kernow not be able to meet this deadline, the Complaints Manager will discuss an extension with the complainant.
- 6.6 If it is not possible to speak with the complainant when the complaint is made, the acknowledgement letter will suggest a plan and invite the complainant to respond if the plan is not acceptable.
- 6.7 The acknowledgement letter will be sent to the complainant within three working days of the complaint being received. The acknowledgement will:
- give information about the health complaints advocacy service (seAp);
  - give information on the NHS complaints procedure.
- 6.8 Where an investigation needs to take place, a Request for Investigation form and a copy of the complaint letter will be sent to the Investigating Officer.
- 6.9 The Complaints Manager will ensure that where concerns are raised regarding an individual member of staff, the appropriate line manager will be informed and that they are provided with information to support their member of staff (leaflet available from Complaints Manager). The line manager will work with the Complaints Manager to determine the best placed individual to be the Investigating Officer.
- 6.10 The Investigating Officer will make an initial risk assessment of the complaint and immediately inform the Complaints Manager if the risk is graded 'high' or above. The Complaints Manager will ensure the complaint is entered on the risk register.



- 6.11 The Investigating Officer will provide the Complaints Manager with the results of the investigation as indicated on the Request for Investigation form. If the timescale cannot be met, the Complaints Manager must be informed and an extension agreed with the complainant.
- 6.12 The Investigator's response will include:
- A copy of the Request for Investigation;
  - Copies of evidence referred to (e.g. records);
  - Recommendations following investigation;
  - Actions to be taken/actions which have been taken as a result of the complaint;
  - A final risk assessment;
  - All complaint investigation information must be returned to the Complaints Manager to ensure compliance with data protection regulations.
- 6.13 A written response from the appropriate Service Director or delegated manager to the complainant will include:
- An apology where appropriate;
  - An explanation of events;
  - Details of any remedial action;
  - An invitation for further local resolution if complainant not satisfied, including the option to ask for a further explanation if the initial response is unclear;
  - Information about the second stage of the NHS complaints procedure.
- 6.14 If the organisation does not send the complainant a response within six months of the complaint being received, the complainant will be notified, explaining the reason why.

## **7. Complaints about NHS Kernow which also involve different sectors of the NHS and/or the Local Authority**

- 7.1 Complaints may sometimes concern this organisation and other local health or social care organisations. NHS Kernow has a duty to cooperate with these complaints and the investigations which may arise. There is a locally agreed policy for this known as Multi-agency Complaints Protocol.
- 7.2 It is the responsibility of the Complaints Manager to work with other organisations to ensure the complainant is fully aware of how the process works and to agree who will be the point of contact.

## **8. Complaints about services commissioned by NHS Kernow**

- 8.1 Where complaints concerning commissioned services are received by NHS Kernow, the Complaints Manager will advise the complainant of the need to forward their complaint to the relevant organisation and will seek their informed consent to do so. The complaint will be forwarded at the earliest opportunity once consent is given.
- 8.2 It is the expectation of NHS Kernow that commissioned services will respond to complaints made against them in line with the NHS complaint regulations. This is part of the standard NHS contract signed by providers.
- 8.3 However, if the Clinical Commissioning Group (CCG) considers that it is appropriate for the CCG to deal with the complaint, it will notify the complainant and the provider and continue to handle the complaint in accordance with regulations.
- 8.4 Commissioners are entitled to intervene in the management of an individual complaint on behalf of a complainant where it appears to them it is not being dealt with satisfactorily, while respecting the principle that it is the provider who has primary responsibility to process and respond to complaints about its services.

## **9. Independent review: Stage 2 of the complaints process**

- 9.1 The second stage of the complaints procedure is handled by the Parliamentary and Health Service Ombudsman (PHSO). NHS Kernow will provide all complainants of the contact details of the PHSO when dealing with their complaint at stage one of the process.
- 9.2 NHS Kernow will co-operate with the PHSO when requests for information are received. All staff involved in the handling of the original investigation may be requested to provide additional information and required to co-operate with an investigation.
- 9.3 The recommendations from any report arising from a full PHSO investigation will be set out in an action plan and passed to the relevant Director/Senior Manager. A copy will also be passed to those involved in the original investigation. It is the responsibility of managers to ensure that required actions are implemented.

