



THE MANCHESTER PRIMARY
CARE PARTNERSHIP

Manchester Primary Care Partnership Ltd
Policies & Procedures
Handling Patient's Complaints

Document Control

Purposes	<p>The purposes of this policy is to outline the clear step by step process for dealing with complaints</p> <p>The complaints process should: be</p> <ul style="list-style-type: none"> • accessible and open, • resolve complaints quickly and effectively; • be fair to staff and complainants alike • comply with NHS guidance and timescales 											
Author	Liz Gallagher (Project Manager)											
Application	Manchester Primary Care Partnership Ltd											
Implementation Date	September 2015											
Review Date	Sept 2020											
Approved By	MPCP Board of Directors											
Policy Statement	<p>Complaints often generate a negative defensive reaction, when in fact, if they are viewed constructively they can make a very positive contribution to underpin continuous learning and improvement within the Federations operations and clinical activity</p> <p>As a patient focused organisation we welcome feedback and pledge to manage all complaints in line with NHS Guidance and time frames and in doing so, be open and transparent in our interaction with the complainant.</p>											
Version Control	<table border="1" style="width: 100%;"> <thead> <tr> <th style="text-align: center;">Versions</th> <th style="text-align: center;">Review date</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">Sept 2016</td> </tr> <tr> <td style="text-align: center;">2</td> <td style="text-align: center;">Sept 2017</td> </tr> <tr> <td style="text-align: center;">3</td> <td style="text-align: center;">Sept 2018 referenced generic patient leaflet and crossed referenced to duty of candour and SUI policies</td> </tr> <tr> <td style="text-align: center;">4</td> <td style="text-align: center;">Nov 2018 Inclusion of new patient leaflet</td> </tr> </tbody> </table>	Versions	Review date	1	Sept 2016	2	Sept 2017	3	Sept 2018 referenced generic patient leaflet and crossed referenced to duty of candour and SUI policies	4	Nov 2018 Inclusion of new patient leaflet	
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1. Strategic Context

Complaints are an integral element of improving the patient's overall experience of health care and help to assure safe, high quality care. The management of complaints needs to ensure that processes exist to investigate and manage the complaint in an efficient and transparent manner and strategies are developed for implementing recommendations, disseminating learning and ensuring complaints feed into clinical governance and risk management processes.

2. Aim of the Policy

The aim of this policy is to have an easily identifiable and recognisable process for dealing with complaints across health and social care.

The complaints process should be :

- accessible and open,
- resolve complaints quickly and effectively;
- be fair to staff and complainants alike

Information gained from handling complaints should be used to:

- Contribute to clinical governance processes
- Feed into claims, incidents and risk mechanisms
- Be complementary to Patient Advice and Liaison Services (PALS)
- Promote learning in the organisation and, where things have gone wrong; avoid similar situations arising again
- Monitor complaints received at both MPCP and at an individual Federation level, directly associated with contracted activity to identify trends that may cause concern
- Identify training needs
- Maintain good practice and quality standards

Effective complaints handling can enhance the reputation of the Federation. All staff should be made aware of the complaints policy. Training will be provided for new staff via staff induction and existing staff on a one to one basis if requested and at relevant ad-hoc training events.

3. Principles

The complaints procedure states that arrangements for dealing with complaints must ensure that:

- a) complaints are dealt with efficiently
- b) complaints are properly investigated
- c) complainants are treated with respect and courtesy
- d) complainants receive so far as is reasonably practical :

- (i) assistance to enable them to understand the complaints procedure
or
- (ii) advice on where they may obtain such assistance
- e) complainants receive a timely and appropriate response which include an acknowledgement in writing with 3 working days of receipt
- f) complainants are told the outcome of the investigation of their complaint and action is taken if necessary in the light of the outcome of the complaint.

