

Dealing with persistent or unreasonable members of the public policy

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1. Introduction

- 1.1 The purpose of this policy is to provide a consistent interpretation and clear guidance on how to communicate with members of the public who are deemed to be demonstrating persistent and unreasonable behaviours towards NHS Northern, Eastern and Western Devon Clinical Commissioning Group (NEW Devon CCG) and South Devon and Torbay Clinical Commissioning Group (SDT CCG) (the CCGs).
- 1.2 The policy should only be used as a last resort and after all reasonable measures have been taken to try to resolve requests, concerns and complaints. The CCG's Patient Experience, Patient Advice Liaison Service (PALs) and complaints employees may be used as an additional resource by directorate managers of The CCG's to advise staff dealing with correspondents outside the PALs and complaints process.
- 1.3 Whilst this is a separate policy, this policy can be read in conjunction with the Concerns and Formal Complaints Handling Policy for NEW Devon CCG and the Complaints and Informal Concerns Policy for SDT CCG. It is possible that some members of the public may be perceived as persistent or serial/frequent callers. These may be people who are currently using the complaints process, but equally can be people who have ongoing issues which cannot be resolved locally or may be campaigning against The CCG's or the services it commissions.
- 1.4 This policy includes how The CCG's will respond should any member of staff or GP members during their role within the CCG's be subjected to inappropriate personal or abusive verbal or written comments.
- 1.5 The policy should only be implemented following careful consideration and with the authorisation of the Chief Nursing Officer (NEW Devon CCG) or Director of Quality and Improvement (SDTCCG) or their deputies.
- 1.6 It should be noted that the Harassment Act 1997 will take precedent over this policy if the behaviours displayed by the member of public contacting the CCGs fall under this legislation.

2. Definition of a persistent and unreasonable member of the public

- 2.1 A member of the public may be deemed to be exhibiting persistent and unreasonable behaviours where current or previous contact with the CCG's shows that they have met two or more (or are in serious breach of one) of the following criteria:
 - a) **Have harassed or been personally abusive** or verbally aggressive on one or more occasion toward employees of the CCGs;

- b) **Have shown signs of bullying behaviour** towards employees of the CCG's. Bullying behaviours could be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. Bullying or harassment may be by an individual against an individual or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual;
- c) **Persist in pursuing** a complaint when the complaints procedure has been fully and properly implemented and exhausted or when an investigation is still pending an investigation outcome;
- d) **Does not clearly identify the issue they wish to be investigated**, despite reasonable efforts and/or where concerns identified are not within the remit of the CCGs to investigate;
- e) Changed the substance of a complaint or continually raises new issues, or **seeks to prolong contact** by continually raising further concerns or questions (note: care must be taken not to discard new issues which are significantly different from the original complaint);
- f) Has had in the course of addressing a concern or complaint, an **excessive number of contacts** with the CCGs or the complaints service, placing unreasonable demands on staff (this can be by telephone, fax, email, letter or in person);
- g) **Insists that they have not had an adequate response** in spite of a large volume of correspondence specifically addressing their concerns;
- h) Is **unwilling to accept documented evidence** that has been given as being factual (i.e. from the patient record) or denies receipt of an adequate response in spite of correspondence specifically answering questions or does not accept that facts can be difficult to verify when a long period of time has elapsed;
- i) **Refuses to complete the necessary paperwork** to enable the CCGs staff to progress requests or complaints;
- j) **Consumes a disproportionate amount of time and resource** in trying to identify and respond to concerns;
- k) Continually **focuses on a matter to an extent which is disproportionate to its significance** (although it is recognised that this can be subjective and careful judgement must be used);
- l) Members of the public using **electronically recorded meetings or conversations without the prior knowledge** and consent of the other parties involved. It may be necessary to explain to a complainant/caller at the outset of any investigation into their concerns/issues/requests for information/complaint(s) that such behaviour is unacceptable and can, in some circumstances, be illegal;
- m) Displays **unreasonable demands or expectations** and fails to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or feasible or normal recognised practice);

- n) Is a relative (carer/friend) complaining on behalf of a patient who may **not have a personal complaint** about their treatment.
- 2.2 Persistent and unreasonable behaviours include all methods of communications, which could consist of, written, email, telephone and social media or several methods of communication.
- 2.3 If a member of the public has been identified as likely to meet the criteria of an persistent and unreasonable member of the public the senior manager of the CCGs dealing with the member of the public, is to send a formal warning letter which includes a named single point of contact, together with a copy of the policy as a final step to try to resolve the situation before activating the persistent and unreasonable policy.
- 2.4 Employees receiving communication from members of the public that meet the above criteria will be encouraged to report any such incidents to their manager and report as an incident. This evidence may then be reviewed during consideration of applying the policy.

3. Communication

- 3.1 Whilst each contact with members of the public is handled with care and attention, it has to be acknowledged that the difficulties in handling frequent, difficult and demanding calls or written communication can cause undue stress to employees of the CCGs.
- 3.2 Frequent contacts can be made using multiple contact points into the CCGs or can be via one employee or directorate of the CCGs.
- 3.3 In dealing with these cases, consideration needs to be given as to whether there may be underlying health issues which may be causing the person's behaviour.
- 3.4 Whilst employees of the CCGs are trained to respond with patience and sympathy to the needs of callers and their families, there are times when there is nothing further which can reasonably be done to assist the member of the public or to rectify a real or perceived situation. There has to be a point where contact needs to be reviewed and managed.
- 3.5 Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, the line manager of that staff member is to complete a risk assessment.

