

Borders NHS Board



COMPLAINTS UNACCEPTABLE ACTIONS POLICY

Aim

This policy aims to provide staff with guidance on how to manage the unacceptable actions of complainants.

Background

Occasionally, the behaviour or actions of individual complainants makes it very difficult to deal with their complaint. In a very small number of cases the actions of individuals become unacceptable because they involve abuse of our staff or our process. We therefore need to ensure that these individuals are treated in a fair and equitable way.

This policy has been discussed at national complaints meetings where Boards agreed to adapt the Scottish Public Service Ombudsman's policy of the same name for their own use.

Summary

Approved policy will be implemented throughout NHS Borders as it is recognised that it is not only members of the Feedback & Complaints Team that deal with complaints.

Following discussion at the Board meeting in June 2018 regarding the wording of "unacceptable actions" within the title and throughout this policy, this policy is returning to the Board for approval as it is in line with the SPSO policy which uses the same wording.

Recommendation

The Board is asked to **approve** the policy.

Policy/Strategy Implications	In line with Scottish Public Services Ombudsman's Unacceptable Actions Policy and will sit alongside NHS Borders Complaints Handling Procedure.
Consultation	Three month consultation with all staff via the intranet policy consultation section. Approved by Clinical Executive Operational Group on 5 April 2018.
Consultation with Professional Committees	As above
Risk Assessment	In compliance as required
Compliance with Board Policy	Equality Impact Assessment undertaken on

requirements on Equality and Diversity	4 January 2018
Resource/Staffing Implications	N/A

Approved by

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Equality & Diversity Impact Assessed	04 January 2018

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Introduction

NHS Borders recognises that people may act out of character in times of trouble or distress. However, sometimes the behaviour or actions of complainants may make it very difficult to deal with their complaint. In a small number of cases the actions of individuals become unacceptable because they involve abuse of our staff or our process. When this happens we have to take action to protect our staff and this Policy explains how we will approach these situations.

What actions do NHS Borders consider unacceptable?

NHS Borders does not view behaviour as unacceptable just because a complainant is forceful or determined and recognises that being persistent may sometimes be a positive advantage in pursuing a complaint. However actions that result in unreasonable demands or unreasonable behaviour towards the Feedback and Complaints Team, or other NHS Borders staff are considered to be unacceptable. It is these actions we aim to manage under this policy.

Unacceptable Actions

- **Aggressive or Abusive Behaviour**

NHS Borders understands that many complainants are angry about the issues raised in their complaint. If that anger escalates into aggression towards NHS Borders staff, this will be considered unacceptable.

Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language which may be written or verbal that may cause staff to feel offended, afraid, threatened or abused. Each situation will be judged individually and take into account the fact that individuals raising a complaint may be upset. Language which is designed to insult or degrade, is racist, sexist, homophobic or unsubstantiated allegations is unacceptable.

NHS Borders expects staff to be treated courteously and with respect. NHS Borders staff understand the difference between aggression and anger. The anger felt by many complainants is around the subject of their complaint. However, it is not acceptable when anger escalates into aggression directed towards NHS Borders staff. Any violence or abuse towards staff will not be accepted and behaviour of this nature will be managed under the NHS Borders Personal Safety and Prevention and Management of Aggression and Violence Policy.

- **Unreasonable demands**

NHS Borders considers that a demand becomes unacceptable when it starts to, or when complying with the demand would, impact substantially on the work of the organisation or Feedback & Complaints Team and would disadvantage other complainants and prevent their own complaint from being dealt with quickly.

What amounts to unreasonable demands will be considered on a case by case basis. Examples of actions considered to be unreasonable demands are:

- ◆ Repeatedly demanding responses within an unreasonable timescale.
- ◆ Insisting on seeing or speaking to a particular member of staff when that is not possible.
- ◆ Repeatedly changing the substance of a complaint or raising unrelated concerns.

- **Unreasonable levels of contact**

NHS Borders considers that the level of contact from an individual has become unacceptable when the amount of time spent talking to a complainant on the telephone, or responding to, reviewing and filing emails or written correspondence impacts on the Feedback & Complaint Team, or member of staff's ability to deal with that complaint, or with other people's complaints.

- **Unreasonable refusal to co-operate**

Sometimes an individual repeatedly refuses to co-operate which makes it difficult to proceed with the complaint. The Feedback & Complaints Team and other NHS Borders staff will always seek to help someone if they have a specific, genuine difficulty in complying with a request. However, NHS Borders will consider it unreasonable to bring a complaint to the board and then not respond to reasonable request for additional information.

