NHS Devon

Dealing with persistent and unreasonable members of the public policy

NHS Devon

One Devon

Proud to be part of One Devon: NHS and CARE working with communities and local organisations to improve people's lives

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27/10/2023	Policy Amendment	Migrating policy to new template, no changes since approval.
15/04/2026	Policy Amendment	Updated office address and reporting route, no other changes made.

Equality, diversity and inclusion statement

NHS Devon is committed to the promotion of equal opportunities, addressing health inequalities and fostering of good relations between people protected under the terms of the Equality Act 2010, the Health and Social Care Act 2012 and Human Rights legislation. We are equally committed to the elimination of unlawful discrimination, harassment and victimisation. To demonstrate this commitment, we develop, promote and maintain policies, strategies and operating procedures. Every effort is made to ensure that patients, employees, contractors or visitors do not experience discrimination; either directly or indirectly, because of their vulnerability; disadvantage; age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex (gender) or sexual orientation.

All staff must comply with this policy. Compliance must reflect our organisational commitment to and policy on, equality, diversity and inclusion. In addition, each manager and member of staff involved in implementing this policy must give due regard to the needs of those protected under law.

If you, or any other groups, believe you are discriminated against under the terms of the Equality Act, the Health and Social Care Act 2012 or Human Rights legislation by anything contained in this document; or you need this document in an alternative format, for example, large print, Braille, Easy read or other languages; please contact our Patient Advice and Complaints Team (PACT):

Tel: 0300 123 1672
Email: d-icb.patientexperience@nhs.net
Post: Patient Advice and Complaints Team
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1. Introduction

1.1 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 Devon.

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. NHS Devon's Patient Experience Team may be used as an additional resource by directorate managers of NHS Devon to advise staff dealing with correspondents outside the Informal Concerns and Formal Complaints process.

1.3 Whilst this is a separate policy, this policy can be read in conjunction with the Informal Concerns and Formal Complaints Handling Policy for NHS Devon. 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 NHS Devon or the services it commissions.

2. Purpose and objectives

2.1 This policy includes how NHS Devon will respond, should any member of staff during their role within NHS Devon, be subjected to inappropriate personal or abusive verbal or written comments.

2.2 The policy should only be implemented following careful consideration and with the authorisation of the Chief Nursing Officer or their deputies.

2.3 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 NHS Devon falls under this legislation.

2.4 This is an organisational wide policy, which can be used within any part of NHS Devon. Where used outside of Patient Experience, the individual implementing the policy should inform Patient Experience (d-icb.patientexperience@nhs.net) for advice and monitoring purposes.

3. Scope

3.1 This policy applies to all staff of NHS Devon

4. Definitions

4.1 A member of the public may be deemed to be exhibiting persistent and unreasonable behaviours where current or previous contact with NHS Devon shows that they have met one or more of the following criteria:

a) **Have harassed or been personally abusive** or verbally aggressive on one or more occasion towards employees of NHS Devon;

b) **Have shown signs of bullying behaviour** towards employees of NHS Devon. 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 a complaint 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 NHS Devon 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) In the course of addressing a concern or complaint, has had an **excessive number of contacts** with NHS Devon 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 NHS Devon 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.

4.2 Persistent and unreasonable behaviours include all methods of communications, which could consist of, written, email, telephone and social media or several methods of communication.

4.3 If a member of the public has been identified as likely to meet the criteria of a persistent and unreasonable member of the public the senior manager of NHS Devon 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.

4.4 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.

5. Communication

5.1 Whilst each contact with members of the public is handled with care and attention, it must be acknowledged that the difficulties in handling frequent, difficult, and demanding calls or written communication can cause undue stress to employees of NHS Devon.

5.2 Frequent contacts can be made using multiple contact points into NHS Devon or can be via one employee or directorate of NHS Devon.

5.3 Consider if an individual has any underlying health issues which may be causing the person's behaviour.

5.4 Whilst employees of NHS Devon are trained to respond with patience and empathy to the needs of callers and their families, there are times where no further reasonable assistance can be offered to the member of the public to rectify a real or perceived situation. There must be a point where contact needs to be reviewed and managed.

5.5 Where the behaviour is so extreme, or it threatens the immediate safety and welfare of staff, the line manager must complete a risk assessment in line with NHS Devon's health and safety policy.

5.6 In some circumstances NHS Devon 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.

6. Information governance

6.1 Confidentiality will continue to be maintained when communicating regarding a persistent and unreasonable member of public in line with NHS Devon Code of Practice on Confidentiality and Information Security Policy.

6.2 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, others or is at risk themselves due to behaviours of others.

6.3 There may be occasions where NHS Devon 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 NHS Devon's Information Governance Team and the Caldicott Guardian must be sought. Any sharing of information will be done in line with the Data Protection Act 2018 and adhere strictly to the Caldicott Principles (See Code of Practice on Confidentiality for more information).

7. Equality and Inclusion

7.1 Everyone should be treated with dignity and respect at work. Please see the equality and diversity statement at the beginning of this document.

8. Panel Process

8.1 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 their deputy who will request the convening of a panel to review and decide what action to take.