## **10. Risk assessment**

- 10.1 The Complaints Manager will be mindful of the potential level of risk which a new complaint suggests, and will influence the local resolution plan to produce a method of resolution/investigation which reflects this e.g. investigation from outside department.
- 10.2 The Complaints Manager must be alerted to any incident which would require the completion of an incident form and remind staff of this procedure where necessary.
- 10.3 If information from complaints and/or evidence from other sources, including that provided by other staff, indicates that service users or staff could be at risk, the Complaints Manager will have the discretion to discuss the matter with the appropriate staff within the organisation and be guided by them as to the most appropriate action to be taken. This could include the matter being referred:
- under the disciplinary procedures
  - to a professional body
  - through the serious incident procedure
  - to the police
  - to the counter fraud officer
  - through appropriate safeguarding procedures
- 10.4 Each complaint will be evaluated by the Investigating Officer for risk. Where significant risk is identified, or where there is a potential claim, the Complaints Manager will notify the Risk Manager or Deputy Director for Corporate Governance.
- 10.5 Any complaint evaluated as a 'red' risk must be placed on the organisational risk register.

## **11. Organisational change arising from complaints**

- 11.1 Subsequent to an investigation, the manager of the complained about service is responsible for ensuring that actions are taken when identified. The complaints action template will be used.
- 11.2 Actions might provide remedy for the individual complainant and/or reduce the risk of any identified failure recurring.

- 11.3 The team or service manager is responsible for providing evidence of the completion of the actions. This evidence is to be forwarded to the Complaints Manager.

## **12. Organisational learning from complaints**

- 12.1 Managers should use the issues raised in individual complaints to explore and, where appropriate, initiate service improvements. Issues arising from complaints, problems and other user feedback should be a standard item for discussion at team meetings.
- 12.2 Where necessary the Complaints Manager will complete an action learning grid with the team or service manager following a complaint investigation.
- 12.3 The Complaints Manager will identify any themes which emerge from complaints.

## **13. Reporting**

- 13.1 An annual report will be submitted to the Workforce Committee and published on the NHS Kernow website.
- 13.2 This will include:
- the number and subject matter of complaints received
  - the number of complaints upheld
  - actions taken as a result
  - complaints referred to stage two
  - commentary on emerging themes
- 13.3 The Complaints Manager will report on a twice yearly basis to the Workforce Committee to advise of organisational complaints and any current themes and trends of concern.
- 13.4 In line with national requirements, data will be uploaded on a quarterly basis to NHS Digital; this contains numbers only and no identifiable data.

## **14. Duty of confidentiality**

- 14.1 Care must be taken at all times throughout the complaints process to ensure that any information disclosed about the individual or complainant is confined to those

who have a demonstrable need to know it for the purpose of investigating the complaint or ensuring that the complaints procedure is followed.

- 14.2 It is good practice to explain to the complainant that information from his/her records may need to be disclosed to staff involved in managing the complaint and any independent review. If the service user objects to this then the effect on the investigation will be explained.

## **15. Consent**

- 15.1 Any person wishing to make a complaint on behalf of another adult must have written consent to do so from the person concerned. In some cases it may be appropriate to obtain consent from a child if that child is considered to be capable of understanding the situation and can give informed consent.
- 15.2 Every attempt must be made to obtain consent including enlisting help from specialist advocates when appropriate. If the person has died or is not capable of providing consent, then the Complaints Manager will determine whether the complainant had sufficient interest in the person's welfare, or is suitable to act as a representative.
- 15.3 Those involved in the process must refer to the standard operating procedure for complaints on consent.

## **16. Support for complainants**

- 16.1 Complainants will be offered independent support when making a complaint through the health complaints advocacy service (seAp) and, where appropriate, specialist advocacy services.
- 16.2 Complainants will be given support to overcome any communication or other difficulties to enable them to make a complaint, (e.g. provision of interpreters, in line with the requirements of the NHS Accessible Information Standard).

## **17. Support for staff who are the subject of a complaint**

- 17.1 NHS Kernow appreciates the negative associations of complaints – that they happen when something has gone wrong or is perceived to have gone wrong – and it will, as far as possible, resist apportioning blame.

- 17.2 The Complaints Manager will inform the appropriate line manager when a complaint has been made regarding a member of their team. Line managers will inform the staff of the details of any complaint made against them and their expectations of the member of staff during the process (for example, this may mean that there is a change in case load or duties to allow for investigation). Additionally the line manager will make known the support available to the member of staff.
- 17.3 The investigating officer will contact the member of staff at the earliest opportunity to give them the opportunity to answer the complaint, and be kept informed of the progress of the complaint and its outcome.
- 17.4 NHS Kernow will support staff through the complaints process and does not expect staff to tolerate abuse from service users or others at any point, including during complaints management.

