

## Unacceptable Behaviour & Unreasonably Persistent Individuals Policy

CPRCCG CP19

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## **1.0 Scope of Policy**

This policy is for use by Castle Point & Rochford Clinical Commissioning Group (Castle Point & Rochford CCG).

Guidance can be taken from this policy and should as appropriate be used in line with other relevant policies, procedures and guidance. This should be read in conjunction with Castle Point & Rochford CCG Complaints Policy Appendix 2, Guidance for dealing with persistent and unreasonable contact.

## **2.1 Introduction**

Unreasonably persistent individuals demonstrating unacceptable behaviour can be a problem for NHS staff. The difficulty in handling such individuals places strain on time and resources, causing unacceptable stress for staff that may therefore need support in difficult situations. NHS staff are trained to respond with patience and understanding to the needs of all individuals, but there are times when there is nothing further that can be reasonably done to assist them or to rectify a real or perceived problem.

CASTLE POINT & ROCHFORD CCG recognises that there are occasions when certain activities should be drawn to a close when there is no reasonable way of resolving the situation to everyone's satisfaction. We understand that many individuals are angry about the issues they have raised in their enquiry and if that anger escalates into aggression towards staff, we consider that unacceptable. Violence is not restricted to acts of aggression that may result in physical harm, it also includes behaviour or language (whether verbal or written) that may cause staff to feel afraid. Whilst it is not acceptable it is important to give consideration to individuals with mental illness or learning difficulties as their illness can affect behaviour.

The aim of this policy is to permit CASTLE POINT & ROCHFORD CCG staff to implement and take appropriate action against those individuals who are deemed to be unreasonably persistent or unacceptable in their behaviour. Judgment and discretion must be used in applying the criteria to identify such behaviour and in deciding on the action to be taken in each case. The procedure will only be implemented following careful consideration by and with the authorisation at Officer Level within CASTLE POINT & ROCHFORD CCG.

Individuals may be deemed to be unreasonably persistent where current or previous contact with them shows that they have met two or more (or in serious breach of one) of the following criteria.

## **2.2 Unreasonable Demands**

A demand becomes unacceptable when it starts to (or when complying with the demand would) impact substantially on the work of the office.

Examples of actions grouped under this heading include:

- Persists in pursuing an issue where the full procedures of the department have been fully and properly implemented and exhausted. For example, where the Parliamentary & Health Service Ombudsman has declined a request for an independent review or the service user insists that he/she has not had an adequate response to their complaint.
- Changes the substance of a complaint or persistently raises a new issue or seeking to prolong contact by unreasonably raising further concerns or questions upon receipt of a response. Staff should however be cautious not to disregard new issues, which are significantly different from the original issues raised.
- Unwilling to accept documented evidence given as factual i.e. medical records, general practitioner records, manual or computer records, nursing records or denies receipt of an adequate response despite correspondence specifically answering their questions. This can extend to an individual who may not accept that the facts can sometimes be difficult to verify after a long period of time has elapsed.
- Focuses on a trivial matter to an extent, which is out of proportion to its significance and continues to focus on this point. It should be recognised that determining what is trivial can be subjective and careful judgement must be used in applying this criterion.
- Does not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of staff.

An example of such impact would be that the demand takes up an excessive amount of staff time and in so doing disadvantages other individuals.

### **2.3 Unreasonable levels of contact**

Sometimes the volume and duration of contact made by an individual can cause problems. We consider that the level of contact has become unacceptable when the amount of time spent talking to an individual on the telephone, or responding to, reviewing and filing emails or written correspondence impacts on our ability to deal with that enquiry, or with other people's enquiries. Examples of actions grouped under this heading include:

- Exhibits attention seeking behaviour, involving multiple agencies, for example including, press, MPs, Secretary of State for Health, raising the same issue through different agencies one after another, when a response has already been provided or is in the process of being investigated.
- Has an excessive number of contacts with the organisation when pursuing their request or complaint, placing unreasonable demands on staff. Such contact may be in person, by telephone, letter, fax or electronically. Discretion must be exercised in deciding how many contacts are required to qualify as excessive, using judgement based on the specific circumstances of each individual case.

