

**FRIMLEY
CLINICAL COMMISSIONING GROUP**

Unreasonable and Persistent Complainants Policy

Policy number	Corp 010
Version	Version 1
Approved by	Quality Performance and Finance
Document Author	Director of Quality & Safety
Date of approval	25 May 2021
Next due for review	May 2024

Version control sheet

Version	Date	Author	Status	Comment
Version 1	15.04.2021	Director of Quality and Safety - Melanie Bessant	Approved	

Equality Statement

Frimley Clinical Commissioning Group aims to design and implement services, policies and measures that meet the diverse needs of our service, population, and workforce, ensuring that none are placed at a disadvantage over others.

Throughout the development of the policies and processes cited in this document, we have:

Given due regard to the need to eliminate discrimination, harassment, and victimisation, to advance equality of opportunity, and to foster good relations between people who have shared a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it.

Given regard to the need to reduce inequalities between patients in access to, and outcomes from, healthcare services and in securing that services are provided in an integrated way where this might reduce health inequalities.

Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the member of staff has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

We embrace the four staff pledges in the NHS Constitution. This policy is consistent with these pledges.”

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1. Introduction

- 1.1. Frimley Clinical Commissioning Group (CCG) takes seriously all concerns and complaints raised by members of the public and is committed to dealing with all patients, complainants, and other members of the public in a fair and equitable way, with courtesy, sensitivity, and professionalism. In all our transactions we behave according to our values which include to respect and value people; and to listen to local people.
- 1.2. Frequent users of services are entirely distinct and separate from unreasonable and persistent complainants. In the case of frequent users, it is necessary to offer support with each concern.
- 1.3. However, on rare occasions an individual may attempt to pursue concerns or complaints in a manner which could be considered by an independent observer to be unreasonable, persistent, unnecessary, disproportionate, unproductive, or even vexatious. Similarly, from time-to-time complainants may seek to maintain a relentless communication through raising serial complaints. Prolonged engagement in dealing with such complainants is not only de-motivating and stressful for staff and departments, but may detract resources from legitimate activities, creating an adverse impact for other patients, complainants, members of the public and Frimley CCG priority functions. In outcome terms, such contacts are also ultimately unhelpful to the individual themselves.
- 1.4. It is not the role of Frimley CCG staff to make judgements about individuals, and every effort should be made to deal with each situation as it presents as courteously and professionally as possible, applying organisational standards in regard to information governance. However, staff are not expected to tolerate abuse of the processes in place, such as long-term, overly demanding, unreasonable requests from an individual.

2. Purpose of the Procedure

- 2.1. Such situations arise only rarely, but it is important to have procedures in place to deal with them when they do. These procedures provide a framework to deal with unreasonable and persistent complaints with equity, fairness, and consistency.

3. Definitions

- 3.1. All staff endeavour to respond with patience and sympathy to the needs of complainants. However, there are times when a complainant will remain dissatisfied with the outcome of local resolution and nothing further can reasonably be done by Frimley CCG to assist or rectify a real or perceived problem. A small number of complainants who remain dissatisfied with the CCG response to their complaint will persist to voice their dissatisfaction

verbally or in writing and inevitably absorb a disproportionate amount of time and resources.

- 3.2. It is accepted that a person making a complaint is usually already distressed because of the event/s leading to the complaint itself and therefore may act out of character. The CCG recognises that everyone is unique, with some people finding it difficult to communicate. Staff should be sensitive to these circumstances and make some allowances for types of behaviour that may be unreasonable or out-of-character.
- 3.3. It is difficult to give a definite description of an unreasonable and persistent complainant. However, examples of behaviour that may indicate an unreasonable and persistent complainant may include:
 - 3.3.1. Excessive contact with Frimley CCG, on an almost daily basis, and particularly serial and persistent calls being made to different staff about the same issue, frequently one straight after another.
 - 3.3.2. Violent, aggressive, or abusive behaviour towards staff, or have subjected staff to harassing, belittling or offensive comments or behaviour in respect of a concern or complaint, or multiple complaints. Staff should be encouraged to report such incidents to their line manager or a Senior Manager.
 - 3.3.3. Insistence that he/she has not had an adequate response despite numerous contacts specifically answering their questions.
 - 3.3.4. Raises new concerns which did not appear in the original concern or presents the same concern in a different way in order to keep the contact going.
 - 3.3.5. Makes excessive and disproportionate requests for information in respect of a concern, complaint, or multiple complaints.
 - 3.3.6. Repeatedly refuses to allow the issue to be investigated as a formal complaint, or, despite support from Frimley CCG does not clearly define the precise issues they wish to be investigated, or repeatedly focuses on trivial or peripheral issues.
 - 3.3.7. Persistently maintains contact in respect of a complaint that has already been fully investigated under the NHS complaints procedure and a response provided.
 - 3.3.8. Seeks an unrealistic outcome or demand and intends to continue until that outcome is achieved. For example, is insistent that a member of staff is dismissed, a service or contract de-commissioned or that treatment is carried out on demand.
 - 3.3.9. Persistently attempts to access confidential information to which they are not entitled, such as patient information about a third-party without

evidence of consent or legal rights of access, or details of outcomes of internal proceedings.