## **18. Support for staff investigating complaints**

- 18.1 Staff investigating complaints will be given support and guidance by the Complaints Manager on an as and when required basis.

## **19. Safeguarding**

- 19.1 Prevention of abuse is a core responsibility of all staff, volunteers and organisations that provide care and support to adults and children at risk, and will be dealt with to ensure the individual is safeguarded.
- 19.2 If concerns are raised regarding suspected or actual harm of an individual through a formal complaint, it will be responded to in line with the appropriate safeguarding policies.

## **20. Equality and diversity**

- 20.1 NHS Kernow recognises that some groups and individuals may experience difficulty in accessing/using services. NHS Kernow will ensure that complainants have the necessary support to have full access to and involvement in the complaints procedure. These arrangements will be made on an individual case-by-case basis after discussion with the complainant or their representative. We will ensure that communication needs are met in line with the NHS Accessible Information Standard and Equality Act 2010.

- 20.2 Similarly, the Complaints Manager and investigators will bear in mind how protected characteristics may have impacted on the complainant's experience of service provision.

## **21. Discrimination**

- 21.1 NHS Kernow will not tolerate discrimination against a complainant that might occur as a result of their having complained.
- 21.2 If the investigator, or any member of staff, believes that a complainant or their representative's care is adversely affected by having complained, they must contact the Complaints Manager. The Complaints Manager will bring this to the attention of the relevant director. If any allegations of discrimination are upheld, these will be dealt with under the organisation's Disciplinary Procedure.
- 21.3 NHS Kernow will not tolerate discrimination towards staff from those raising a complaint; this will be challenged by the Complaints Manager and reported appropriately.

## **22. Disciplinary procedures**

- 22.1 The complaints procedure, being concerned only with resolving complaints and not with investigating disciplinary matters, is completely separate from the disciplinary procedure.
- 22.2 With regard to complaints about NHS Kernow employees, if a complaint indicates a prima facie need for referral to hold:
- an investigation under the internal disciplinary procedure
  - a professional regulatory body
  - an independent inquiry into a serious incident under Section 84 of the NHS Act 1977
  - an investigation of a criminal offence

The person in receipt of the complaint must pass the relevant information at once to the Complaints Manager, who will in turn ensure it is passed on to the person designated by NHS Kernow to take responsibility for deciding whether or not to initiate investigative action. Such a referral may be made at any stage of the complaints procedure.



- 22.3 Paperwork relating to the complaints investigation may be used in any disciplinary or criminal investigation.
- 22.4 The outcome of any investigatory action is a confidential matter between employer and employee. The organisation will need to take a decision on what to tell the complainant. The organisation will owe a duty of care to its staff member but also a duty to be open and honest with the complainant. The organisation will decide how much information is given. The Human Resources (HR) department will be consulted for more definitive advice.

## **23. Complaints and litigation**

- 23.1 Even if the complainant's initial communication with NHS Kernow is via a solicitor's letter, it should not necessarily be inferred that the complainant has decided to take legal action in respect of the complaint. A hostile or defensive reaction to the complaint is more likely to encourage the complainant to seek information and a remedy through the courts. An open and sympathetic approach may satisfy the complainant.
- 23.2 Where legal action has been started or an explicit intention to take legal action has been expressed, NHS Kernow's Complaints Manager will notify the Corporate Risk Manager for inclusion on the risk register and will take advice on whether any complaints investigation would prejudice the case:
- Where the police are involved in any aspect of the complaint investigation, NHS handling would cease if the police investigators believe that to continue the NHS enquiry would endanger or hinder a criminal investigation and/or pervert the cause of justice. The complaint can then be recommenced when the police indicate it is appropriate to proceed.
  - When it is found that one or more elements of the complaint that are being complained about or that have arisen out of the investigation are upheld and an apology would be issued, NHS Kernow will consider checking the wording of the response with the NHS Resolution. This is to inform NHS Resolution that there is a potential claim being processed as a complaint and also to get their sanction on the wording used for any apology and explanation. Individuals involved in the elements of the complaint may want to consult their insurance service for advice.
- 23.3 Taking legal action does not prohibit use of the complaints procedure. The regulations state that complaints of this nature need to be handled in accordance



with the regulations alongside any legal claims or action that is proceeding elsewhere.

