



London Ambulance Service **NHS**
NHS Trust

Habitual or Vexatious Complainants or Enquirers Procedure

DOCUMENT PROFILE and CONTROL.

Purpose of the document: is to identify situations where the complainant might be considered to be habitual or vexatious and to suggest ways of responding to these situations which are fair to both staff and complainant.

Sponsor Department: Patient Experiences Department

Author/Reviewer: Head of Patient Experiences. To be reviewed by June 2013.

Document Status: Final

Amendment History			
Date	*Version	Author/Contributor	Amendment Details
16/04/10	2.4	Head of Patient Experiences	Expanded monitoring
24/02/10	2.3	Head of Patient Experiences	Amended sections 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.3, 2.5, objective 1, 4.1, 5.1, 6., 7,
23/09/09	2.2	Records Manager	reformatted
23/09/09	2.1	Head of Patient Experiences	added scope, responsibilities, definitions, implementation plan, updated department / role names , amended S.1.1, S.1.4, S.1.5, objective 2, removed purpose of document
02/07	1.1	Head of Patient Experiences	reviewed
08/09	0.1	Head of Governance	first draft

***Version Control Note:** All documents in development are indicated by minor versions i.e. 0.1; 0.2 etc. The first version of a document to be approved for release is given major version 1.0. Upon review the first version of a revised document is given the designation 1.1, the second 1.2 etc. until the revised version is approved, whereupon it becomes version 2.0. The system continues in numerical order each time a document is reviewed and approved.

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Links to Related documents or references providing additional information		
Ref. No.	Title	Version
TP / 004.	Complaints and Feedback Policy	
HS/ 012	Violence Prevention Policy and Procedure	
OP/042	Policy and Procedure for the Management of Frequent and/or Vexatious Users	
H&S / 011	Incident Reporting Procedure	
NHS SMS	Non-physical Assault Policy	

Document Status: This is a controlled record as are the document(s) to which it relates. Whilst all or any part of it may be printed, the electronic version maintained in P&P-File remains the controlled master copy. Any printed copies are not controlled nor substantive.

1. Introduction

- 1.1 Habitual or vexatious complainants can be a significant problem for the NHS and social care providers. Managing such complainants places a strain on time and resources and can cause undue stress for staff that may need support in managing these alongside an already heavy workload.
- 1.2 Trust staff are trained to respond with patience and sympathy to the needs of all complainants but there are times when there is nothing further which can reasonably be done to assist them or to rectify a real or perceived problem.
- 1.3 It is also recognised that a complainant must be afforded a comprehensive response to all matters reasonably raised and are offered advice about independent advocacy as a means of support.
- 1.4 Therefore, in determining arrangements for managing such complaints, staff are presented with the following key considerations:
 - 1.4.1 To ensure that the complaints and service user feedback procedure has been correctly applied and that no material element of a complaint is overlooked or inadequately addressed.
 - 1.4.2 To appreciate that even habitual or vexatious complainants may have grievances which contain some genuine substance.
 - 1.4.3 To ensure an equitable approach.
 - 1.4.4 To be able to identify the stage at which a complainant has become habitual or should be considered as vexatious.
- 1.5 In the circumstances where a complainant uses unreasonable language, makes threats, verbal abuse or uses other forms of harassment to staff, this behaviour may be considered as vexatious. Whilst no member of staff should be subjected to this kind of behaviour, caution is required to establish if there is any underlying causative factor, for example mental health issues, learning and/or behavioural difficulties, autism, where it may be possible to involve other healthcare professionals to provide appropriate assistance.
- 1.6 Should the complainant persist with such unacceptable behaviour, despite requests to moderate their approach, the Chief Executive Officer may decide that the complainant is vexatious and this policy should apply.

2. Scope

- 2.1 The principles of this policy and practice guidance are applicable to all service-users and stakeholders irrespective of the method of approach they may elect to use; this includes the NHS complaints policy, applications made under the Freedom of Information Act and enquiries to the Patient Experiences department This should not however be considered exclusive. For simplification, the following will refer to 'complainants' although for the avoidance of doubt, this term includes any person using any feedback mechanism.
- 2.2 This document should be considered alongside the Information commissioner's guidance – see http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/awareness_guidance_22_vexatious_repeated_requests.pdf
- 2.3 It is emphasised that this policy should only be used as a last resort and after all reasonable measures have been taken to try to resolve matters following the NHS complaints procedures, for example through local resolution, conciliation, and involvement of independent advocacy as appropriate.
- 2.4 Judgement and discretion must be used in applying the criteria to identify potential habitual or vexatious complainants and in deciding the action to be taken in specific cases.
- 2.5 This policy should only be implemented, following careful consideration by, and with the authorisation of the Chief Executive Officer or nominated deputy and a record should be held of discussions leading to such a decision.

3. Objectives

1. The aim of this guidance is to identify situations where the complainant might be considered to be habitual or vexatious and to suggest ways of responding which are fair to both staff and the complainant.
2. All feedback mechanisms managed by the London Ambulance Service NHS Trust (LAS) are processed in accordance the relevant NHS and Trust procedures.