Complaints should also be handled in the spirit of the Parliamentary and Health Service Ombudsman's (PHSO) principles - Principles of Good Administration, Principles of Good Complaints Handling and Principles for Remedy. The PHSO recommends NHS organisations follow these principles to ensure effective complaints handling:

1. Getting it Right
2. Being Customer focused
3. Being open and accountable
4. Acting fairly and proportionately
5. Putting things right
6. Seeking continuous improvement

These Principles should not be applied as a checklist & staff should use their judgement in applying them to produce reasonable, fair and proportionate remedies.

Full details of the Ombudsman's Principles can be found at www.ombudsman.org.uk.

Human Rights core values

Putting human rights at the heart of the way healthcare services are designed and delivered can make for better services for everyone, with patient and staff experiences reflecting the core values of fairness, respect, equality, dignity and autonomy. Complaints should be dealt with in line with these five core values.

Further information on the core values of Human Rights can be found at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_073473

Ensuring fairness and equity in complaints handling

Under the regulations, complainants must not be discriminated against because they have made a complaint about the service, provider or independent contractor. The Federations is committed to dealing with complaints in a non- discriminatory manner.

Complainants can seek advice and support on how to make their complaint from

The Patients Service Team -North West Commissioning Unit

St James House

Pendleton Way

Salford

M6 5FW

Telephone: 0161 212 6270

The Federation supports the use of independent advocacy within the complaints procedure and any complainant wishing to access independent advocacy will be provided with the contact details of the **Independent Complaints Advocacy Service (ICAS)** Telephone Number: 0808 801039

If a complainant does feel that they have been discriminated against in any way as a result of making a complaint, they can contact the Patient Service Team detailed above to discuss how these issues will be addressed.

The Federation is commits to operating a learning, fair blame culture when dealing with complaints providing staff have not:

- Intended to cause harm
- Acted recklessly and taken an unjustifiable risk
- Negligently brought about a consequence which a reasonably competent person with his/her skills should have foreseen and avoided
- Acted illegally by committing a criminal act including circumstances resulting in a police investigation or prosecution
- Inappropriately or deliberately failed to comply with protocols or policies
- Repeated poor performance that has not improved with training and performance management support
- Breach of legal requirements, contractual obligations or Professional Codes of Conduct.

4. Objectives

The complaints procedure is designed to:

- Enable complaints to be dealt with as swiftly as possible, in a conciliatory and courteous manner.

- Do not distinguish between verbal and written complaints and to grant them a full and fair investigation, other than those minor complaints which can be dealt with immediately.
- Empower staff to deal with complaints wherever possible, including training front line staff in the handling of complaints
- Entitle complainants to a full and fair investigation of their complaints, without fear of retribution.
- Ensure that the complaints procedure is fair to both staff and complainants.
- Ensure that the complaints system is simple and accessible.
- Use the complaints policy as a means of improving the quality of service we provide and to ensure we learn lessons.
- Keep managers, staff, clinicians and the complainant informed and involved throughout the process.
- Ensure that all complaints are properly monitored and recorded and appropriate reports submitted.
- Ensure that complaints are dealt with by the Host Federation in which they arise, The designated lead within each host Federation will be responsible for the investigation, the final response and any subsequent action taken within the service.

Each Federation should have named individuals at a clinical and operational level responsible for the investigation of complaints. In all cases the appropriate person will support the process.

MPCP's Director of Governance may, in exceptional circumstances, appoint investigators from a different host federation to conduct the investigation if he believes the complaint is of a sufficiently serious or complex nature.

Any issues highlighted as a result by complaints investigations which require attention in respect of service provision, clinical practice or of a disciplinary nature should be dealt with by the applicable manager within the host Federations and or MPCP and an action plan should be generated as appropriate.

Where appropriate, staff should have access to support throughout the investigation of a complaint. Staff may seek peer support, support from line management or, should they feel this to be inappropriate, may access the Occupational Health confidential counselling service, their professional body (if they have one) and / or trade union.