## **24. Redress**

- 24.1 Redress for complainants can take different forms. Remedies offered will vary according to the needs of the complainant, the findings of the investigation and any hardship that the individual has encountered. NHS Kernow will keep any commitments to provide remedies, provide an apology and explanation where relevant, acknowledge when things have gone wrong, accept responsibility where appropriate, and learn from any maladministration or poor service.
- 24.2 Although financial redress or compensation would normally need to be sought through legal channels, NHS Kernow has discretion to provide financial reimbursement of expenses or losses where fault has been found, for example, reimbursement of the cost of lost property.

## **25. Complaints about Freedom of Information Act**

- 25.1 Complaints about Freedom of Information (FOI) are outside of the scope of the NHS complaints process. See the Freedom of Information Policy and Procedures. Any complaints of this nature will be forwarded to the FOI Officer.

## **26. Complaints about the Data Protection Act**

- 26.1 Concerns relating to the Data Protection Act are not covered by the NHS complaints regulations and as such will be forwarded to the Information Governance Manager (Data Protection) for handling through the relevant procedures. See the Data Protection Policy and Procedures. Examples include the unauthorised disclosure of data to a third party without the consent of the individual about whom the record is held.
- 26.2 Complaints about data protection which would typically be considered under the NHS complaints procedure include unauthorised disclosure of complaints information, loss of files or refusal to access the files.

## **27. Staff safety**

- 27.1 Staff are not expected to put themselves in situations where they feel they may be at risk when dealing with complaints:

- Abuse, harassment or violence of any kind towards members of staff will not be tolerated.
- Staff will not be expected to undertake home visits or to meet people on their own if they feel themselves to be at risk. Alternative places to meet may be arranged and they may take a colleague with them.
- Staff undertaking home visits will leave the address with a colleague. Details of their expected return to the office or time when they will contact the office should be left. If no contact is made, another member of staff will be entitled to access the address and take appropriate action to ensure their colleague's safety.
- Staff will report and record any incident that gives them concern for their safety under the zero tolerance procedures, completing an incident form.

## **28. Training**

- 28.1 Guidance and training on complaints management and investigation techniques will be provided on an individual basis, where appropriate.
- 28.2 General training in complaints will be offered to all teams by the Complaints Manager. Team managers should determine if this is something required by their team.

## **29. Records management and retention of records**

- 29.1 Records relating to complaints must be kept securely.
- 29.2 All investigators must return complaints records to the Complaints Manager once the investigation is complete
- 29.3 Records of complaints investigations must only be held by the central complaints team and must not be stored on any records held by NHS Kernow which may impact care, such as continuing health care or individual funding requests. Should the outcome of a complaint investigation mean that a record requires amending or updating, this should be discussed with the Complaints Manager or Information Governance Manager.
- 29.4 Complaints files relating to complaints investigations will be retained by the organisation for ten years. See the Records Management Policy and Strategy.

## **30. Unusual complaints**

30.1 Unusual complaints could involve the following elements:

- Cross internal UK borders
- Cross borders internationally (coming into the UK)
- Complaint when the complainant has already told you they are seeking or may seek legal remedy
- Abusive
- Violent
- Repeat complaints with same elements
- Failure to accept findings and not go to the Parliamentary and Health Service Ombudsman
- Constantly bringing new elements to the same complaint
- Regularly making totally new complaints
- From Elected Representatives
- Complaint involving an element of treatment abroad
- Complaint where the person received private treatment
- Complainants who through their beliefs have an unusual need
- Complainants who have medical issues
- Those affected by their communications skills – language
- Those affected by their communications skills – disability
- Those affected by their communications skills – mental health
- Those affected by their communications skills – understanding
- Complainants who want disciplinary action against members of staff
- Complainants who demand to know the names of staff and other personal details
- When a complainant put limits on who can be interviewed about the complaint
- Complainants who are under the age of 18
- Complainants who contact the organisation by phoning and writing to a number of people in the organisation (scatter gun approach)
- Where a person is requesting an inappropriate form of redress to their issues
- A complaint that is made at a time that over the 12 month limit stated in the regulations

## **31. Compliments**

31.1 Positive feedback (letters of thanks, comments and suggestions) should be passed to the Complaints Manager, along with any detail on how feedback is being used to improve services.

- 31.2 The Complaints Manager will respond to the author within three working days, informing them how their feedback has been used.
- 31.3 Positive feedback will be included in the complaints annual report, together with any actions/developments arising from it.

