



London Ambulance Service **NHS**  
NHS Trust

**Policy on Managing Unreasonable Behaviour (Complaints and Patient Advice and Liaison Service (PALS))**

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## DOCUMENT PROFILE and CONTROL

**Purpose of the document:** To ensure that effective procedures are in place for managing complaints and feedback.

**Sponsor Department:** Patient Experiences Department

**Author/Reviewer:** Head of Patient Experience. To be reviewed by May 2020.

**Document Status:** Draft

Amendment History			
Date	*Version	Author/Contributor	Amendment Details
20/05/2019	1.2	Head of Patient Experiences Deputy Director of Quality Governance and Assurance	Review and update

**\*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.

For Approval By:	Date Approved	Version
Trust Board		
<b>Agreed by Trust Board (If appropriate):</b>		

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<b>EqIA completed on</b>	<b>By</b>
13.02.19	Head of Patient Experiences

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.

<b>Links to Related documents or references providing additional information</b>		
<b>Ref. No.</b>	<b>Title</b>	<b>Version</b>
	Disciplinary Policy	
	Managing Patient Confidentiality when Dealing with the Media	
	Management Policy Statement on staff Responsibilities Regarding Communication	
	Whistleblowing policy and procedure	
TP034	Being Open Policy	
TP003	Policy Statement on Duties to Patients	
TP049	Risk Assessment and Risk register Procedure	
TP005	Risk Management Policy and Strategy	
HS012	Staff Safety Policy Statement	
HS018	Stress Management Policy	
TP/006	Serious Incident Policy and Procedure	
TP054	Investigation of Incidents, PALS, Complaints and Claims	
HS011	Incident Reporting Procedure	
TP/016	Habitual or Vexatious Complainants or Enquirers	
TP/022	Freedom of Information and Environmental Information Regulations Policy	

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### 1. Introduction

This policy is based on the Health Service Ombudsman's approach to unreasonable behaviour.

Throughout the following, the Deputy Head of Patient Experiences may act on behalf of the Head of Patient Experiences (HOPE). This policy may also be applied by other teams and departments where the roles set out will be undertaken by persons of appropriate grades.

The Trust is committed to dealing with all people fairly and impartially and to providing a high-quality service. In order to do this it is important that we are able to communicate with someone bringing a complaint to us so we can make sure we fully understand it. We therefore do not normally limit the contact that people have with us.

We do not expect our staff to tolerate any form of behaviour that could be considered abusive, offensive or threatening, or that becomes so frequent it makes it more difficult for us to complete our work or help other people. We will take action under this policy to manage this type of behaviour and this applies to all contact with us including the use of social media.

We will make reasonable adjustments to ensure our service is accessible to everyone. It is important to us though, that we provide a safe environment for our staff to work in, which may mean we decide to restrict how someone can contact us.

If we consider a person's behaviour is unreasonable we will tell them why and will ask them to change it. If this behaviour continues, we will take action including deciding whether to restrict the person's contact with us. This decision will usually be taken by the Head of Patient Experiences

We will usually only take action to restrict someone's contact with us after we have considered whether there are any other adjustments we could make to prevent unreasonable behaviour from occurring. Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:

- asking for contact in a particular form (for example, email only);
- only allowing contact with a specific member of staff or at specific times;

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- asking the person to enter into an agreement about their future behaviour; and/or
- actions designed to specifically meet the needs of the person.

In all cases we will write to tell the person why we believe their behaviour is unreasonable, what action we are taking and how long that action will last. We will also tell them how they can challenge the decision if they disagree with it.

If, despite any adjustments we have made, a person continues to behave in a way which is unreasonable, we may decide to end contact with that person.

There will be occasions where we decide that a person’s behaviour is so extreme that it threatens the immediate safety and welfare of our staff or others. In these instances we will consider stopping all contact immediately, reporting what has happened to the police or taking legal action. In such cases, we may not warn the person before we do this.

## **2. Scope**

Unreasonable behaviour will usually depend on the situation of the individual concerned. It can occur in a variety of circumstances including in person, on the telephone, in written correspondence or in using social media (see paragraph).

Any behaviour that makes someone feel uneasy, uncomfortable, distressed, anxious or unsafe is likely to be considered unreasonable and action can be considered under the policy in these instances. Examples include behaviour that a staff member considers abusive, offensive or threatening in nature.

We will also consider taking action where a high frequency of contact causes a disruption to the service we provide. For example, a series of disruptive calls which contain no abusive content may be suitable for action to be taken under this policy as much as a single call which contains a specific threat.