5. Definition of a Complaint

A complaint may be defined as an expression of dissatisfaction or concern by a patient, visitor, carer, representative group or member of the public, with any aspect of a service, including staff performance, attitude, the environment, facilities, systems or processes

It is important to be able to distinguish between complaints that require a response and grumbles. This distinction may well be subjective and differ from person to

person. The use of the following triggers can help develop a more consistent approach to define a complaint:

- It cannot be resolved quickly (by the next working day)
- Is there a risk to the person or the Service?
- Is this the first time someone is complaining?
- Is there a repetition of the same complaint from an individual or group?
- When there is a child or vulnerable adult involved
- *“I’m not complaining but...”*

If employees have complaints or concerns that relate to other employees these should be raised through existing policies and procedures e.g. grievance procedure, whistle blowing policy, dignity and respect policy and/or disciplinary procedure.

6. Responsibility & Accountability

MPCP’s Governance Lead will retain overall responsibility for complaints and compliance with the arrangements made under the regulations. Equally each Federation must designate a person – referred to in the regulations as a Complaints Manager - to be responsible for managing the procedures for handling and considering complaints in accordance with the regulations. The individual federations are required to share the **volume and nature** of complaints received and the **outcome** following investigation, **number upheld** or not and the **actions taken and lessons learnt** on a monthly basis

7. Who may make a complaint?

In general terms a complaint may be made by:

any person who is affected by or likely to be affected by an action, omission or decision of the Extended Access Service, the patient’s GP on their behalf, or the wider health care community

A complaint may be made by a person (referred to as a representative) acting on behalf of a person where that person:

- has died;
- is a child;
- is unable by reason of physical incapacity or lack of capacity within the meaning of the Mental Capacity Act 2005 (a) or
- Has requested the representative to act on his/her behalf and provided written consent.

Where the representative makes a complaint on behalf of a child, the service

a) must not consider the complaint unless it is satisfied that there are reasonable grounds for the complaint being made by the representative instead of the child; and

b) If it is not satisfied, must notify the representative in writing and state the reason for its decision.

Where a representative -

a) makes a complaint on behalf of a child or a person who lacks capacity within the meaning of the Mental Capacity Act 2005 and

b) If the organization is satisfied that the representative is not conducting the complaint in the best interests of the person, the complaint must not be considered or further considered and the representative must be notified in writing and state the reason for the decision. (if in doubt contact MPCP's Director with Governance responsibility : Mr Colin Tate colin.tate@nhs.net)

Deciding who can complain can often be a complex issue. If staff are unsure they should contact the Senior Service manager for clarification and advice.

Please see the new patient complaints leaflet



GP Practice -
complaint leaflet final

8. Complaints about provider services

Where a complaint is made to MPCP or the any of the three Federations about the services provided by a provider - in this case an NHS body, community health services provider (such as Manchester Community Health) or an independent provider –

- a) The Federation(s) must ask and seek written confirmation form the complainant of whether they consent for details of the complaint to be sent to the provider and
- b) if the complainant consents, The organization must as soon as reasonably practicable send details of the complaint to the provider.

If the federation(s) considers it is appropriate for them to deal with the complaint –

- a) They must consult with the provider and gain agreement for that course of action
- b) Notify the complainant
- c) Must handle the complaint in accordance with the regulations.

When it is more appropriate for the complaint to be dealt with by the provider *and with the complainant consents*

- a) The complaints manager must notify the complainant and the provider
- b) When the provider receives the notification it must handle the complaint in accordance with the regulations as if the complainant had made the complaint to the provider.

9. Duty to cooperate

When considering a complaint, where it appears to an organisation that the complaint contains issues that if sent to another organisation would be a complaint that requires investigation, both organisations must cooperate to-

- a) Co-ordinate the handling of the complaint and
- b) Ensure the complainant receives a coordinated response to their complaint.

The duty to cooperate includes in particular a duty for each organisation to:

- a) Agree which organisation takes the lead in coordinating the handling of the complaint and communicating with the complainant
- b) Provide information relevant to the complaint when requested by the other organisation and
- c) Attend any meeting reasonably required when considering the complaint.

10. Time limits

A complaint must be made no later than 12 months after -

- (a) the date on which the matter which is the subject of the complaint occurred; or
- (b) if later, the date on which the matter which is the subject of the complaint came to the notice of the complainant.