## **32. Acceptable behaviour**

- 32.1 Whilst it is understood that raising a complaint can be distressing and difficult for the individual, it should also be recognised that NHS Kernow has a duty to protect its employees and as such abusive or inappropriate behaviour will not be tolerated.
- 32.2 NHS Kernow operates an Acceptable Behaviour Policy and should complainants' behaviour become unacceptable during the course of or following a complaint, the Complaints Manager will refer them to the policy.
- 32.3 The policy defines unacceptable behaviour as:

“...unacceptable behaviour is taken to mean any behaviour, including actions, words (written or verbal), physical gestures or tone of voice which could reasonably be perceived to cause distress or discomfort. It is not limited to face to face contact and can be through written, telephone, email or social media communication.”
- 32.4 A full copy of the Acceptable Behaviour Policy can be found on our Document Library.

## Appendix 1: Pre-ratification checklist

For use by ratifying bodies.

To be attached to a policy or similar document when submitted to the appropriate committee/group/individual for consideration and ratification.

	Title of document being reviewed	Yes/No	Comments
1.	Title		
	Is the title clear and unambiguous?	Yes	
2.	Purpose		
	Is the reason for the document stated?	Yes	
3.	Development process		
	Has a reasonable attempt been made to ensure relevant expertise has been included?	Choose an item.	
	Is there evidence of consultation with stakeholders and users?	Choose an item.	
	If appropriate, has there been clinical input?	Choose an item.	
	If appropriate, has the Joint Partnership Committee been consulted?	Choose an item.	
	If appropriate, has the Counter Fraud Specialist been consulted?	Choose an item.	
4	Content		
	Are the objectives and intended outcomes clear?	Choose an item.	
	Is the target audience clear and unambiguous?	Choose an item.	

	Title of document being reviewed	Yes/No	Comments
5	Evidence base		
	Are key references cited, if appropriate?	Choose an item.	
	Are the references cited in full, if appropriate?	Choose an item.	
	Are supporting documents cross referenced?	Choose an item.	
6	Ratification		
	Does the document identify which committee will be asked to ratify it?	Choose an item.	
7	Dissemination and implementation		
	Is there an outline plan to identify how this will be done?	Choose an item.	
	Does this include training/support to ensure compliance?	Choose an item.	
	Is it clear whether the document can be published on the organisational website? If it cannot, is a clear, valid reason given for this?	Choose an item.	
9	Process for review and monitoring compliance		
	Is a review date identified?	Choose an item.	
	Is the frequency of review identified? If so, is it reasonable?	Choose an item.	
	Is there a plan to review or audit compliance with the document?	Choose an item.	
11	Overall responsibility for the document		
	Is it clear who will be responsible for coordinating the	Yes	



	Title of document being reviewed	Yes/No	Comments
	dissemination, implementation and review of the documentation?		

## Appendix 2: Consultation form

Please add any comments, sign on the last page and return this form. If you do not return this form, the assumption will be that you are satisfied with the content of the document.

This policy has been passed to the following people/groups for comment:

Name	Designation	Address
All staff	All employees were given the opportunity to provide feedback through the staff engagement bulletin	

If you feel that this document should be passed to other colleagues/groups for their views then please write the names, job titles and contact addresses below. This could also include colleagues from outside NHS Kernow. The author will arrange for a copy of the document to be sent to them.

Name	Position	Address

### Comments

Please specify page and paragraph numbers, or send back electronically with 'tracked changes' or comments.

Page/Para	Comment

Signed: .....



## Equality Impact Assessment

Name of policy to be assessed	Complaints		
Section	Corporate Governance	Date of Assessment	14/08/2018
Officer responsible for the assessment	Jodeigh Phelps	Is this a new or existing policy?	Existing
Describe the aims, objectives and purpose of the policy.			
This policy outlines NHS Kernow's responsibilities for handling complaints. This includes responsibilities of staff and investigating officers.			
Are there any associated objectives of the policy? Please explain.			
<p>To inform patients and their relatives how NHS Kernow will deal with complaints made to the organisation.</p> <p>To inform staff of the complaints policy and process.</p> <p>To ensure the organisation is compliant with statutory complaints regulations.</p>			
Who is intended to benefit from this policy, and in what way?			
All employees of NHS Kernow, those involved in the handling of complaints and patients and their relatives in understanding how complaints will be handled and any limitations of complaints handling			
What outcomes are wanted from this policy?			
To ensure that all members of staff, service users, patients are clear regarding how complaints will be handled and reported.			
What factors/ forces could contribute/ detract from the outcomes?			
Awareness of the policy and the statutory requirements to report and investigate complaints			