Health and Safety policy for NEW Devon CCG:
<http://www.newdevonccg.nhs.uk/who-we-are/policies/100087>

Health and Safety Policy for SDTCCG:
http://nww.southdevonandtorbayccg.nhs.uk/corp_affairs/corporate/Pages/health_and_safety.aspx

In some circumstances the CCGs will need to consider other options, for example reporting the matter to the police or taking legal action. In such cases, it may be necessary to take such action without giving any prior warning to the member of the public.

4. Information Governance

- 4.1 Confidentiality will continue to be maintained when communicating regarding a persistent and unreasonable member of public in line with The CCGs Code of Practice on Confidentiality¹² and Information Security Policy³.
- 4.2 There may be times when, for the sake of patient or public safety, it is necessary to breach confidentiality for example in relation to child protection or adult safeguarding, if the person is posing a risk to themselves or others or is at risk themselves due to behaviours of others.
- 4.4 There may be occasions where the CCGs need to contact or meet with other organisations to discuss a persistent and unreasonable member of the public that is having multiple contacts with multiple organisations. In this instance, guidance from the CCGs Information Governance Team and the Caldicott Guardian must be sought. Any sharing of information will be done in line with the Data Protection Act 1998 and adhere strictly to the Caldicott Principles (See Code of Practice on Confidentiality for more information).

5. Equality and Inclusion

- 5.1 Everyone should be treated with dignity and respect at work. both CCGs are committed to becoming organisations which are pro-diversity and anti-discriminatory, where everyone's diversity is valued and appreciated. Equality and Inclusion⁴⁵ standards will continue to be maintained when communicating with members of the public that are deemed as persistent and unreasonable.

6. Panel process

- 6.1 When a formal letter and a copy of the policy has been sent to the member of the public and they continue to behave in a way which is perceived as persistent and unreasonable the service manager of the department receiving the communication from the member of the public should consult with the Chief Nursing Officer or Director of Quality and Improvement or their Deputy who will request the convening of a panel to review and decide what action to take.

¹ <http://www.newdevonccg.nhs.uk/intranet/corporate/governance-includes-information-governance/governance-policies/101633>

² http://nww.southdevonandtorbayccg.nhs.uk/corp_affairs/information_governance/Pages/ig_policies.aspx

³ <http://www.newdevonccg.nhs.uk/corporate/information-governance/information-security/100646>

⁴ <http://www.southdevonandtorbayccg.nhs.uk/about-us/equality-and-diversity/Pages/default.aspx>

⁵ <http://www.newdevonccg.nhs.uk/information-for-patients/equality-diversity-and-inclusion/100096>

- 6.2 Panel members will decide what restrictions should be put in place tailored to the member of public showing persistent and unreasonable behaviours. Staff will refer to the standard operating procedure for dealing with persistent and unreasonable members of the public for a list of possible restrictions.
- 6.3 If panel members have decided that a single point of contact should be applied, the CCGs will take into consideration the member of the public's needs, for example if they have any learning difficulties.
- 6.4 Panel members must also consider the length of time the restrictions will be in place.
- 6.5 Panel members may decide there may be benefit to consult with relevant provider organisations to identify if the member of public is known to their services in order that there is a consistent approach across organisations when dealing with the complainant.
- 6.6 Once panel members have agreed that the member of public is a persistent or unreasonable member of the public they will be informed in writing (or by another agreed method) by the Panel Chair. The letter will include the reasons why the panel has classified the member of public as a persistent or unreasonable and, what if any restrictions have been put in place and the agreed period of time the restriction will be in place before being reviewed.
- 6.7 Non-compliance with any restrictions agreed within panel, can result in employees of the CCGs terminating calls, for example when written communication was the agreed method of communication and the member of public continues to telephone individuals within the CCGs
- 6.8 Once the member of public is identified showing persistent and unreasonable behaviours, and restrictions have been imposed on their contact, this will be recorded and shared with those on a need to know basis within the CCGs.

7. Review of agreed restrictions

- 7.1 The panel will be required to review the situation three months after the restrictions were applied and before the end of the period and in time to confirm whether the policy application ends or continues.
- 7.2 Before a restrictive condition is removed, positive behaviour needs to be demonstrated from the member of the public, where there has been no contact from the member of the public the restrictions are to remain until such evidence has been gained.
- 7.3 If the disruptive behaviour continues, the responsible manager and the Panel Chair will issue a reminder letter to the member of public classified as persistent and unreasonable advising them that the way in which they will be allowed to contact the CCGs in future may have to be further restricted.

- 7.4 Where the member of public continues to behave in a way which is unacceptable, the CCGs may decide to refuse all contact with them, which may include stopping an investigation or complaint.

8. New complaints from people who are deemed persistent and unreasonable

- 8.1 New complaints received from members of the public who meet or have previously met the criteria within this policy and have restrictions in place, will be treated on their merits. The Chief Nursing Officer, Director of Quality and Improvement or their Deputy will decide whether any restrictions which have been applied previously are still appropriate and necessary in relation to the new complaint.