

## **Eastville Medical Practice Unacceptable Behaviour & Unreasonably Persistent Users Policy**

### **Introduction**

Unreasonably persistent users and service users using unacceptable behaviour are an increasing problem for NHS staff. The difficulty in handling such service users is placing a strain on time and resources and is causing unacceptable stress for staff who may need support in difficult situations. NHS staff are trained to respond with patience and understanding to the needs of all service users, but there are times when there is nothing further that can be reasonably done to assist them or to rectify a real or perceived problem.

The term “service user” throughout this policy is used in relation to anyone who is receiving or has received treatment or services from the practice and anyone who has been or may be in the future affected by an action or decision of the practice.

The practice recognises that there are occasions when certain investigations should be drawn to a close, if there is no reasonable way of resolving the situation to everyone’s satisfaction. Ultimately there will be occasions where service users may inappropriately direct their anger or frustration at the practice or its staff and whilst it is not acceptable it is important to give consideration to service users with mental illness or learning difficulties as their condition can affect behaviour.

The aim of this policy is to permit practice staff to implement and take appropriate action against those service users who are deemed to be unreasonably persistent or unacceptable in their behaviour. Implementation of this policy is only to happen in exceptional circumstances after all reasonable measures have been taken in an effort to resolve the issue following the appropriate procedure (normally the complaints procedure).

### **Definition of unreasonably persistent & unacceptable behaviour**

It is difficult to provide a strict definition of what constitutes unreasonably persistent and unacceptable behaviour. Judgements on this will depend largely on the individual circumstances of the case, including both the type and level of contact.

This behaviour can be exhibited in many different manners, including in person, on the telephone, in written or email correspondence and via social networking sites. Factors which should be taken into account are the frequency of contact, the content of the contact and the level of disruption caused.

When making judgements on what is unreasonably persistent or unacceptable behaviour relevant equality or diversity issues should be taken into account.

### **Unreasonably persistent behaviour**

Service users may be deemed to be unreasonably persistent where current or

previous contact with them shows that they have met two or more (or are in serious breach of one) of the following criteria:

- Persists in pursuing an issue where the full procedures of the practice have been fully and properly implemented and exhausted. For example, where the Parliamentary & Health Service Ombudsman has declined a request for an independent review or the service user insists that he/she has not had an adequate response to their complaint.
- Changes the substance of a complaint or persistently raises a new issue or seeks to prolong contact by unreasonably raising further concerns or questions upon receipt of a response. Staff should however be cautious not to disregard new issues which are significantly different from the original issues raised.
- Unwillingness to accept documented evidence given as factual i.e. medical records, general practitioner records, manual or computer records, nursing records or denial of receipt of an adequate response despite correspondence specifically answering their questions. This can extend to an individual who may not accept that the facts can sometimes be difficult to verify after a long period of time has elapsed.
- Focuses on a trivial matter to an extent which is out of proportion to its significance and continues to focus on this point. It should be recognised that determining what is trivial can be subjective and careful judgement must be used in applying this criterion.
- Does not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts by practice staff and, where appropriate, Support Empower Advocate Promote (SEAP)
- Exhibits attention seeking behaviour, involving multiple agencies, possibly including the press, MPs, Secretary of State for Health etc, raising the same issue through different agencies one after another, when a response has already been provided or is in the process of being investigated.
- Has an excessive number of contacts with the organisation when pursuing their request or complaint, placing unreasonable demands on staff resources and staff time. Such contact may be in person, by telephone, letter, fax or electronically. Discretion must be exercised in deciding how many contacts are required to qualify as excessive, using judgement based on the specific circumstances of each individual case.
- Displays unreasonable demands or expectations and fails to accept that these may be unreasonable once an explanation is provided to them as to what constitutes an unreasonable demand.

### **Unacceptable behaviour**

Service users may be deemed to have behaved unacceptably where current or previous contact with them shows that they have met one of the following criteria:

- They have threatened or used actual physical violence or intimidation towards staff or associates at any time – this will in itself cause personal contact with the service user and/or their representatives to

be discontinued and the complaint thereafter only be pursued through written communication.

- They have harassed or been abusive or verbally aggressive on more than one occasion towards staff or associates without provocation – directly or indirectly. Staff should recognise that service users may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this.
- They have made personal contacts with any member of staff outside of the workplace, at home, on the street etc. Any personal and threatening behaviour outside of the workplace will be reported directly to the police.
- They are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of the other parties involved.

### **What to do if a service user exhibits unacceptable behaviour or is unreasonably persistent**

There are several stages as to how to deal with service users who exhibit these behaviours, all staff must work through the process from Stage 1 and only move on to following stages if the behaviour continues to be unacceptable or unreasonably persistent.

#### **Stage 1 – Advise the service user of their inappropriate behaviour**

- Tell the service user that we consider their behaviour to be unreasonably persistent or unacceptable, explain why and give them the opportunity to stop that behaviour.
- Ensure that full and accurate records are kept of all contacts with service users, and where unacceptable behaviour has occurred these records should include as accurately as possible the comments made by the service user. All records should include the type, frequency and times of contacts. Where appropriate these records should be shared with the service user.