Willingness of the Complaints manager and officer to support staff with complaints
Negative associations of being named in a complaint
Reluctance of staff to take on the role of investigating officer due to time pressures or inexperience
Who are the main stakeholders in relation to the policy?
All staff of NHS Kernow and patients
Who implements the policy, and who is responsible for the policy?
The Complaints Manager
What is the impact on people from Black and Minority Ethnic Groups (BME) (positive or negative)?
Consider relevance to eliminating unlawful discrimination, promoting equality of opportunity and promoting good race relations between people of different racial groups. Issues to consider include people's race, colour and nationality, Gypsy, Roma, Traveller communities, employment issues relating to refugees, asylum seekers, ethnic minorities, language barriers, providing translation and interpreting services, cultural issues and customs, access to services.
Complaints may be received from all sections of society regardless of ethnicity.
How will any negative impact be mitigated?
Not expected, however the complaints manager will discuss any access issues with the complainant when they are raised.
What is the differential impact for male or female people (positive or negative)?
Consider what issues there are for men and women e.g. responsibilities for dependants, issues for carers, access to training and employment issues, attitudes towards accessing healthcare.
This policy should have a positive impact for carers who will deal with NHS Kernow on a regular basis and therefore may have cause for concern or raising a complaint.
<a href="#">Click here to enter text.</a>
How will any negative impact be mitigated?

Not expected, but any member of staff or patient may discuss this with the complaints manager to find a way to mitigate any negative impact.
What is the differential impact on disabled people (positive or negative)?
Consider what issues there are around each of the disabilities e.g. access to building and services, how we provide services and the way we do this, producing information in alternative formats and employment issues. Consider the requirements of the NHS Accessible Information Standard. Consider attitudinal, physical and social barriers. This can include physical disability, learning disability, people with long term conditions, communication needs arising from a disability.
The NHS complaints regulations require complaints to be made in writing, in order to meet the needs of those unable to put their complaint in writing the policy outlines that verbal complaints may be made and agreed with the individual. Additionally there is a free advocacy service for those wishing to raise a complaint and unable to do so for themselves. <a href="#">Click here to enter text.</a>
How will any negative impact be mitigated?
The complaints manager will discuss any needs with the complainant and advise accordingly, the complaints manager can contact the advocacy service on behalf of a complainant with their consent.
What is the differential impact on sexual orientation?
Consider what issues there are for the employment process and training and differential health outcomes amongst lesbian and gay people. Also consider provision of services for e.g. older and younger people from lesbian, gay, bi-sexual. Consider heterosexual people as well as lesbian, gay and bisexual people.
The complaints policy outlines that discrimination from either staff or complainant will not be tolerated and will be addressed by the complaints manager and referred to the HR team for advice and action where appropriate.
How will any negative impact be mitigated?
Not expected but if experienced it will addressed appropriately.
What is the differential impact on people of different ages (positive or negative)?

Consider what issues there are for the employment process and training. Some of our services impact on our community in relation to age e.g. how do we engage with older and younger people about access to our services? Consider safeguarding, consent and child welfare.
The complaints team receives a high percentage of complaints from older patients due to the nature of the work undertaken by the CHC team. This policy welcomes complaints regardless of age.
How will any negative impact be mitigated?
What differential impact will there be due religion or belief (positive or negative)?
Consider what issues there are for the employment process and training. Also consider the likely impact around the way services are provided e.g. dietary issues, religious holidays, days associated with religious observance, cultural issues and customs, places to worship.
NHS Kernow staff may experience unacceptable behaviour from others which is either driven by prejudice or which manifests itself as abuse. This policy seeks to ensure that the organisation, protects its staff within scope of the policy, including those covered by a protected characteristic as defined in the Equality Act 2010, are protected as far as is reasonably possible from the impact of unacceptable behaviour from others. In relation to perpetrators of unacceptable behaviour, the policy and associated procedures objectively consider the nature of the behaviour and the context before any shared decision making on imposing any sanctions or restrictions to accessing services. Decisions will take account of the needs of the individual and the needs of the service.
How will any negative impact be mitigated?
Not expected but if experienced it will be managed on a person by person basis and will form part of discussions at the Acceptable Behaviour Advisory Group.
What is the impact on marriage of civil partnership (positive or negative)? NB: this is particularly relevant for employment policies
This characteristic is relevant in law only to employment, however, NHS Kernow will strive to consider this characteristic in all aspects of its work. Consider what issues there may be for someone who is married or in a civil partnership. Are they