8.2 Panel members will decide what restrictions should be put in place tailored to the member of the 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.

8.3 If panel members have decided that a single point of contact should be applied, NHS Devon will take into consideration the member of the public's needs, for example if they have any learning difficulties.

8.4 Panel members must also consider the length of time the restrictions will be in place.

8.5 Panel members may decide there may be a benefit to consult with relevant provider organisations to identify if the member of pubic is known to their services in order that there is a consistent approach across organisations when dealing with the complainant.

8.6 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.

8.7 Non-compliance with any restrictions agreed within panel, can result in employees of NHS Devon terminating calls, for example when written communication was the agreed method of communication and the member of public continues to telephone individuals within NHS Devon.

8.8 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 NHS Devon.

9. Review of Agreed Restrictions

9.1 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.

9.2 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.

9.3 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 future contact may have to be further restricted to NHS Devon.

9.4 Where the member of the public continues to behave in a persistent and unacceptable way, NHS Devon may decide to refuse all contact with them, which may include stopping an investigation or complaint.

10. New complaints from people who are deemed to be persistent and unreasonable

10.1 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 or their deputy will decide whether any restrictions which have been applied previously are still appropriate and necessary in relation to the new complaint.

11. Accountabilities, Duties and Responsibilities

Chief Executive Officer	The Chief Executive Officer has ultimate accountability for the strategic direction and operational management of NHS Devon, including compliance with all legal, statutory and policy requirements.
Policy Sponsor	The Policy Sponsor is responsible for: • ensuring that policy is appropriate for consideration for approval; • endorsing this policy ahead of submission for approval; • with the Policy Lead, maintaining and updating procedures/protocols and other supporting documents for this policy.
Policy Lead / Author	It is the responsibility of the Policy Lead / author to: • ensure as far as possible that the policy is in line with Department of Health and Social Care guidance, legal requirements and advice from clinical bodies; • to complete a QEIA and Implementation Plan where required • undertake a fair and proportionate consultation period with the relevant stakeholders as part of the document's development • to ensure that the policy is in alignment with NHS Devon's strategy and values • ensure that the policy is developed, approved, disseminated and monitored as set out in the document; with Policy Sponsors, maintaining and updating procedures / protocols and other supporting documents for this policy.
Title of any other relevant Officer	N/A
Titles of any Committee	Reporting will be shared with the Quality and Patient Experience Committee, when produced.

Line Managers	Line managers have a responsibility to ensure their staff comply with NHS Devon policies and standards within their areas of responsibility.
All Staff	Employed or engaged staff have a duty to comply with NHS Devon policies and standards as outlined in their contracts of employment and codes of conduct.

12. Implementation

12.1 All staff will be informed of the approval of the Policy via the Staff Bulletin which will provide a link to the document on the NHS Devon Intranet.

12.2 NHS Devon Senior Managers, or their designated representatives, will implement this policy by:

- Notifying all staff of its existence. New staff will be informed of this policy as part of their induction.
- Destroying all superseded paper-based versions of the policy and electronic versions retained in their area.
- Having adequate knowledge of, and / or access to, all relevant legislation in order to ensure that compliance with such legislation is maintained.
- Discussing with staff as part of their regular one-to-ones how they seek to achieve their individual objectives around policy review and maintenance.

13. Approval and Review

13.1 The approval route for this policy is via the Chief Nursing Officer and Chief Corporate Affairs Officer.

13.2 This policy will be reviewed annually, or sooner if required, in order to ensure that it is current, relevant and reflects the strategic aims, objectives, organisational structures and responsibilities of NHS Devon.

14. Monitoring compliance and effectiveness

14.1 This policy will be monitored on an annual basis through the Patient Experience Annual Report (Shared with Quality and Patient Experience Committee).

14.2 The Annual Report will include how many times the policy has been implemented, the current status of members of public subject to the policy and any outcomes following policy implementation.

15. Quality & Equality Impact Assessment (QEIA)

15.1 No significant changes have been made to this policy and therefore a QEIA has not been included.

16. References

16.1 Other related policy documents

None to list

16.2 Legislation and statutory requirements

None to list

16.3 Best practice recommendations and other key guidance

None to list

APPENDIX A – Zero Tolerance statement

“All our staff are entitled to carry out their duties without fear of harassment, abusive behaviour, violence, or aggression.

NHS Devon does not accept behaviour towards staff that is harmful, abusive threatening or aggressive in any way and takes a zero-tolerance approach to behaviour of this kind.”

Governing Body.

APPENDIX B – Support for staff

NHS Devon support staff who have experienced persistent and unreasonable behaviour in various ways and staff can choose which of these maybe the most appropriate for the situation:

- Debrief with a colleague
- Seek line manager or senior manager debrief immediately – in person or over the phone
- Arrange 1:1 with named / identified Safeguarding staff member
- Discuss with line manager at 1:1
- Access to coaching
- Joint informal supervision sessions
- Employee Assistance Programme (Occupational Health referral, self or manager)
- Counselling support via Employee Assistance Programme (Occupational Health referral, self or manager)

This list is not exhaustive, and a combination of the above options may be most appropriate. Staff can also seek support from HR.