#### **Stage 2 – Where possible involve an advocate**

- In seeking to manage a service user who is displaying unacceptable behaviour or who is being unreasonably persistent it may be appropriate to approach their advocate or representative (if they have one) at an early stage to ask for their assistance in understanding and managing the behaviour. This may be particularly relevant if there are equality or diversity issues (for example, if the service user has a disability which directly affects their behaviour.) If consent has not been previously received allowing contact with an advocate or representative it should be requested at this time.

#### **Stage 3 – Issue a warning**

A warning should be issued to the service user, by the practice manager.

- The warning should explain:
  - Why the behaviour is found to be unacceptable or unreasonably persistent.
  - The likely consequences of any continuation of this behaviour.

- Where possible warnings should be given in writing as this provides a clear statement for the service user and provides a clear audit trail for our records.
- If the warning is provided over the telephone or face to face by the member of staff, the practice manager should be advised as soon as possible after the event, and this should be followed up with a written warning from the practice manager.

Where the behaviour of the service user is particularly serious, a decision may be taken at partner level to move directly to stage 4, without prior warning to the service user. In that event, the member of staff authorising the application of the policy will write immediately to the service user explaining the reasons for doing so.

#### **Stage 4 – request for further action**

Where the service user has been given a warning, but continues to behave in a way which is unacceptable, then further action must be taken.

The case should be escalated to partner level (managing partner in first instance). The member of staff proposing that further action should be taken should provide:

- A summary of evidence supporting further action
- Information about any extenuating circumstances
- Relevant documents
- Proof that a warning has been provided, and any other efforts made to prevent use of further action.
- What steps they consider appropriate to control the adverse effects of the service user's behaviour.

The partners will then consider the evidence, make any necessary further enquiries and will decide what further action is to be taken and will record the decision and reasons on the case file along with a decision about who should conduct any further communication with the service user.

As part of this consideration the partners should, in consultation with other appropriate staff, consider whether restrictions need to apply to other existing enquiries, reviews, investigations or informal requests that the service user has outstanding with the organisation.

**If further action is not taken** upon full consideration of the case, then the partners will consider:

- The need for advice to staff dealing with the service user;
- Changing the staff members dealing with the service user;
- Any steps to safeguard the health, safety and welfare of the staff.

### **Stage 5 – Further Action**

If it is decided by the partners upon full consideration of the case to apply further action, they will make the final decision on what action to take and will implement such action and notify the service user in writing promptly. Correspondence will include the reasons as to why they have been classified as unreasonably persistent or behaving unacceptably and the action that will be taken and, if appropriate, the date that this decision will be reviewed.

The partners may decide to deal with service users under this policy in one or more of the following ways:

- Draw up an “agreement” which sets out a code of behaviour for the parties involved if the practice is to continue processing the case. If these terms are contravened consideration would then be given to implementing other action as indicated in this section.
- Decline contact with the individual either in person, by telephone, fax, letter, email or any combination of these providing that one form of contact is maintained. Alternatively any further contact could be restricted to liaison through a third party. A suggested statement should be prepared for use if staff are to withdraw from a telephone conversation.
- Notify the service user in writing that the practice has responded fully to the points raised by the service user but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The service user should be notified that the correspondence is at an end and that further communication received on this matter will not be responded to.
- Inform the service user that in extreme circumstances the practice reserves the right to refer unreasonable or vexatious complaints to its solicitors or if appropriate, the police.
- Temporarily suspend all contact whilst seeking legal advice or guidance from NHS England, Parliamentary and Health Service Ombudsman or other relevant agencies.
- Take action to remove the service user from the practice’s list, and inform the service user of this decision, and where appropriate the reasons for it

The above is not an exhaustive list and further options can be applied with the consent of the partners.

The action decided upon will be applied for a set period and the partners will set a date for a review, unless the service user is removed from the list in which case the action is final. The first review should be held not longer than six months after the original decision. In exceptional cases the partners may decide to apply further action for a longer period.

Any decision to apply further action must be clearly noted on the case file.

### **Reviewing decisions to apply further action**

All cases which achieve Stage 5, must be reviewed at their specified review dates by the partners.

When reviewing a decision to apply the policy, the partners will take into account the evidence and reasons for making the original decision, and any evidence of the service user's subsequent behaviour. The review will also seek comments from appropriate staff.

If the partners decide not to extend the original decision for a further period, the special requirements imposed on the service user will lapse.

If, at the time of the review, there is continuing contact with the service user, the practice will write to the service user explaining the decision. The decision will also be noted on the case file.

If the service user is not in regular contact then the practice will not re-establish contact to inform them of the decision, but would advise them of the decision if and when they make contact again.

If the partners decide it is appropriate to extend the original decision, they will set a further period of review of a maximum of twelve months, on the expiry of which there will be a further review.