likely to be different to those faced by a single person? What, if any are the likely implications for employment and does it differ according to marital status?
<p>NHS Kernow staff may experience unacceptable behaviour from others which is either driven by homophobic prejudice or which manifests itself as homophobic abuse.</p> <p>This policy seeks to ensure that the organisation, protects its staff within scope of the policy, including those covered by a protected characteristic as defined in the Equality Act 2010, are protected as far as is reasonably possible from the impact of unacceptable behaviour from others.</p> <p>In relation to perpetrators of unacceptable behaviour, the policy and associated procedures objectively consider the nature of the behaviour and the context before any shared decision making on imposing any sanctions or restrictions to accessing services. Decisions will take account of the needs of the individual and the needs of the service.</p>
How will any negative be mitigated?
Not expected but if experienced it will be managed on a person by person basis and will form part of discussions at the Acceptable Behaviour Advisory Group.
What is the differential impact who have gone through or are going through gender reassignment, or who identify as transgender?
<p>Consider what issues there are for people who have been through or a going through transition from one sex to another. How is this going to affect their access to services and their treatment when receiving NHS care? What are the likely implications for employment of a transgender person? This can include issues such as privacy of data and harassment.</p>
<p>NHS Kernow staff may experience unacceptable behaviour from others which is either driven by prejudice or which manifests itself as abuse against an individual identifying as transgender.</p> <p>This policy seeks to ensure that the organisation, protects its staff within scope of the policy, including those covered by a protected characteristic as defined in the Equality Act 2010, are protected as far as is reasonably possible from the impact of unacceptable behaviour from others.</p> <p>In relation to perpetrators of unacceptable behaviour, the policy and associated procedures objectively consider the nature of the behaviour and the context before any shared decision making on imposing any sanctions or restrictions to accessing services. Decisions will take account of the needs of the individual and the needs of the service.</p>
How will any negative impact be mitigated?

Not expected but if experienced it will be managed on a person by person basis and will form part of discussions at the Acceptable Behaviour Advisory Group.
What is the differential impact on people who are pregnant or breast feeding mothers, or those on maternity leave?
This characteristic applies to pregnant and breast feeding mothers with babies of up to six months, in employment and when accessing services. When developing a policy or services consider how a nursing mother will be able to nurse her baby in a particular facility and what staff may need to do to enable the baby to be nursed. Consider working arrangements, part-time working, infant caring responsibilities.
<p>NHS Kernow staff may experience unacceptable behaviour from others which is either driven by gender prejudice or which manifests itself as sexist abuse.</p> <p>This policy seeks to ensure that the organisation, protects its staff within scope of the policy, including those covered by a protected characteristic as defined in the Equality Act 2010, are protected as far as is reasonably possible from the impact of unacceptable behaviour from others.</p> <p>In relation to perpetrators of unacceptable behaviour, the policy and associated procedures objectively consider the nature of the behaviour and the context before any shared decision making on imposing any sanctions or restrictions to accessing services. Decisions will take account of the needs of the individual and the needs of the service.</p>
How will any negative impact be mitigated?
Not expected but if experienced it will be managed on a person by person basis and will form part of discussions at the Acceptable Behaviour Advisory Group.
Other identified groups:
Consider carers, veterans, different socio-economic groups, people living in poverty, area inequality, income, resident status (migrants), people who are homeless, long-term unemployed, people who are geographically isolated, people who misuse drugs, those who are in stigmatised occupations, people with limited family or social networks, and other groups experiencing disadvantage and barriers to access.
<p>NHS Kernow staff may experience unacceptable behaviour from others which is either driven by prejudice or which manifests itself as abuse due to belonging to or being perceived to belong to 'inclusion health' groups.</p> <p>This policy seeks to ensure that the organisation, protects its staff within scope of the policy, including those considered to</p>