The time limit shall not apply if the organisation is satisfied that –

- (a) The complainant had good reasons for not making the complaint within that period; and
- (b) Notwithstanding the delay it is still possible to investigate the complaint effectively and fairly.

Flexibility and sensitivity should be used when considering late complaints e.g. where a complainant has suffered such distress or trauma that prevented him/her from complaining earlier.

Discretion may on occasion be used to extend the time limit in discussion with the Patient Service Team the complainant and service provider.

If a decision to process a complaint is turned down on the “out of time” basis then a complainant can use this policy to complain about that decision.

11. How are complaints investigated?

The complaints procedure has two stages:

- a) Local Resolution
- b) Review by the Local Federation or MPCP as appropriate.

➤ **Local Resolution (the first stage)**

“Receive, acknowledge, investigate, respond”

Ideally complaints and concerns will be and are, where appropriate, resolved on the spot by front-line staff effectively and efficiently. Staff are encouraged to make a record of locally resolved complaints including the name and reference of the complainant, what the complaint was about, what steps were taken to respond to the complaint and whether the complainant was happy that the complaint was resolved.

Receive

A complaint may be made orally, in writing or electronically.

When a complaint is made orally, a written record of the complaint should be made and a copy provided to the complainant.

Acknowledge

All complaints should be acknowledged within **3 working days** after the day the complaint is received (except where the complaint is about another provider service, where a complaint is referred for investigation to another organisation or where a complaint is received verbally and resolved within one working day).

When a complaint is acknowledged, the organisation must offer to discuss with the complainant –

- a) the manner in which the complaint is to be handled and
- b) the response period within which the investigation of the complaint is likely to be completed and the response is likely to be sent to the complainant.

If the complainant does not accept the offer of a discussion, the organisation must determine the response period and notify the complainant in writing of that period.

Investigate

When a complaint is received the organisation must:

- investigate the complaint in a manner appropriate to resolve it speedily and efficiently
- and throughout the investigation, keep the complainant informed as far as reasonably practicable of the progress of the investigation.

Respond

Once the investigation is completed, a response must be sent and signed by the responsible person or any person delegated with responsibility on their behalf. This should be done as soon as possible and include:

- a report into the complaint containing an explanation of how the complaint has been investigated, the conclusions reached and any actions to be taken

- confirmation that any action needed as a result of the complaint will be undertaken and a timescale identified
- the complainants right to take their complaint to the Health Service Commissioner (Health Service Ombudsman), where the complaint relates wholly or in part to health

For complaints involving GP's, Dentist and Pharmacist complainants have the right to a complete reply to their complaint within 10 working days. In exceptional circumstances this may not be possible and therefore the organisation must:

- a) notify the complainant in writing that the complaint is still under investigation and explain the reasons why they have not received a response and
- b) send the complainant a full response in writing as soon as reasonably practicable.

If a complainant contacts the organisation after receiving the response to their complaint requesting further information or explanation, every effort should be made to answer these enquiries at local resolution. For instance, further information / explanation can be provided with consent and by agreement of all parties by the Patient Services Team or reviewing Complaints Manager. Alternatively, a meeting to discuss the issues raised in the complaint could be offered. Should a complainant raise new issues at this stage that were not included with the original complaint, these must be investigated as a separate new complaint.

It is important to note that this should not be considered a review or appeal of their complaint. If the complainant remains unhappy with the response following local resolution and any further efforts to explain, they should be advised to go to stage two of the procedure and contact the Health Service Commissioner.

Review by the Health Service Commissioner (the 'second stage')

Every effort should be made to resolve a complaint at the local resolution stage but if a complainant is unhappy with the response to their complaint, they have the right to contact the Health Service Commissioner – more commonly known as the Parliamentary and Health Service Ombudsman (PHSO) – and request a review of their complaint.