If at any stage we consider a person’s behaviour poses an immediate threat to the health, welfare or safety of staff then we should decide whether more immediate action is required.

### **Considering equality issues in deciding whether to take action under the policy**

We will take into account any equality issues that may affect a person’s behaviour before deciding whether to take action under this policy. This should include reviewing any adjustments currently in place and deciding whether any further steps could be taken to manage the person’s behaviour. Any action of this nature will be recorded in the case file.

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If the staff member considers further adjustments cannot be made to support the person, or their request for adjustment is unreasonable, then the reasons for this decision must be recorded and discussed with the Legal Team. If the staff member has any concern about deciding that a requested adjustment is not reasonable, they must consult their manager, and also the Legal Team if appropriate.

A staff member can still take action under this policy even if a relevant equality or diversity issue is identified. They must take account of any reasonable adjustments agreed in deciding what action to take. For example, a dyslexic complainant may only want telephone contact. We may therefore decide to limit their contact to one person, rather than restrict all telephone calls to us.

### **3. Process**

#### **Recording unreasonable behaviour**

The staff member should log full details of any behaviour they consider to be unreasonable using the case management system. This record should include details of why they consider the behaviour is unreasonable and details of, for example, any offensive terms used.

Wherever possible, the staff member should record the exact language used in the contact and give as much information as they can about how and when it was used. This should not only include what someone said or did but the way they spoke and how they acted. They should also create a new case note entry for each telephone call or other means of contact to capture the frequency of the contact.)

#### **Process steps**

Staff should complete each stage of the process below before moving to the next and should only take further action if the person's behaviour continues to be unreasonable.

- Liaise with the Head of Patient Experiences or their Deputy
- Tell the person that we consider their behaviour to be unreasonable and why.
- Consider if a new or existing advocate can be used to communicate with the person as an alternative method of communication.
- Issue a warning with the agreement of a manager and provide details of our policy.
- Escalate to an Executive Officer

If for any reason the staff member feels uncomfortable in challenging the person's behaviour at the time, or is concerned their personal safety is at risk (particularly if the behaviour is threatening or occurs in a face-to-face setting), they should record any details of the person's behaviour and discuss what happened with the Head of Patient Experiences or their line manager as soon as possible. The staff member can still contact the complainant to discuss their behaviour after the telephone call if appropriate

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## **Examples of when and how to challenge unreasonable behaviour**

If a person uses offensive language during a telephone call the staff member involved should explain to the person that their language is unreasonable and ask them to stop. If the person refuses to comply with that request the staff member should politely end the call. A record should be made of what has happened and the telephone call should be discussed with a manager.

If a person uses offensive language in letters or emails, the staff member should explain in their next written response to the person that the language they have used is unreasonable and ask them not to repeat this in future correspondence.

If a person persistently makes repeated telephone calls without legitimate purpose (for example, to ask about progress on their case when they have recently been given that information) the staff member involved should explain to them that their behaviour is disruptive and is preventing work on their case and others. They should ask the person to stop doing this. If the person refuses to comply with the request then in the short term further calls can be terminated politely after a brief explanation (for example, that we have nothing further to add to the last update given on the case). If the behaviour continues the staff member must take action under the policy and should not continue to just terminate calls.)

If a person sends repeated letters or emails without legitimate purpose (for example, if they send one letter each day that does not add anything to the evidence in support of their case) the staff member should ask, in their next contact with the person, that they limit the amount of correspondence sent to us.

### **Consider if a new or existing advocate can be used to communicate with the person**

If a person displaying unreasonable behaviour has an advocate, the staff member should approach them as soon as possible to ask for assistance in understanding and managing the person's behaviour.

If the person does not have an advocate, the staff member should, if appropriate, suggest they get one and provide details of a suitable provider. This may be particularly suitable in cases where there are equality considerations.

## **4. Use of warnings**

**Issue of warnings with the agreement of Head of Patient Experiences and provide details of this policy**

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A warning will normally be given before the policy is applied. This is different to telling the person their behaviour is unreasonable. The staff member will usually have already told the complainant why their behaviour was unreasonable and given them the opportunity to change.

The staff member should consider the most appropriate way of giving the warning, whether this is telephone, email or by post. The staff member should also record the warning on CMS. This must include a summary of the reasons for the warning, and the manager it was discussed with.

If the warning is communicated over the telephone the staff member should also send the person concerned either a copy or a link to the policy statement via email or writing. This should be accompanied by a brief letter reiterating the warning and if appropriate a statement of our willingness to discuss a reasonable adjustment if helpful.