- Displays unreasonable demands or expectations and fails to accept that these may be unreasonable once a clear explanation is provided to them as to what constitutes an unreasonable demand.

## **2.4 Unacceptable behaviour**

People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to an enquiry. We do not view behaviour as unacceptable just because a person is forceful or determined. In fact, we accept that being persistent can be a positive advantage when pursuing an enquiry. However, we do consider actions that result in unreasonable demands or unreasonable behaviour towards staff to be unacceptable.

Individuals may be deemed to have behaved unacceptably where current or previous contact with them shows that they have met one of the following criteria:

- Have threatened or used actual physical violence towards staff or their families or associates at any time – this will in itself cause personal contact with the individual and/or their representatives to be discontinued, and the request or complaint thereafter to only be pursued through written communication. All such incidents should be documented through the CCG's Incident Reporting Policy and notified as appropriate to the police.
- Have harassed or been abusive or verbally aggressive on more than one occasion towards staff without provocation – directly or indirectly or to their family members or associates. Staff should recognise that individuals may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this. All incidences of harassment or aggression must be documented in accordance with the CCG's Incident Reporting Policy.
- Have made personal contacts with any member of staff outside of the workplace, for example, at home or on the street. Any personal and threatening behaviour outside of the workplace will be reported directly to the police.
- Are known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.

## **3.0 Employees Responsibility**

Staff must fully record any difficult behaviour. Good documented evidence will be required and the completion of incident forms is mandatory for incidents relating to possible verbal or physical abuse. In relation to any formal complaint details, information will be logged on the on the Complaints Spread sheets as evidence.

Where people have been identified as exhibiting difficult behaviour in accordance with the above criteria, the issue will be raised with the Chief

Nurse and/or Director of Strategy & Planning (CCG Officers) who will agree the use of this policy and appropriate action to take. They will also agree which individual officer will take a lead on managing the case (Lead Officer).

If appropriate, notifications under this procedure may be copied for the information of others already involved, for example, SEAP and MPs. A record will be kept of the reasons why someone has been classified as difficult.

In any case where a member of staff has been harassed, intimidated, abused, threatened or assaulted by a service user, they must immediately advise their line manager and complete an incident form in line with the CCG's Incident Reporting Policy

For departments that have responsibilities that lie with a sole member of staff, such as the role of the Complaints Manager, there is the need for a robust contingency plan when the member of staff is on leave or a period of absence to ensure that other members of the CCG are aware of any persistent or unreasonable behaviour and to ensure a consistent approach is adopted throughout this time. The staff member is to inform their Line Manager of any persistent or unreasonable service users prior to any periods of leave and debrief their colleagues on the current actions being taken.

#### **4.1 Stages of dealing with a service users inappropriate behavior**

The following stages should be followed when implementing this policy:

##### **4.2 Stage 1 – Advise the service user of their inappropriate behaviour**

Once it is clear a client meets the above criteria, it will be appropriate for the Officers to be informed and agree that that the staff member involved should inform the individual in writing that their conduct is unacceptable. The letter should state clearly which elements of their behaviour are causing problems, giving them an opportunity to stop this behaviour. Alternatively, and only if felt appropriate the CCG could offer a meeting to attempt to resolve outstanding issues.

In seeking to manage an individual who is displaying unacceptable behaviour or who is being unreasonably persistent it may be appropriate to approach their advocate or representative (if they have one) at an early stage to ask for their assistance in understanding and managing the behaviour. This may be particularly relevant if there are equality or diversity issues (for example, if the individual has a disability which directly affects their behaviour.) If consent has not been previously received allowing contact with an advocate or representative it should be requested at this time.

##### **4.3 Stage 2 – Issue a warning**

A warning should be issued to the individual, by the Lead Officer. The warning should explain:

- Why the behaviour is found to be unacceptable or unreasonably persistent.
- The likely consequences of any continuation of this behaviour.
- Where possible warnings should be given in writing as this provides a clear statement for the individual and provides a clear audit trail for our records.

#### **4.4 Stage 3 – Request further action**

Where the individual has been given a warning, but continues to behave in a way which is unacceptable, then a request to apply for further action must be made.