Contact Details

www.ombudsman.org.uk/index.html

[E-mail Phso.enquiries@ombudsman.org.uk](mailto:Phso.enquiries@ombudsman.org.uk)

Write to:

**Parliamentary and Health Service Ombudsman
Millbank Tower**

**Millbank
London
SW1P- 4QP
Telephone Number: 0345 015 4033**

12. Use of email / electronic communication

Email and electronic communication may be used where the complainant has consented in writing or electronically and has not then withdrawn their consent in writing or electronically.

When complaints documentation is to be sent electronically, it can be signed by the individual authorised to sign the document by typing their name or producing their name using a computer or other electronic means (electronic signatures).

13. Special considerations

Complaints of a Clinical Nature

Where a complaint involves clinical issues, a relevantly qualified clinician should be involved to ensure full and appropriate investigation.

Clinical negligence claims, legal action and Police involvement

Where a possible clinical negligence claim is intimated as part of a complaint or it becomes apparent that other legal action or Police involvement is underway whilst a complaint is being investigated, The Federation must consider whether by dealing with the complaint it might prejudice the potential defence of any legal claim or investigation.

Where there is any doubt, legal advice should be sought. Where it is thought that dealing with the complaint might prejudice the legal action, resolution of the complaint can be delayed until action the legal action has concluded. The complainant must be informed why the complaints process has been put on hold.

14. Corporate Performance, Monitoring and Reporting

a) Publicity

Information should be made available to the public on the arrangements for making complaints and how further information on those arrangements may be obtained. Staff should be made aware of the regulations and their role in dealing with complaints. The Federations have contributed to Generic Draft General Practice complaints leaflet and have committed to using this once the final version is published

b) Monitoring complaints

The Federation(s) should maintain a record of each complaint received, the subject matter and outcome of each complaint, the agreed response period (including any amendments to that period) and whether a response was sent out within the response period

c) Performance Targets

- “On the spot” verbal complaints should be resolved immediately or within one working day. (In this case, a note should be made of the complaint details).
- Written complaints should be acknowledged within three working days
- The final response to a complaint should be sent out within 10 day working days unless a delay has occurred and a new timescale has been agreed with the individual complainant. Where the complaint is of a complex nature and the investigation might exceed these timescales, the complainant will be kept informed of the reasons for delay and the progress made and given the opportunity to respond to this to register their disagreement.

15. Trend analysis and Lessons learnt

Lessons to be learnt will be extracted from complaints wherever possible, whether or not something has gone wrong. Complaints will be monitored and analysed alongside other areas such as Patient Service Team and incident reporting to identify if there are any wider issues that need to be addressed.

16. Training

Information on Patient Service Team , the complaints policy and and complaints received will be provided at staff induction and reviewed and shared on a regular basis thereafter .

17. Independent Advocacy

All service users or their carers who wish to make a complaint, should be made aware of their right to independent advocacy to support them to make a complaint and in particular the Independent Complaints Advocacy Service (ICAS). This is a free of charge independent service designed to give advice and support to those who wish to complain about the NHS. The Independent Complaints Advocacy Service (ICAS) can be contacted on 0845 1203735.

18. Conciliation

As part of Local Resolution (stage 1) it may be necessary to appoint a conciliator. A conciliator is an independent lay person, who acts as a neutral chairperson between a complainant and service complained against. The conciliator’s role is to ensure both parties have an opportunity to air their views. The conciliator’s role is to identify

areas of conflict, ensure that all issues are fully discussed and aired and help bring the situation to a satisfactory conclusion and resolution.

Conciliators can only be used for local resolution with both parties' full co-operation and consenting to such a process. It cannot be used as a coercive measure or threat against either a complainant or staff members. All those involved in conciliation need to be made aware of what the process involves. Both parties need to enter the conciliation process willing to compromise and genuinely seek resolution.

19. Media interest

Any media enquiries should be referred to MPCP's Board Director with Communication responsibility or the Chair of MPCP

Please Note

The implementation of this policy should be read in conjunction with the Duty of Candour and SUI policies.

