

POLICY NAME:	Vexatious or Unreasonably Persistent complainants
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LINKS TO OTHER STRATEGIES, POLICIES, SOP'S, ETC.	
CONSULTED WITH	Patient Experience Members

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Manager responsible for review: <i>N.B. This should be the Author's line manager</i>	Head of Compliance	



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**AT ALL TIMES, STAFF MUST TREAT PATIENTS WITH RESPECT
AND UPHOLD THEIR RIGHT TO PRIVACY AND DIGNITY.**

1 INTRODUCTION

- 1.1 Wrightington, Wigan and Leigh NHS Teaching Hospitals Foundation Trust (WWL) is committed to dealing with all complaints equitably, comprehensively, and in a timely manner. Usually dealing with complaints is a straightforward process, but in a minority of cases complainants pursue their cases in a way that can impede the investigation of their complaint or have significant resource issues for the Trust. This can happen either while their complaint is being investigated, or once the Trust has finished dealing with the complaint.
- 1.2 This policy covers complaints made to WWL.
- 1.3 The aim of this policy guidance is to identify situations where the complainant could be considered vexatious or unreasonably persistent and to suggest ways of responding to such situations. It lets staff, patients, relatives and carers know what we consider to be unreasonable complainant behaviour. It sets out what is expected of staff when they are confronted by such behaviour, what options are available, and who can authorise the options. The policy is to support a just and learning culture and a positive workplace culture where all staff feel happy and safe at work and with colleagues.
- 1.4 Raising legitimate queries or criticisms of the progress of a complaint, for example if agreed timescales are not met, should not in itself lead to someone being regarded as unreasonably persistent or unreasonably behaved.
- 1.5 Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled unreasonably persistent or unreasonably behaved.

2 POLICY STATEMENT

- 2.1 Complaints about WWL services are dealt with in accordance with Trust complaints procedures in accordance with the National Health Service Complaints (England) Regulations 2009. During this process Trust staff inevitably have contact with a small number of complainants who absorb a disproportionate amount of Trust resources in dealing with their complaints.
- 2.2 It is emphasised that this policy guidance should be invoked only after all reasonable measures have been taken to try to resolve complaints following the Trust's complaints procedure, for example through local resolution, conciliation, or involvement of advocacy services as appropriate. Judgement and discretion must be used in applying the criteria to identify potential habitual or vexatious complainants and in deciding action to be taken in specific cases.
- 2.3 The policy should only be implemented following careful consideration by, and with the authorisation of the Chief Executive or if delegated to another Trust Board Executive.

3 KEY PRINCIPLES

- 3.1 Persistent complainants can take up a significant amount of NHS resources to deal with and can be stressful and demoralising for staff. This document's aim is to enable staff to

identify such situations and manage them, accordingly, minimising their impact upon a team. It is designed to provide staff with the knowledge and skills to confidently deal with the difficult situations vexatious complainants can create, whilst maintaining the integrity of the complaint's procedure. Complainants may be deemed to be vexatious or habitual if previous or current contact with them demonstrates that they have met two or more of the following criteria:

- 3.1.1 Persist in pursuing a complaint where the Trust complaints procedure has been fully and properly implemented and exhausted.
- 3.1.2 Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. (Due care and consideration will be taken not to discard new issues, which are significantly different from the original complaint. A decision will be taken as to whether these might need to be addressed as separate complaints).
- 3.1.3 Are unwilling to accept documented evidence of treatment given as being factual, e.g. Drug records, Medical Records or Nursing Records or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- 3.1.4 Are unable to clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of WWL Trust staff and, where appropriate, advocacy services to help them specify their concerns, and/or where the concerns identified are not within the remit of the WWL to investigate.
- 3.1.5 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 a 'trivial' matter is can be subjective and careful judgement will be used in applying this criteria).
- 3.1.6 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).
- 3.1.7 In the course of addressing a registered complaint had an excessive number of contacts with the WWL Trust placing unreasonable demands on staff. (A contact may be in person or by telephone, letter, email or fax. Discretion will 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).
- 3.1.8 Have harassed or been personally abusive or verbally aggressive 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. They should document all incidents of harassment).
- 3.1.9 Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
- 3.1.10 Defamatory remarks have been made by the complainant about staff to the press.
- 3.1.11 Display unreasonable demands or patient/complainant expectations and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).

4 ROLES AND RESPONSIBILITIES

4.1 Chief Executive

The responsibility for determining vexatious complaints lies with the Chief Executive (or another Trust Board Member).

4.2 Patient Relations/PALS Manager

The Patient Relations/PALS Manager will bring to the attention of Head of Compliance, any potential vexatious or unreasonably persistent cases, which will, in the first instance, make the decision whether these should be discussed with the Chief Executive/Trust Board Member in line with the criteria set out in this policy.

4.3 Employees

Staff need to fully record any suggestion of vexatious behaviour, by completion of incident forms to support any request for this policy to be implemented.

5 STAGES FOR DEALING WITH VEXATIOUS OR UNREASONABLY PERSISTENT COMPLAINANTS

5.1 Where people have been identified as exhibiting unreasonably persistent or vexatious behaviour in accordance with the above criteria (4.2) this will be brought to the attention of the Chief executive or other Trust board executive member for review. Reasonable evidence will need to be provided in order to make a decision on whether the individual meets the threshold for this policy.