The staff member involved should usually deliver the warning as they are best placed to explain why the complainant's behaviour was unreasonable. Another staff member can do this though if appropriate. The warning should explain what the behaviour was, why we consider it to be unreasonable and the likely consequences of any continuation.

The staff member should usually discuss the decision to issue a warning in advance with a manager. There will be occasions when a person's behaviour (usually during a telephone call) requires a staff member to issue a warning without being able to discuss the case with a manager first. In these instances the staff member should inform their manager as soon as possible after the event.)

If a Member of Parliament and/or representative have been involved in the case, the staff member should tell the person that, if the unreasonable behaviour continues and we decide to apply our policy, that we will tell the MP and/or the representative.

If the staff member considers the person's behaviour is particularly serious (for example, there has been a specific and immediate threat made) a decision may be taken by the Head of patient experiences or an Assistant Director, to apply the policy without prior warning. In that event, the staff member who authorises the application of the policy should contact the person immediately explaining the reasons for doing this.

The staff member should also consider whether the Security team should be informed. This will mainly be relevant when the staff member feels threatened by the person's actions, for example a threat is made to come to our offices.

## **5. Escalation**

If the person continues to behave in a way that is unreasonable, a request to apply the policy should be referred to an Assistant Director. The staff member should ensure the request provides relevant details (for example, steps taken so far, nature and frequency

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of the behaviour, information about the complainant's needs and circumstances (if known), and the type and duration of any proposed requirements or conditions).

In deciding whether to apply the policy the relevant manager should consider and record):

- The requirements/conditions for the person to follow in order to manage their behaviour.
- Whether there are any equality or diversity considerations that may impact on the requirements/conditions agreed.
- Advice and support to any staff members who receive contact from that person.
- Date for review of requirements/conditions.
- Responsibility for handling requests for review of requirements /conditions.

The staff member should record the outcome of the referral and detail the reasons why it has been agreed or not agreed that the policy should be applied. This should include whether restrictions need to apply to any other existing enquiries, reviews, investigations or information requests that the person has with us.

If it is decided that the policy should not be applied then the HoPE should decide how to manage contact from the person in the future and record this.

If it is decided the policy should apply, the HoPE should agree how to restrict the person's contact with us. In doing this they should balance the interests of the person with the duty to protect the health, safety and welfare of staff. Possible actions include:

- requesting contact in a particular form (for example, emails only);
- requiring contact to take place with a named officer;
- restricting telephone calls to specified days and times;
- asking the person to enter into an agreement about their conduct; and/or
- actions designed specifically to meet the needs of the person.

When applying a restriction then the HOPE should set a date when it will be reviewed. This date should be recorded. This will not be more than 6 months after the restrictions are imposed.

The HoPE should contact the person and explain:

- the reasons for the decision;
- the requirements/conditions the person must follow and any adjustments that can be made to assist with this;
- the date set for review;
- how the person can challenge the decision;

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- a warning that continued unreasonable behaviour may lead to the case being closed; and
- where relevant, that the MP/representative has been told of the action.

The manager should preferably make this contact by telephone. If they are aware that the person has a preferred method of communication then contact should be made this way instead. This contact must be followed up in writing.

### **What if contact restrictions that have been applied are not complied with?**

If a staff member receives a telephone call from a person who has been informed they cannot contact us this way, they should explain the restriction to the complainant. They should politely ask the person to contact us using an alternative method or via an advocate. The call can then be terminated.

If a staff member receives a letter or email from a person who has been informed they cannot contact us this way, then they should explain this restriction to the complainant (this can be in writing if appropriate). They should then ask the person to contact us using an alternative method or via an advocate.

### **What if unreasonable behaviour continues after the policy is applied?**

If the person continues to behave unreasonably after the policy has been applied, then the HOPE should decide whether further restrictions are required. They should ensure that any changes made are recorded.

A Director can decide to terminate contact with a person completely if appropriate (which would also have the effect of closing or discontinuing any assessment, investigation or review consideration currently ongoing). The intention of this policy though is to manage challenging behaviour so we can continue to work on cases. This should therefore only be considered in rare circumstances. If the decision is made to do this then this should be recorded

If the decision is made to terminate contact completely, then HOPE should decide whether to acknowledge or consider any further contact. This should be considered on a case by case basis and any action taken must be recorded

## **6. Complaints about the decision to apply this policy**

A Director can consider complaints about whether the policy has been applied in line with this guidance. If the process has not been followed correctly, the Director should pass the

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case back to the HOPE and ask for it to be reconsidered. The outcome should be recorded

If the complaint concerns our decision to apply the policy, the complaint should be forwarded to the line manager of the HOPE to review. The member of staff carrying out that review must issue a written decision to explain the outcome and record the decision

### **Behaviour that poses an immediate risk**

There will be exceptional cases where we consider a person's behaviour poses an immediate threat to the health, welfare or safety of staff members. In these cases the HoPE, Assistant Director or Director, may decide to take action without prior warning, including terminating all contact. They may also consider other suitable action such as police involvement.