See Appendix Below

Appendix 1 – Complaints Risk Assessment

By assessing how serious a complaint is, the right course of action may be taken. Complaints of a serious nature may be more appropriately dealt with by the Patient Services team or by a Serious Untoward Incidents (SUI) investigation.

A **3 step** process can be used to assess:

1. the impact of the complaint on the people involved
2. the potential risks to the organisation
3. the response required

Step 1: Decide how serious the issue is

Seriousness	Description
Low	<p>Unsatisfactory service or experience not directly related to care. No impact or risk to provision of care.</p> <p><u>Or</u></p> <p>Unsatisfactory service or experience related to care, usually a single resolvable issue. Minimal impact and minimal risk to the provision of care or service. No real risk of litigation.</p>
Medium	<p>Service or experience below reasonable expectations in several ways but not causing lasting problems. Has potential to impact on service provision. Some potential for litigation.</p>
High	<p>Significant issues regarding standards, quality of care and safeguarding of or denial of rights. Complaints with clear quality assurance or risk management issues that may cause lasting problems for the organisation and so require investigation. Possibility of litigation and / or adverse publicity.</p> <p><u>Or</u></p> <p>Serious issues that may cause long term damage such as grossly substandard care, professional misconduct or death. Will require immediate and in depth investigation. May involve serious safety issues.</p>

A high probability of litigation or strong possibility of adverse national publicity.

Step 2: Decide how likely the issue is to recur

Likelihood	Description
Rare	Isolated “one off” – vague connection to service provision
Unlikely	Rare – unusual but may have happened before
Possible	Happens from time to time – not frequently or regularly
Likely	Will probably occur several times a year
Almost certain	Recurring and frequent, predictable.

Step 3: Categorise the risk

Seriousness Likelihood of recurrence

	Rare	Unlikely	Possible	Likely	Almost certain
Low	Low				
		Moderate			
Medium					
			High		
High				Extreme	

Examples of different levels of complaints

Low (simple non complex issues)	<ul style="list-style-type: none"> Delayed or cancelled appointments Events resulting in minor harm (e.g. cut / strain) Loss of property Lack of cleanliness Transport problems Single failure to meet care needs Missing medical records
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Moderate (several issues relating to a short period of care)

Events resulting in moderate harm (e.g. fracture)
Delayed discharge
Failure to meet care needs
Miscommunication / misinformation
Medical errors
Incorrect treatment
Staff attitude or communication

High (multiple issues relating to a longer period of care, often involving more than one organisation or individual)

See moderate list
Event resulting in serious harm (e.g. damage to internal organs)

Extreme (multiple issues relating to serious failures, causing serious harm)

Events resulting in serious harm or death.
Gross professional misconduct.
Abuse or neglect.
Criminal offence (e.g. assault)

Appendix 3

Guidance on dealing with unreasonable complainants

1. Introduction

This guidance is designed to improve standards of practice when dealing with people raising concerns and complaints who are becoming (or are considered to be) “persistent and unreasonable” (hereafter referred to as ‘clients’).

This has been developed from a number of examples in use by the Complaints Regulations Early Adopter organisations and publications from the Local Authority and Parliamentary & Health Service Ombudsmen.

The use of the word “**vexatious**” is no longer considered to be an appropriate term for this client group and therefore organisations are encouraged to use the description “persistent and/or unreasonable”. This terminology broadly applies to clients who are aggressive or have demonstrated abusive behaviour as well as those who make unreasonable demands or become unreasonably persistent.

2. Reference material

Recommended points of reference are the policies regarding persistent and unreasonable complainants and/or unacceptable actions from the Parliamentary and Health Service Ombudsman. Please see www.ombudsman.org.uk for more information.

3. Managing communication with complainants

There are a number of circumstances when organisations may decide to use a “persistent and unreasonable complainants” guidance to apply restrictions or require a signed agreement before further contact between clients and organisations take place.

There will be a range of options available for consideration, depending on an assessment of either the impact of the client's actions, on the time and resources of the complaints department or organisation's staff. The response also needs to reflect the severity of the abusive or threatening behaviour displayed, and therefore the level of risk.

