



**London Ambulance Service
NHS Trust**

Habitual (or Vexatious) Complainants

**Circulated To: LAS Departments, All Stations, EOC, PTS, Training and
Resource Centres.**

For Use By: All Staff

1. Introduction

- 1.1 Habitual or vexatious complainants are becoming an increasing problem for NHS staff. The difficulty in handling such complaints is placing a strain on time and resources and is causing undue stress for staff who may need support in difficult situations.
- 1.2 NHS 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 persistent complainant should be protected by ensuring that they receive a response to all genuine grievances and are provided with details of independent advocacy.
- 1.4 Therefore, in determining arrangements for handling such complaints, staff are presented with the following key considerations:
 - 1.4.1 To ensure that the complaints procedure has been correctly implemented as far as possible and that no material element of a complaint is overlooked or inadequately addressed.
 - 1.4.2 To appreciate that even habitual 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.

2. PURPOSE OF THIS GUIDANCE

- 2.1 All complaints handled by the London Ambulance Service NHS Trust are processed in accordance with NHS complaints procedures.
- 2.2 During this process LAS Trust staff inevitably have contact with a small number of

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complainants who absorb a disproportionate amount of NHS resources in dealing with their complaints.

- 2.3 The aim of this guidance is to identify situations where the complainant might be considered to be habitual and to suggest ways of responding to these situations which are fair to both staff and complainant.
- 2.4 **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 complaints following the NHS complaints procedures**, for example through local resolution, conciliation, and involvement of independent advocacy as appropriate.
- 2.5 Judgement and discretion must be used in applying the criteria to identify potential habitual complainants and in deciding the action to be taken in specific cases.
- 2.6 **This policy should only be implemented in relation to a specific complainant, following careful consideration by, and with the authorisation of the Chief Executive Officer or nominated deputy in the case of absence.**

3. DEFINITION OF A HABITUAL COMPLAINANT

- 3.1 Complainants (and/or anyone acting on their behalf) may be deemed to be habitual where previous or current contact with them shows that they meet at least TWO of the following criteria:

Where complainants:

- a) Persist in pursuing a complaint where the NHS complaints procedure has been fully and properly implemented and exhausted.
- b) Seek 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 might need to be addressed as separate complaints).
- c) Are unwilling to accept documented evidence of treatment given as being factual eg drug records, ECG print out etc.
- d) Deny receipt of an adequate response despite evidence of correspondence specifically answering their questions.
- e) Do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- f) Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of LAS Trust staff and, where appropriate,

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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) Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. (It is recognised that determining what is a 'trivial' matter can be subjective and careful judgement must be used in applying this criterion).
- h) Have, in the course of addressing a registered complaint, 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). Discretion must be used in determining the precise number of "excessive contacts" applicable under this section using judgement based on the specific circumstances of each individual case).
- i) Are known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.
- j) Display unreasonable demands or expectations and fail to accept that these may be unreasonable (eg insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).
- k) 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 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 Zero Tolerance Procedures).
- l) Have 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 Zero Tolerance Procedures, completing an incident form (LA52).

4. PROCEDURE FOR DEALING WITH HABITUAL COMPLAINANTS

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

Where there is an ongoing investigation

- 4.2 The Complaints Manager 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.

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It would be inappropriate for the Chief Executive to set these parameters at this stage as s/he will be involved in the ongoing complaints process.

Where the investigation is complete

4.3 At an appropriate stage, the Chief Executive or Complaints Manager should write a letter informing the complainant that:

- a. the Chief Executive has responded fully to the points raised, and
- b. has tried to resolve the complaint, and
- c. there is nothing more that can be added,

therefore, the correspondence is now at an end.

4.4 The Trust may wish to state that future letters will be acknowledged but not answered.

4.5 In extreme cases the London Ambulance Service NHS Trust should reserve the right to take legal action against the complainant.

5. WITHDRAWING 'HABITUAL' STATUS

5.1 Once complainants have been determined as 'habitual' there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach or if they submit a further complaint for which normal complaints procedures would appear appropriate.

5.2 Staff should previously have used discretion in recommending 'habitual' status and discretion should similarly be used in recommending that this status be withdrawn.

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