- 3.3.10. Persists in seeking to raise concerns and obtain comments or answers about matters which do not fall within the responsibilities or jurisdiction of Frimley CCG.
 - 3.3.11. Challenges written documentation by claiming that records have been altered. Refuses to accept contemporaneous notes even when different people have made them.
 - 3.3.12. Persistently attempts to have complaints which are well out of time investigated.
- 3.4. This list is not exhaustive, and Frimley CCG may consider other behaviours which have not been listed to fall within the categorisation of unreasonable and persistent in nature. It should also be noted that in order to be deemed persistent it is not necessary to meet all of the criteria, but the majority of complainants who are deemed to be unreasonable and persistent complainants will ordinarily display more than one of these behaviours.
- 3.5. Of course, it will not always be the case that a complainant who is persistent in their contacts or who raises a number of concerns or complaints should be dealt with via this procedure. Neither do the characteristics listed always indicate an unreasonable and persistent complainant. On the contrary, Frimley CCG believes that the decision to apply the procedure for dealing with a complainant as an unreasonable and persistent complainant should be taken rarely, and never lightly. However, in a small number of cases Frimley CCG will use such procedures to limit or restrict an individual's access to and complaints processes as well as other member of Frimley CCG staff as appropriate.
- 3.6. Application of the procedure for dealing with a complainant as an unreasonable and persistent complainant will only be invoked when there is clear, documented evidence that reasonable efforts have been made to respond to the complainant's concerns within the usual processes. If appropriate, legal advice will first be obtained from Frimley CCGs solicitors.

4. Management of unreasonable and persistent complainants

- 4.1. When a complainant is categorised as an unreasonable and persistent complainant in terms of the criteria in section 3, any action to be taken will be determined by the NHS South Central and West Patient Advice and Complaints Team in conjunction with the Executive Director of Nursing and Quality who will make recommendations to the Accountable Officer. The

Accountable Officer will decide the action(s) that might be taken which could include one or more of the following:

- Draw up a signed “agreement” with the complainant which sets out a code of behaviour for the parties involved if the CCG is to continue to process the complaint. If the agreement is then contravened, other action may be considered.
- Decline contact with the complainant either in person, by telephone, by letter, by e-mail or any combination of these, provided that one form of contact is maintained, alternatively restrict contact to a third party.
- Notify the complainant in writing that the Accountable Officer (or Delegated Executive Director) has responded fully to the points raised and has tried to resolve the complaint; and that there is nothing to add and continuing contact on the matter would serve no real purpose. The complainant should also be notified that the correspondence is at an end and that further correspondence will be acknowledged but not answered.
- Inform the complainant that in extreme circumstances the CCG reserves the right to pass unreasonable or persistent complaints to its solicitors; and/or, if appropriate the police.
- Temporarily suspend all contact with the complainant or investigation of a complaint whilst seeking legal advice or guidance.

5. Withdrawing Unreasonable and Persistent Status

- 5.1. Having deemed a complainant unreasonable or persistent, this status may be withdrawn by the Accountable Officer (or delegated Executive Director). This should be exercised with discretion where, for example, the complainant demonstrates a more reasonable approach or if they later submit a further, new complaint for which the normal complaints procedure would appear to be appropriate. If following discussion with the Accountable Officer (or delegated Executive Director) approval is granted for withdrawal of the status, normal contact with the complainant and the NHS Complaints procedure can be resumed. A letter from the Accountable Officer (or delegated Executive Director)) will be sent to the complainant informing them that the normal procedure has resumed, and their unreasonable and persistent status has been withdrawn.

6. Statutory requirements

6.1. Equality and quality analysis

- 6.1.1. Frimley CCG recognises that some people find social communication difficult, and that this can be made more uncomfortable when dealing with organisations where there is a perceived authority or an imbalance of power. This policy does not seek to discriminate or unfairly penalise people who may exhibit behaviours which differ from current social conventions where these

arise from, for example, a psychosocial disability, an intellectual or learning disability or a developmental disorder. Communication difficulties may be exhibited in many different ways, which may include shouting, struggling to make sense of surroundings or relationships, becoming distracted, being scared, aggressive or abusive or simply finding it very difficult to talk. In these situations, we will recognise that the person is potentially vulnerable, and care must be taken in the application of these procedures to ensure that the complainant is also appropriately supported at each stage.

7. Review and revision

- 7.1. This policy will be reviewed every three years by the Document Author to ensure continued validity and relevance, with a schedule of proposed amendments presented to the Governing Body for approval.

Procedural Document - checklist for approval

Procedural document checklist for approval			
To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.			
	Title of document being reviewed: Policy framework for the development and management of procedural documents	Yes/No/ Unsure	Comments/Details
A	Is there a sponsoring director?		
1.	Title		
	Is the title clear and unambiguous?		
	Is it clear whether the document is a guideline, policy, protocol or standard?		
2.	Rationale		
	Are reasons for development of the document stated?		
3.	Development Process		
	Do you feel a reasonable attempt has been made to ensure relevant expertise has been used?		
	Is there evidence of consultation with stakeholders, unions (where appropriate) and users?		
4.	Content		
	Is the objective of the document clear?		
	Is the target group clear and unambiguous?		
	Are the intended outcomes described?		
5.	Evidence Base		
	Is the type of evidence to support the document identified explicitly?		
	Are key references cited?		
6.	Approval		
	Does the document identify which committee/group will approve it?		

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	Title of document being reviewed:	Yes/No/ Unsure	Comments/Details
	Policy framework for the development and management of procedural documents		
7.	Dissemination and Implementation		
	Is there an outline/plan to identify how the document will be disseminated and implemented amongst the target group? Please provide details.		
8.	Process for Monitoring Compliance		
	Have specific, measurable, achievable, realistic, and time-specific standards been detailed to monitor compliance with the document?		
9.	Review Date		
	Is the review date identified?		
10	Overall Responsibility for the Document		
	Is it clear who will be responsible for implementing and reviewing the documentation i.e., role of author/originator?		

Director Approval

On approval, please sign and date it and forward to the chair of the committee/group where it will receive final approval.

Name		Date	
Signature			

Committee Approval

On approval, Chair to sign and date.

Name		Date	
Signature			