5.2 Once it is clear that a complainant meets two or more of the criteria in section 3 (above) with reasonable evidence, the Chief executive or other Trust board executive member will make the decision whether to invoke this policy and make a recommendation to the Chief Executive to write to the complainant to inform them that they are at risk of being classified as habitual or vexatious. A copy of this policy should be sent to them and they should be advised why their behaviour or actions fall into this category. It may be appropriate to try to resolve matters by drawing up an arrangement with the person, which sets out a code of behaviour for the parties involved, signed by the complainant and the Trust.

5.3 If this arrangement is breached consideration will be given to implement other actions as outlined below:

5.3.1 Contact with the complainant will be terminated. The complainant will be informed that future correspondence will be read and acknowledged, but no further response will be provided.

5.3.2 Inform complainants that in extreme circumstances the Trust reserves the right to refer unreasonable or vexatious complaints to the authority's solicitors and/or, if appropriate, the police.

5.3.3 If appropriate, notifications under this policy may be copied for the information of others already involved e.g. General Practitioner; ICAS and Members of Parliament. A record will be kept of the reason why someone has been classified as vexatious or unreasonably persistent.

6 REVIEWING VEXATIOUS OR UNREASONABLY PERSISTENT STATUS

When individuals have been classified as vexatious or unreasonably persistent, the status will continue to apply for six months. In exceptional circumstances the Trust will consider withdrawing this status earlier if, for example, the person subsequently demonstrates a more reasonable approach. The status will only apply to specific issues, not general. If a new issue comes to light, an individual may not fall into this policy guidance, unless their behaviour demonstrates this relating to the new issue. Where it appears to be appropriate to withdraw this status, the approval of the Chief Executive (or another Trust Board Executive) will be required. Subject to this approval, normal contact with the person will be

resumed, and the complainant will be notified in writing that this status after due consideration has been withdrawn.

7 HUMAN RIGHTS ACT

Implications of the Human Rights Act have been taken into account in the formulation of this policy and they have, where appropriate, been fully reflected in its wording.

8 INCLUSION AND DIVERSITY

The Policy has been assessed against the Equality Impact Assessment Form from the Trust's Equality Impact Assessment Guidance and, as far as we are aware, there is no impact on any protected characteristics.

9 MONITORING AND REVIEW

9.1 This Policy will be reviewed in 3 years.

9.2 This Policy will be audited annually, by the Patient Relations/PALS Manager in respect of compliance with letters sent by the Chief Executive (or another Trust Board Executive) under the Vexatious or Unreasonable Persistent Complainant. Numbers of Vexatious or Unreasonable Persistent Complaints will be included in the Patient Relations Department's Annual Report.

10 ACCESSIBILITY STATEMENT

This document can be made available in a range of alternative formats e.g. large print, Braille and audio cd. For more details, please contact the HR Department on 01942 77 (3766) or email equalityanddiversity@wwl.nhs.uk

Equality Impact Assessment Form

STAGE 1 - INITIAL ASSESSMENT

For each of the protected characteristics listed answer the questions below using Y to indicate Yes and N to indicate No	Sex (male / female / transgender)	Age (18 years+)	Race / Ethnicity	Disability (hearing / visual / physical / learning disability / mental health)	Religion / Belief	Sexual Orientation (Gay/Lesbian/)	Gender Re-Assignment	Marriage / Civil Partnership	Pregnancy & Maternity	Carers	Other Group	List Negative / Positive Impacts Below
Does the policy have the potential to affect individuals or communities differently in a negative way?	n	n	n	n	n	n	n	n	n	n	n	
Is there potential for the policy to promote equality of opportunity for all / promote good relations with different groups – Have a positive impact on individuals and communities.	y	y	y	y	y	y	y	y	y	y	y	
In relation to each protected characteristic, are there any areas where you are unsure about the impact and more information is needed?	n	n	n	n	n	n	n	n	n	n	n	If Yes: Please state how you are going to gather this information.

Job Title	Complaints Manager			Date	January 2019
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IF 'YES an NEGATIVE IMPACT' IS IDENTIFIED - A Full Equality Impact Assessment STAGE 2 Form must be completed. This can be accessed via <http://intranet/Departments/Equality Diversity/Equality Impact Assessment Guidance.asp>

Please note: As a member of Trust staff carrying out a review of an existing or proposal for a new service, policy or function you are required to complete an Equality Impact Assessment. By stating that you have **NOT** identified a negative impact, you are agreeing that the organisation has **NOT** discriminated against any of the protected characteristics. Please ensure that you have the evidence to support this decision as the Trust will be liable for any breaches in Equality Legislation.

Appendix 2

POLICY MONITORING AND REVIEW ARRANGEMENTS

Para	Audit / Monitoring requirement	Method of Audit / Monitoring	Responsible person	Frequency of Audit	Monitoring committee	Type of Evidence	Location where evidence is held
	Compliance of letters sent by the Chief Executive	Audit	Patient Relations/PALS Manager	Annually	Corporate Quality Executive Committee	Included within the PRD Annual Report	Patient Relations/PALS Managers Office