

Luton Clinical Commissioning Group - Appendix 2: Guidance for dealing with persistent and/or unreasonable contact

1. Introduction

This guidance covers all contacts, enquiries and complainants. It is intended for use as a last resort and after all reasonable measures have been taken to try and resolve a complaint within the Luton CCGs (LCCG) Complaints Policy.

Persistent contact may be as a result of individuals having genuine issues and it is therefore important to ensure that this process is fair and the complainant's interests have been taken into consideration.

2. Purpose of the guidance

To assist the LCCG to identify when a person is persistent or reasonable, setting out the action to be taken.

3. Definition of persistent and/or unreasonable complainants

There is no one single feature of unreasonable behavior, examples may include those who:

- Persist in pursuing a complaint when the procedures have been fully and properly implemented and exhausted.
- Do not clearly identify the precise issues that they wish to be investigated, despite reasonable efforts by staff, and where appropriate, the relevant independent advocacy services could assist to help them specify their complaint.
- Continually make unreasonable or excessive demands in terms of process and fail to accept that these may be unreasonable e.g. insist on responses to complaints being provided more urgently than is reasonable or is recognised practice.
- Continue to focus on a 'trivial' matter to an extent that it is out of proportion to its significance. It is recognised that defining 'trivial' is subjective and careful judgment must be applied and recorded.
- Change the substance of a complaint or seek to prolong contact by continually raising further issues in relation to the original complaint. Care must be taken not to discard new issues that are significantly different from the original issue. Each issue of concern may need to be addressed separately.
- Consume a disproportionate amount of time and resources.
- Threaten or use actual physical violence towards staff.
- Have harassed or been personally abusive or verbally aggressive on more than one occasion (this may include written abuse e.g. emails).
- Repeatedly focus on conspiracy theories and/or will not accept documented evidence as being factual.

- Make excessive telephone calls or send excessive numbers of emails or letters to staff.

4 Actions prior to designating a person's contact as persistent and/or unreasonable.

It is important to ensure that the details of a complaint are not lost because of the presentation of that complaint. There are a number of considerations to bear in mind when considering imposing restrictions upon a complainant.

These may include:

- Ensuring the person's case is being, or has been dealt with appropriately, and that reasonable actions will follow, or have followed, the final response.
- Confidence that the person has been kept up to date and that communication has been adequate with the complainant prior to them becoming unreasonable or persistent.
- Checking that new or significant concerns are not being raised, that requires consideration as a separate case.
- Applying criteria with care, fairness and due consideration for the complainant's circumstances – bearing in mind that physical or mental health conditions may explain difficult behaviour. This should include the impact of bereavement, loss or significant/sudden changes to the complainant's lifestyle, quality of life or life expectancy.
- Considering the proportionality and appropriateness of the proposed restriction in comparison with the behaviour, and the impact upon staff.
- Ensuring that the complainant has been advised of the existence of the policy and has been warned about, and given a chance to amend their behaviour.
- Consideration should also be given as to whether any further action can be taken prior to designating the person's contact as unreasonable or persistent.

This might include:

- Raising the issue with a Manager (or Director) with no previous involvement, in order to give an independent view.
- Where no meeting with staff has been held, consider offering this at a local level as a means to dispel misunderstandings (only appropriate where risks have been assessed).
- Where multiple departments are being contacted by the complainant, consider a strategy to agree a cross-departmental approach.
- Consider whether the assistance of an advocate may be helpful.
- Consider the use of ground rules for continuing contact with the complainant.

Ground rules may include:

- Time limits on telephone conversations and contacts.
- Restricting the number of calls that will be taken 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 via a third party e.g. advocate.
- Limiting the complainant to one mode of contact.
- Informing the complainant of a reasonable timescale to respond to correspondence.
- Informing the complainant that future correspondence will be read and placed on file, but not acknowledged.
- Advising that the organisation does not deal with calls or correspondence that is abusive, threatening or contains allegations that lack substantive evidence. Request that the complainant provides an acceptable version of the correspondence or make contact with a third party to continue communication with the CCG.
- Ask the complainant to enter into an agreement about their conduct.
- Advise that irrelevant documentation will be returned in the first instance and (in extreme cases) in future may be destroyed.
- Adopting a 'zero tolerance' policy. This could include a standard communication line, for example: "The NHS operates a zero tolerance policy, and safety of staff is paramount at all times. Staff have a right to care for others without fear of being attacked either physically or verbally."

5 Process for managing persistent and/or unreasonable behaviour

Where a person's contact has been identified as persistent and/or unreasonable, the decision to declare them as such is made jointly by the responsible director in consultation with the Complaints Manager.

The Accountable Officer will write to the complainant, informing them that either:

- Their complaint is being investigated and a response will be prepared and issued as soon as possible within the timescales agreed.
- That repeated calls regarding the complaint in question are not acceptable and will be terminated, or;
- Their complaint has been responded to as fully as possible and there is nothing to be added.

- That any further correspondence will not be acknowledged. All appropriate staff should be informed of the decision so that there is a consistent and coordinated approach across the organisation.
- If the declared complainant raises any new issues then they should be dealt with in the usual way.
- Review of the status should take place at six monthly intervals.

Urgent or extreme cases of persistent and/or unreasonable behavior:

In urgent or extreme cases, adopt safeguarding and zero tolerance policies and procedures. Discuss the case with the appropriate Director to develop an action plan that may include the use of emergency services in some circumstances. In these circumstances, carry out a review of the case at the first opportunity after the event.

6 Guidance for staff when dealing with persistent or unreasonable telephone contacts

Any member of the LCCG staff who intends to terminate a telephone conversation with a complainant should use the following form of words – or a very close approximation. Grounds for doing so could be that the complainant has become unreasonably aggressive, abusive, insulting or threatening to the individual dealing with the call or in respect of other CCG personnel. It should not be used to avoid dealing with a complainant's legitimate questions/concerns, which may sometimes be expressed extremely strongly. Judgement and discretion must be used in determining whether or not a complainant's approach has become unreasonable.

Form of words to assist staff when dealing with difficult calls:

“I understand that you are upset, but if you continue to behave in this manner, I will end the call. We are here to help and will discuss the problem if you ring again in a calm manner. (Explain three times that if the caller continues to behave in this manner the call will be ended) I am now going to end the call”.

A suggested response to racism is:

“This service operates a non-racist policy. This means that we do not allow callers to discriminate on the ground of race. If you wish to use the service, respecting the policy, please call again. I am now going to end the call.”

Follow-up action: Any such incident should be reported by the completion and submission of an Incident Report Form. In respect of future means of communication with the complainant and any further action deemed necessary, advice should be sought from the Complaints Manager, who will liaise with the AO or Deputy.

7 Record keeping

Ensure that adequate records are kept of all contact with persistent and/or unreasonable contact. Consideration should be given as to whether the CCG should take further action, such as reporting the matter to the police, taking legal action, or using the risk management or health and safety procedures to follow up such an event in respect of the impact upon staff.