Advice should be taken at this stage – including legal advice where appropriate – to assess whether restrictions are placed on contact and to what extent.

At the time of agreeing a plan for the handling of a complaint, a communication plan could be agreed with the client. This will set out an agreement of when contact will be made, how that contact will be made, and what the client can do if they wish to contact the federation between agreed updates. It may also be helpful to apply ground rules to be followed during the course of handling a complaint. See Sample Contact Contract at the end of this document for a suggested communication plan format (section 10 below).

If a complaint plan and/or communication plan is applied routinely, this will help staff to identify where a client is becoming unreasonable or where there has been a change in expectation of the service offered. Early intervention may be possible at that stage to prevent a client from becoming unreasonable or unreasonably persistent. For example, this may be as simple as clarifying the agreed plan and confirming that the organisation is meeting the terms of that plan. Alternatively it may be necessary to review or revise the plan.

If following a review of the complaint plan or communication plan, the complainant continues to be unreasonable or unreasonably persistent in their manner of engaging with the organisation then it may be appropriate to apply a degree of restriction to their frequency and mode of contact.

Clients to whom this policy may apply include those who:

- Refuse to accept the remit of the process to be undertaken as described to them
- Request actions that are not compatible with the process or place unreasonable demands on staff
- Change the basis of the concern or complaint or introduce trivial or irrelevant information and expect these to be taken into account when they have already agreed to a plan and specific issues to be responded to
- Make excessive telephone calls or send excessive numbers of emails or letters to staff
- Submit concerns or complaints about the same issues as have previously been appropriately and fully considered and responded to
- Fail to engage with staff in a manner which is deemed appropriate: e.g. repeatedly

- Using unacceptable language; secretly recording telephone calls or meetings without consent (in contravention of the Data Protection Act 1998)
- refusing to adhere to previously agreed communication plans
- behaving in an otherwise threatening or abusive manner on more than one occasion, having been warned about this
- Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual

This list is not exhaustive and organisations need to ascertain what their own criteria are for applying any restrictions or agreements and ensure these are applied with consistency and due consideration to the needs of the client.

4. Considerations prior to taking action

A challenge for every organisation involved in the commissioning or delivery of health or care services is that they must make sure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of things to bear in mind when considering the imposition of restrictions on a client.

These may include:

- Ensuring that the client's case is being, or has been, dealt with appropriately and that reasonable actions will follow, or has followed the final response
- Confidence that the client has been kept up to date and that communication has been adequate with the client prior to their behaviour becoming unreasonable or persistent
- Checking that the client is not raising any new or significant concerns that need to be considered as a separate case; or providing information that will affect the organisation's view on the existing case
- Applying criteria with care, fairness and due consideration for the client's circumstances -bearing in mind any known physical or mental health conditions that may explain the reason for their difficult behaviour. This should also include consideration of the impact of any bereavement, loss or significant/sudden changes to the client's lifestyle, quality of life or life expectancy.
- Considering the proportionality and appropriateness of the proposed restriction in comparison with the level of unreasonableness of the behaviour and impact on staff
- Ensuring that the client has been advised of the existence and purpose of the policy and has been warned about, and given a chance to amend their behaviour or actions
- Considering whether there are further actions to take before designating the client as persistent or unreasonable (see next section).

5. Actions prior to designating client as ‘unreasonable or persistent’

Consideration should be given as to whether any further action can be taken prior to designating the client as ‘unreasonable’ or ‘unreasonably persistent’.

This might include:

- Where no meeting with staff has been held, consider offering this as a means to dispel misunderstandings and move matters forward – this option will only be appropriate where risks have been assessed, and a suitably senior member of staff can be present
- Where multiple departments are being contacted by the complainant, consider setting up a strategy to agree a cross-departmental approach consider whether the assistance of an advocate may be helpful and offer to find an independent one where this has not previously been taken up .
- Consider assigning a ‘key worker’ to sponsor and co-ordinate the process for the client (See future guidance and tools on ‘Access’ for more information about this)
- Consider the use of a Contact Contract to set ground rules for continuing contact
- Issue a warning letter explaining that if the client’s actions continue, the organisation may decide to treat him or her as an unreasonably persistent complainant and explain why.
- Consider if providing a copy of records, or setting a meeting to talk through records, may help to dispel misunderstandings or misconceptions – this option will only be appropriate where staff are unaware of any circumstances where this would not be advisable and consent is appropriately obtained.