4. Responsibilities

- 4.1 The Head of Patient Experiences will inform the Risk Compliance and Assurance Group and the Senior Management Group of the details of all cases where complainants have the status of habitual or vexatious applied. Regular updates will be provided to these two groups and both will be informed when habitual or vexatious status is removed.
- 4.2 The Head of Patient Experiences will provide details of all cases where this policy has been invoked in quarterly and annual Reports

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5. Definitions

5.1 Definition of a Habitual or Vexatious Complaint

The Head of Patient Experiences Department (HPED), and/ or anyone acting on their behalf, may deem an individual or group to be habitual where previous or current contact with them shows that they meet at least TWO of the following criteria (to be considered as vexatious the conditions noted at (k) and (l) will usually apply):

Where the individual:

- a) Persists in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
- b) Seeks to prolong contact by changing the substance of a complaint or continually raising new issues and questions whilst the complaint is being addressed. (Care must be taken not to discard new issues which are significantly different from the original complaint. These may need to be addressed as separate complaints).
- c) Is continuously unwilling to accept arrangements in line with Department of Health guidance in relation to a dispute about documented evidence of the treatment provided as being factual, e.g., drug records, ECG print out etc have been exhausted .
- d) Denies receipt of an adequate response despite evidence of correspondence specifically answering their questions.
- e) Does not accept that facts can sometimes be difficult to verify when a long period of time has elapsed or where differing subjective experience is at issue.
- f) Does not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of Trust staff and, where appropriate, independent advocacy, to help them specify their concerns, and/ or where the concerns identified are not within the remit of the LAS to investigate.
- g) Focuses on a trivial matter to an extent which is disproportionate to its significance. It is recognised that determining what may be considered as 'trivial' matter can be subjective and reasonable judgement must be applied and a documented record made in applying this criterion.
- h) Has had an excessive number of contacts with London Ambulance Service NHS Trust placing unreasonable demands on staff. (A contact may be in person or by telephone, letter, E-mail or fax). Reasonable judgment must be used in determining the precise number of contacts applicable based on the specific circumstances of each individual case.

- i) Is known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.
- j) Displays unreasonable demands or expectations and fails to accept that these may be unreasonable, e.g., insists on responses to complaints or enquiries being provided more urgently than is reasonable in the circumstances or within recognised practice.
- k) Has threatened or used actual physical violence or harassment towards staff or their families or associates at any time - this will in itself cause personal contact with the complainant and/ or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication. All such incidents should be documented in line with the Incident Reporting Procedure (H&S/011).
- l) Has harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this.) Staff should document all incidents of harassment in line with the Incident Reporting Procedure

k) and l) will apply where the steps outlined in the Violence Prevention Procedure and the NHS Security Management Service Non-physical Assault Policy to manage situations to prevent escalation have been exhausted. (see also Para 6.2.4.)

6. Procedure for Dealing with Habitual Complainants

Check to see if the complainant meets sufficient criteria to be classified as an habitual complainant.

6.1 Where there is an ongoing investigation

6.1.1 The Head of Patient Experiences should write to the complainant setting parameters for a code of behaviour and the lines of communication. If these terms are contravened consideration will then be given to implementing other action.

It would be inappropriate for the Chief Executive to be alerted at this stage

6.2 Where local resolution has been completed

6.2.1 At an appropriate stage, the Chief Executive or Head of Patient Experiences should write to the complainant advising that:

a. the Trust has responded fully to the points raised, and

b. has tried to resolve the complaint, and

c. there is nothing of further value that can be achieved; the appropriate recourse has been offered together with contact details of advocacy services/sources of further advice and therefore, local resolution is considered as having been completed.

6.2.2 The Trust may wish to state that future correspondence will be acknowledged only.

6.2.3 In circumstances where an individual has behaved in a vexatious manner, the Chief Executive will consider any evidence of this behaviour and, if s/he feels that the behaviour is unacceptable, will write to the complainant to inform him/her of his decision, setting clear parameters around expected conduct in any future communication with the Trust

6.2.4 In extreme cases the LAS reserves the right to take legal action. This includes raising an Acknowledgement of Responsibilities Agreement (ARA) and/or an Individual Dispatch Protocol (IDP) (see OP/042 Policy and Procedure for the Management of Frequent and/or Vexatious Users).

6.2.5 The intention of this policy is to manage behaviour that is deemed to be habitual or vexatious. Once this has been achieved the policy should no longer be applicable. It is a general view that habitual or vexatious status should be removed as soon as it is reasonable to do so. Therefore, any decision under 6.1.1, 6.2.1 or 6.2.3 should make it clear that habitual or vexatious status will remain in place for six months from the date of the letter and then be removed. Any episode of further unacceptable behaviour will invoke a further period of six months before this status is removed.

6.2.6 Any complainant afforded this status must be advised of their right to complain to the Health Service Ombudsman if they are dissatisfied with the conduct of this process by the Trust.

7. Withdrawing 'Habitual' or 'Vexatious' Status

7.1 Circumstances may arise which suggest the need for alternative arrangements, for example in the event that the complainant subsequently demonstrates a modified approach or if they submit a further complaint where usual complaints management procedures would appear appropriate.

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7.2 Each case should be considered on its merits and according to the prevailing circumstances

IMPLEMENTATION PLAN	
Intended Audience	All LAS Staff/public
Dissemination	Available to all staff on the Pulse and to the public on the LAS website.
Communications	Revised Policy and Procedure to be announced in the RIB and a link provided to the document.
Training	Training will be provided, primarily to the PED team, by the HPED.
Monitoring	Monitoring and reporting are the responsibility of the HPED who will report back to the Risk Compliance and Assurance Group and Senior Management Group on any occasion vexatious status is applied. The CEO will also advise the Trust Board as part of the CEO report, as and when these enquirers/complainants are so defined.