- **Unreasonable use of the complaints process**

Individuals have the right to pursue their concerns through a range of means. They also have the right to complain more than once if subsequent incidents occur.

This contact becomes unreasonable when the effect of the repeated complaints is to harass, or to prevent NHS Borders from pursuing a legitimate aim or implementing a legitimate decision. Access to our complaints process is considered important and only in exceptional circumstances will it be considered that such repeated use is unacceptable.

Managing Unacceptable Actions

There are few complainants whose actions are considered unacceptable. How these actions are managed will depend on their nature and extent. However, if the unacceptable actions adversely affect the ability to provide a service to others, complainant contact with the organisation and/or the Feedback & Complaints Team may be restricted in order to manage the unacceptable action. **NHS Borders will always tell the complainant what action we are taking and why.**

The threat or use of physical violence, verbal abuse or harassment towards NHS Borders staff is likely to result in the ending of all direct contact with the complainant. Such incidents may be reported to the Police. This will always be the case if physical violence is used or threatened.

NHS Borders may restrict contact in person, by telephone, letter, electronically, fax or by any combination of these. NHS Borders will endeavour to maintain at least one form of contact with the complainant.

NHS Borders staff will end telephone calls if they consider the caller aggressive, abusive or offensive. All NHS Borders staff have the right to make this decision. Staff should tell the caller that their behaviour is unacceptable and that they will end the call if the action or behaviour continues. Staff are entitled to end the call if the action or behaviour persists.

NHS Borders will not respond to correspondence, in any format, that contains statements that are abusive to staff or contains allegations that lack substantive evidence. Where possible, NHS Borders will return the correspondence explaining why we consider the language used to be offensive, unnecessary and unhelpful and ask the sender to stop using such language. NHS Borders will also advise the individual that a response will not be sent to their correspondence if the action or behaviour continues.

In extreme circumstances we will tell the complainant that their name is on a 'no personal contact' list. This means that the complainant must only contact NHS Borders through a third party.

Where a complainant repeatedly telephones, visits the Feedback & Complaints Team, or other staff, raises repeated issues or send large numbers of documents where the relevance is not clear NHS Borders may decide to:

- Limit contact to telephone calls from the complainant at set times of the day.
- Restrict contact to a nominated member of NHS Borders staff who will deal with future calls or correspondence from the complainant.
- See the complainant by appointment only.
- Restrict contact from the complainant to in writing only.
- Return any documents to the complainant, or in extreme cases, advise the complainant that further irrelevant documents will be destroyed.
- Take other action that is considered appropriate.

Where a complainant continues to correspond on a wide range of issues and this action is considered excessive, NHS Borders will explain to the complainant that only a certain number of issues will be considered in a given period and the complainant asked to limit or focus their requests accordingly.

Deciding to restrict complainant contact

NHS Borders staff who directly experience aggressive or abusive behaviour from a complainant has the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this policy.

With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact with NHS Borders and/or the Feedback & Complaints Team are only taken after careful consideration of the situation by a more senior member of staff (for example the Head of Clinical Governance & Quality or an Executive Director). Wherever possible, we will give a complainant the opportunity to change their behaviour or action before a decision to restrict contact is given. When a decision to restrict contact has been made by a senior member of staff the reason(s) for the decision will be given to the complainant in writing (unless written communication is not the most appropriate form for the individual). This will include an explanation why the decision to restrict future contact has been taken, details of the restricted contact arrangements and, if relevant, the length of time that these restrictions will be in place.

Appealing a decision to restrict contact

A complainant can appeal the decision to restrict contact. If they do this NHS Borders will only consider arguments that relate to the restriction and not to either the complaint or our decision to close a complaint.

A senior member of staff (for example Chief Executive, Executive Director) who was not involved in the original decision to restrict contact will consider the appeal with a Non Executive Director. They will then advise the complainant in writing that either the restricted contact arrangements still apply or whether a different course of action has been agreed.

Recording and reviewing a decision to restrict contact

NHS Borders records all incidents of unacceptable actions by complainants. Where it is decided to restrict complainant contact, an entry noting this is made in the relevant file and on appropriate computer records.

Decisions to restrict complainant contact can be reconsidered if the complainant displays a more acceptable approach. The Quality Improvement Facilitator - Person Centred Care and Feedback & Complaints Officer reviews the status of all complainants with restricted contact arrangements on a regular basis.

References

1. Scottish Public Services Ombudsman Unacceptable Actions Policy - www.spsso.org.uk/sites/spso/files/communications_material/leaflets_public/general/1507UnacceptableActionsPolicy.pdf

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