6. Options for action

7.

Organisations will need to decide what options it considers appropriate as well as considering the level of response and the justification to do so on a case by case basis.

Below are some possible courses of action that may help to manage clients who have been designated as persistent and/or unreasonable:

- Placing time limits on telephone conversations and personal contacts
- Restricting the number of calls that will be taken or made or agreeing a timetable for contacting the service
- Requiring contact to be made with a named member of staff and agreeing when this should be
- Requiring contact to be made through a third person (such as an advocate)
- Limiting the complainant to one mode of contact

- Requiring any personal contact to take place in the presence of a witness
- Refusing to register and process further concerns or complaints about the same issue
- Informing the client of a reasonable timescale to respond to correspondence and reassuring staff that it is acceptable and appropriate to deal with non-urgent issues within this timescale
- Only acknowledging the correspondence that is received after the completion of a case
- Informing the client that future correspondence will be read and placed on file, but not acknowledged.
- Advising that the organisation does not deal with correspondence that is abusive or contains allegations that lack substantive evidence. Request that the client provide an acceptable version of the correspondence or make contact through a third person to continue communication with the organisation
- Asking the client to enter into an agreement about their conduct
- Advise that irrelevant documentation will be returned in the first instant and (in extreme cases) in future may be destroyed

8. Explaining the decision taken

Once a restriction is put in place, a letter should be issued to inform the client about the decision; what it means for their future contact with; Five Oaks Family Practice how long those restrictions will remain in place; and what they can do to have their position reviewed. Provide the client with a copy of the policy.

9. Record keeping

Ensure that adequate records are kept of all contact with unreasonable and unreasonably persistent clients. This should include circumstances when:

- A decision is taken not to apply the policy when a member of staff asks for this to be done, or to make exception to the policy once it has been applied; or
- When a decision is taken not to put a further complaint from such a client through its complaints procedure for any reason; or
- When a decision is taken not to respond to further correspondence – ensuring that any correspondence is checked for new or significant information that warrants action

Record the reasons for initiating restrictions without prior warning to the client – for example, where the behaviour is so extreme that it threatens the immediate safety of staff.

Consideration should be given as to whether Five Oaks Family Practice should take action such as reporting the matter to the police or taking legal action, or using its risk management or health and safety procedures to follow up such an event in respect of the impact on staff.

10. Reviews and Appeals

Keep any restrictions under review and record all decisions made at the review, as well as details of when the restrictions are to be lifted or next reviewed. Assign the task of reviewing decisions to an appropriate senior member of staff who was not involved in the original decision.

Ensure there is an appeals process in place which offers an objective reconsideration of the restrictions placed upon the client. Record the outcome of the reconsideration and the rationale for that decision. Advise the client of the decision reached and of any further options available to them.

11. Contract Template – Communication Plan

The following example may be helpful to establish ground rules with a client, before invoking further action in line with this policy

A condition of having on-going contact with our organisation is that you sign up to these ground rules:

Both parties will agree to:

- *Explain what name we would like to be called in meetings and not use 'he' or 'she'*
- *Take turns speaking and not interrupt each other*
- *Listen respectfully and sincerely to try and understand each other's needs and interests*
- *Recognise that each of us is entitled to our own perspective, even if we do not agree with it*
- *Not engage in 'put-downs' and will ask questions of each other for the purposes of clarification and understanding*
- *Make a conscious effort to use time constructively to work towards the resolution of the complaint*
- *Avoid swearing or using other inappropriate language or take on a confrontational attitude to each other*
- *Avoid being physically aggressive or threatening*
- *Speak up if something is not working for us*
- *Signed and dated by both parties .*