The member of staff proposing that further action should be taken should provide:

- A summary of evidence for applying further action
- Information about any extenuating circumstances
- Relevant documents
- Proof that warning has been provided, and any other efforts made to prevent use of further action.
- What steps they consider appropriate to control the adverse effects of the service user's behaviour.

The Lead Officer will then consider the evidence, make any necessary further enquiries and will decide whether to apply further action and will record the decision and reasons on the case file along with a decision about who should conduct any further communication with the individual.

As part of this consideration the Lead Officer should, in consultation with other appropriate staff, consider whether restrictions need to apply to other existing enquiries, reviews, investigations or informal requests that the individual has outstanding with the organisation.

##### **4.4.1 If further action is not taken**

If it is decided by the Lead Officer upon full consideration of the case not to apply any further action, they will consider:

- The need for advice to staff dealing with the individual;
- Changing the staff dealing with the individual;
- Any steps to safeguard the health, safety and welfare of the staff.

#### **4.4 Stage 4 – Further action**

If it is decided by the Lead Officer upon full consideration of the case to apply further action, they will make the final decision on what action to take, they will implement such action and notify the individual in writing promptly, correspondence will include the reasons as to why they have been classified as unreasonably persistent or behaving unacceptably and the action that will be taken and the date that this decision will be reviewed.

The Lead Officer may decide to deal with service users under this policy in one or more of the following ways:

- Draw up an agreement to the individual to sign and return to the relevant department. The agreement will set out a code of behaviour and the process of communication that the individual must comply with. This agreement will last for a period of six months at which point it will be reviewed and can be extended or repealed dependent on the behaviour of the individual during the six month period. A code of behaviour could include the following:
  - *An agreement relating to appropriate behaviour and conduct.*
  - *Restricting contact to named individuals specified within CCG/CSU.*
  - *Restricting the method of communication (for example, by letter only, not fax/email/telephone)*
  - *Restricting the day/time allocated if contact to be made by telephone*
  - *Offering a meeting to attempt to resolve outstanding issues*
- Decline contact with the individual providing that one form of contact is maintained. Alternatively any further contact could be restricted to liaison through a third party. A suggested statement should be prepared for staff to use if it is to withdraw from a telephone conversation.
- Where the CCG has responded fully to the points raised by the client and has tried to resolve the issues without success and continuing contact on the matter would serve no useful purpose, the individual will be notified the contact is at an end and that further contact will be acknowledged, but not responded to.
- In extreme cases or where the safety of staff is at risk, the individual will be informed that the CCG reserves the right to pass unreasonable or difficult behaviour to their solicitors with the CCG supporting possible criminal or civil prosecution. All contact with the individual and/or investigation of the enquiry will be suspended whilst seeking legal advice or guidance from any relevant agency or authority.
- Temporarily suspend all contact whilst seeking legal advice or guidance from NHS England, Parliamentary and Health Service Ombudsman or other relevant agencies.

The above is not a complete list and further options can be applied with the consent of the Lead Officer

## **5.0 Reviewing a decision to apply further action**

In all cases which achieve stage 4, the status will continue for a set period, initially no longer than six months. At their specified review date the Lead Officer who took the decision to apply further action shall review this and make a decision to withdraw from contact completely or continue.

This decision will be based on the individual's conduct during the review period. If

any breaches are evident, the CCG will automatically renew for a further six months from the time of the breach.

Where it appears to be appropriate to withdraw difficult behaviour status, normal contact with the person will be resumed. The individual will be advised in writing of the decision whether to lift or extend the period.

If, at the time of the review, there is continuing contact with the individual, the reviewer will write to the individual explaining the decision. The decision will also be noted on the case file.

If the individual is not in regular contact then the CCG will not re-establish contact to inform them of the decision, but would advise them of the decision if and when they make contact again.

If the reviewer decides it is appropriate to extend the original decision, this, they will set a further period of review of a maximum of twelve months, on the expiry of which there will be a further review.

## **6.0 Right of appeal**

If the individual wishes to appeal that further action has been taken, the request for appeal must be made in writing to the Accountable Officer who will review the case and make a final decision following this review.

If the individual remains unhappy with this decision, they must be directed as appropriate to NHS England or to the Parliamentary and Health Service Ombudsman or other appropriate body to review the case.