<p>belong to or are perceived to belong to an inclusion health group, are protected as far as is reasonably possible from the impact of unacceptable behaviour from others.</p> <p>In relation to perpetrators of unacceptable behaviour, the policy and associated procedures objectively consider the nature of the behaviour and the context before any shared decision making on imposing any sanctions or restrictions to accessing services. Decisions will take account of the needs of the individual and the needs of the service.</p>	
<p>How will any negative impact be mitigated?</p>	
<p>Not expected but if experienced it will be managed on a person by person basis and will form part of discussions at the Acceptable Behaviour Advisory Group.</p>	
<p>How have the Core Human Rights Values been considered in the formulation of this policy/strategy? If they haven't please reconsider the document and amend to incorporate these values.</p> <p>Fairness; Respect; Equality; Dignity; Autonomy</p>	
<p>The policy has been written to ensure that people are treated with dignity and respect by protecting them from experiencing violence, aggression and unacceptable behaviour in the workplace. It seeks to eliminate discrimination by dealing appropriately with such forms of abusive behaviour and/or language. The policy establishes a framework to deal fairly with complaints of unacceptable behaviour through transparent process and shared decision making, and to be clear and upfront with members of the public as to what is considered to be acceptable behaviour.</p>	
<p>Which of the Human Rights Articles does this document impact?</p>	
The right:	Yes / No:
To life	Yes
Not to be tortured or treated in an inhuman or degrading way	Yes
To liberty and security	Yes
To a fair trial	Yes
To respect for home and family life, and correspondence	Yes



To freedom of thought, conscience and religion	Yes
To freedom of expression	Yes
To freedom of assembly and association	No
To marry and found a family	No
Not to be discriminated against in relation to the enjoyment of any of the rights contained in the European Convention	Yes
To peaceful enjoyment of possessions	No
What existing evidence (either presumed or otherwise) do you have for this?	
NHS Kernow recognises it has a duty to protect the safety and well-being of all employees and staff who deal with clients and service users in difficult and potentially confrontational situations. NHS Kernow will ensure it takes suitable steps to remove or reduce the likelihood and effect of unacceptable behaviour towards any employee or staff member and will take all necessary steps to demonstrate this behaviour will not be tolerated. NHS Kernow staff have a duty to not be obstructive to genuine issues being raised by members of the public. NHS Kernow recognises that people have different opinions and may have legitimate criticisms of the work we as a public organisation do. This policy is designed to give clear frameworks for staff to follow, should concerns be raised in a way which is considered abusive, threatening or harassing.	
How will you ensure that those responsible for implementing the Policy are aware of the Human Rights implications and equipped to deal with them?	
The Human Rights Statement and Guidance accompanies the Equality Impact Assessment guidance and Comprehensive Impact Assessment guidance, to provide comprehensive information for staff. These policies are available for staff on the NHS Kernow website and have been proactively disseminated via the staff bulletin.	
Describe how the policy contributes towards eliminating discrimination, harassment and victimisation.	
This policy clearly outlines what is considered to acceptable behaviour from members of the public. This policy contributes toward eliminating discrimination, harassment and victimisation by being clear about what is not acceptable when such behaviours are being demonstrated. The policy gives a clear framework for staff to follow to manage these behaviours. The policy also gives clear upfront guidance to members of the public about what is acceptable behaviour.	
Describe how the policy contributes towards advancing equality of opportunity.	



Advancing equality of opportunity between disabled people and non-disabled people includes consideration of the need to take steps to take account of disabled people's disabilities. This policy clearly outlines that NHS Kernow will be mindful that the reasons for perceived difficult behaviour may be of an individual having genuine issues, but due to memory or educational difficulties has difficulties expressing or dealing with these matters. NHS Kernow will ensure the process is fair and the individual's needs and interests have been taken into consideration.
Describe how the policy contributes towards promoting good relations between people with protected characteristics.
This policy addresses the issue of bullying, harassment and violence, with the aim of fostering good relations, which includes tackling prejudice against any person being targeted due to a protected characteristic.
If the differential impacts identified are positive, explain how this policy is legitimate positive action and will improve outcomes, services or the working environment for that group of people.
This policy aims to protect staff and give clear frameworks for managing unacceptable behaviour by members of the public, and will therefore contribute towards a good working environment for NHS Kernow staff.
Explain what amendments have been made to the policy or mitigating actions have been taken, and when they were made.
The policy acknowledges our responsibilities under equality and diversity legislation. Of equal importance is our code of conduct to maintain high standards and to treat people with respect. The Policy appreciates there are occasions when service users or individuals are frustrated or unhappy with our services which can cause anxiety and may led to difficult or challenging behaviour. We understand this and will seek to differentiate between this and other types of behaviour which is intentionally or maliciously challenging.
If the negative impacts identified have been unable to be mitigated through amendment to the policy or mitigating actions, explain what your next steps are.
The Acceptable Behaviour Advisory Group will monitor the implementation and effectiveness of this Policy, resolving issues where they arise and escalating matters, where necessary. A regular report to Workforce Committee is planned.