The staff member taking this action must clearly record what action has been taken and their manager and the security officer must be notified. A risk assessment should be completed,

### **Modification of behaviour**

If a staff member considers the person has modified their behaviour before the review date to the extent that existing restrictions should not apply, a proposal to remove or modify the restrictions can be agreed by the HoPE or an Assistant Director, or Director

If restrictions are removed on a person's contact with us before the review date set the staff member should contact the person to explain this. At this time they should also make it clear to the person that if their previous behaviour resumes this could lead to restrictions being imposed again or further restrictions imposed.

## **7. Deciding whether to continue applying the policy at the review date**

The HOPE has the responsibility for ensuring a review is conducted this is because they are best placed to comment on whether the person's behaviour has changed and restrictions should be lifted.

Before the review date the HoPE should discuss the case with their manager and pass it to an Assistant Director, or director to review.

The person reviewing the case should take into account the evidence and reasons for making the original decision, and any evidence of the person's subsequent behaviour. They should also seek comments from appropriate staff, including those affected by the behaviour, and consider the effectiveness of any adjustment already made.

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If the person reviewing the case decides not to extend the original restrictions for a further period, the conditions imposed will lapse. This decision should be recorded

If there is continuing contact with the person, the person reviewing the case should write to them explaining the decision. If the person is not in regular contact then contact does not need to be re-established to tell them about the decision. The decision should then be shared if and when they make contact again.

If the person reviewing the case does not extend the original decision and the unreasonable behaviour occurs again at a later point they can decide to enforce the previous restrictions again without going through the warning stage.

If the person reviewing the case decides to extend the original decision, they should set a further period during which restrictions should apply up to a maximum of twelve months. When this expires, a further review should be conducted.

The review of the application of this policy should be recorded fully by (or on behalf of) the person carrying out the review.

## **8. Social Media**

We generally consider unreasonable behaviour on social media (for example, Facebook or Twitter) to be when a person is abusive, makes personal threats or repeatedly references an individual member of staff. We should not usually take action under this part of the policy if the comment is a general criticism of our organisation or service.

If a person displays unreasonable behaviour on social media then this policy can be used to try to manage it. In these circumstances the staff member responsible for responding to the person should not continue to respond online, in order to prevent personal or confidential information (either about a case or about a member of staff) being disclosed or publicised further.

If a social media post about a specific member of staff is found online, then this should be referred to the relevant staff member's manager, human resources and the Communications team. The manager should inform the staff member and take responsibility for agreeing what action to take, working with the Communications team and, if appropriate, the Legal Team. The following options can be considered:

- support for the employee
- asking the person who made the post to remove it; (discuss this with the Head of Communications first)
- asking the Communications team to report the person to the social media platform (if the behaviour persists);
- seeking advice from the Legal Team.

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## **Contact received on staff member's personal social media**

Most comments we receive on social media will be made to our corporate accounts. Action can be taken under this policy though in relation to contact received from a person that is sent directly to a member of staff's personal social media account.

If a staff member receives contact through social media from a person who is currently, or has previously, used our service then they should raise this with their manager. The staff member should not respond to the contact or acknowledge the person has a case with us, as this may be considered a breach of data protection)

If this contact is threatening or abusive the staff member should report it to their manager as soon as possible. The manager should then consider whether action is required under this policy.

### **9. Further complaints and information requests**

Restrictions under this policy should usually be applied to an individual. We can still decide to apply restrictions on a case-specific basis if appropriate. This should be considered on the individual circumstances of the case.

If a person who has had restrictions applied under this policy seeks to make a fresh complaint, the staff member should consult the HOPE, an Assistant Director or a director for a decision on how to respond to that further contact.

If a person who has had restrictions applied under this policy makes a Freedom of Information request or Data Protection Act subject access request then the HoPE, an Assistant Director or a Director should be consulted for advice as well as the Head of FOI/DPA.

#### **Variation of these procedures**

These procedures may be varied in individual circumstances or on a specific issue by agreement a director.

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