## **7.0 Monitoring**

A central register of decisions to apply further action will be held by the Corporate Manager and regular monitoring of the application of this procedure will be undertaken by the Quality and Assurance Group.

The CCG will abide by all relevant legislation, policies and procedures in relation to its management of this process and in the event of appeal by a governing authority (for example NHS England or the Parliamentary and Health Service Ombudsman) will follow process as instructed.

## **8.0 Implementation and Training**

CASTLE POINT & ROCHFORD CCG will ensure that all staff are aware of and will have access to this policy and procedure. Other policies and procedures may also apply dependant on specific situations and staff members may also seek guidance on this from their line manager, the Corporate Manager or another senior member of staff and, once appointed from the Lead Officer.

## 9.0 Review

If the review results in changes to the document, then the initiator should inform the policy and corporate governance lead who will renew the approval and re-issue under the next “version” number. If, however, the review confirms that no changes are required, the title page should be renewed indicating the date of the review and date for the next review and the title page only should be re-issued.

For ease of reference for reviewers or approval bodies, changes should be noted in the ‘document history’ table on the front page of this document. NB: If the review consists of a change to an appendix or procedure document, approval may be given by the sponsor director and a revised document may be issued. Review to the main body of the policy must always follow the original approval process.

## 10.0 Archiving

The Head of Performance and Corporate Services will ensure that archived copies of superseded policy documents are retained in accordance with Records Management: NHS Code of Practice 2009.

## 11.0 Equality Impact Assessment Statement

NHS Castle Point & Rochford CCG is committed to carrying out a systematic review of all its existing and proposed policies to determine whether there are any equality implications. The policy applies to all groups. This policy has been assessed using the former CCG’s Equality Impact Assessment framework and identified as having the following impact/s upon equality and diversity issues:

Age	Disability	Gender	Gender Reass.	Sexual Orient.	Religion	Preg/Mat.	Race	Marital Status	Total Points	Impact

Points	Scoring
3 – This area has a high relevance to equalities	13-21 points – High Impact
2 – This area has a medium relevance to equalities	7-12 points – Medium Impact
1 – This area has a low relevance to equalities	0-6 points – Low or No Impact
0 – This area has no relevance to equalities	

**Rationale:**

The equality target groups are all covered by the policy. This policy is intended to ensure that all individuals are treated fairly during the recruitment and selection process. It is intended to bring clarity for both managers and staff.

a) Please provide a brief description of the function/strategy/policy/service:

As a public body, NHS Castle Point & Rochford CCG has a duty to ensure fairness and honesty in its relationships with suppliers, contractors, service providers and service users. All employees and others acting on behalf of the CCG must uphold the highest standards of business conduct within such relationships. This policy covers all business activities, employees or others acting on its behalf. The policy provides guidance and advice on the offer and or receipt of gifts, hospitality, sponsorship, or the provision gifts, hospitality or sponsorship to others in connection with business activities.

b) What type of positive and negative equality and diversity implications are you aware of that arise from your function/strategy/policy/service?

This policy applies equally to all members of staff, and contains no negative equality and diversity implications.

c) In line with our statutory duty under equality legislation do your functions/strategies/policies/services make reference to equality wherever relevant?

In line with the Equality Act 2010 and in order to eliminate discrimination, harassment, promoting equality of opportunity and good relations between people of different racial groups NHS Castle Point & Rochford CCG aspire to the highest standards of corporate behaviour and clinical competence, to ensure that safe, fair and equitable procedures are applied to all organisational transactions, including relationships with patients their carers, public, staff, stakeholders and the use of public resources. In order to provide clear and consistent guidance, NHS Castle Point & Rochford CCG will develop documents to fulfil all statutory, organisational and best practice requirements and support the principles of equal opportunity for all

**12.0 Version Control**

**Policy Title: Unacceptable Behaviour & Unreasonably Persistent Individuals Policy**

<b>Version</b>	<b>Date issue/review</b>	<b>Author Name and title</b>	<b>Comment</b>
1	September 2017	Chief Nurse	
2	November 2019	Chief Nurse	Update

### 13.0 Stakeholder Involvement

Name	Designation
Mazars LLP	LSMS Consultant