

Policy on dealing with abusive, persistent or vexatious correspondence, calls and complaints

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1. Introduction

- 1.1. The CCGs are committed to dealing with all correspondence and complaints equitably, comprehensively, and in a timely manner. In general, the CCGs will not normally limit contact that individuals have with them. There are however occasions when the behaviour of the individual inhibits dealing with their concern or where dealing with their concerns may have significant resource issues which are not justified by the nature of the concern.
- 1.2. This policy is intended to deal with those individuals who persist in making unreasonable demands either by way of correspondence, telephone conversations or complaints. It does NOT cover dealing with potentially vexatious requests under the Freedom of Information Act (FOIA). The Information Commissioner's Office (ICO) guidance on this can be found on their website.
- 1.3. A commonly understood meaning of the word 'vexatious' should apply. The Oxford definition of 'vexatious' is:

- *causing or tending to cause annoyance, frustration, or worry*

The FOIA definition is:

- *"...manifestly unjustified, inappropriate or improper use of a formal procedure."*

In order to provide some consistency with the FOIA, the definition used for the purposes of this policy is:

- *manifestly unjustified, inappropriate or improper use of a formal procedure or*
- *manifestly unjustified, inappropriate and improper contact*

The key question is whether the complaint or other contact is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

- 1.4 This policy sets out guidance on when correspondence and/or complaints might be vexatious. This is also applicable to other forms of contact with the CCGs.
- 1.5 It is important to distinguish between people who make many contacts or complaints because they really think and believe things have gone wrong, and people who are simply being difficult. It must be recognised that individuals may sometimes act out during times of anxiety or distress and reasonable allowances should be made for this.
- 1.6 Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to correspondence or complaints being regarded as a vexatious or an unreasonably persistent individual. Similarly, the fact that an individual 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 vexatious or unreasonably persistent.
- 1.7 There are however times when reasonable persistence in pursuing an issue or a complaint becomes unreasonable. This policy gives examples of when this might be the case and sets out a process for dealing with contact that has become unreasonable.

2. Vexatious, persistent or abusive behaviour

- 2.1 Behavioural features of the types of correspondence, telephone conversations, face-to-face contacts or complaints that this policy covers can include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category):

- Persisting in a complaint after being advised that there are insufficient or no grounds for their complaint or that the CCG is not the appropriate organisation
- Refusing to co-operate with the complaints process without good reason whilst still wanting their complaint to be resolved, including a failure or refusal to specify the grounds of a complaint despite offers of assistance, changing the basis of the complaint as inquiries are made and introducing trivial or irrelevant new information and expecting this to be considered and commented on
- Submitting repeat complaints, after the complaints procedure has been completed, essentially about the same issues, with additions/variations which the complainant then insists on being treated as new complaints and put through the full complaints procedure again
- Refusing to accept the outcome of the complaint procedure after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
- Harassing or verbally abusing or otherwise seeking to intimidate staff dealing with their complaint or correspondence, by using foul or inappropriate language, using offensive and racist language and/or making what would appear to be groundless complaints about those staff
- Making an unreasonable number of contacts with us, by any means, in relation to a specific complaint or correspondence including making persistent and unreasonable demands or expectations of staff and/or the procedure after the unreasonableness has been explained (such as insistence on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails)
- Recording meetings and conversations without the prior knowledge and consent of the other person involved
- Unreasonably pursuing multiple lines of enquiry regarding the same issue, for instance, persistently pursuing a complaint or complaints not only with the CCGs, but at the same time with a Member of Parliament, NHS England or NHS providers (this list is not exhaustive)

3. Imposing restrictions

- 3.1 The CCGs will firstly ensure that correspondence and/or complaints are being, or have been, investigated properly according to the appropriate procedure. The CCGs recognise that failing to deal with an issue promptly or properly can lead people to behave in ways we might otherwise describe as vexatious.
- 3.2 The CCGs then must decide on the next steps. This is the point at which the CCGs may consider whether an individual is vexatious, persistent, repetitive or otherwise an abuse of process. That decision is taken by the Chief Operating Officer (COO). Any decision on this should take account of the factors set out above. A decision in relation to this may follow some - or all - of the actions set out below.
- 3.3. Prior to any decision to treat a complaint, telephone conversation or correspondence as vexatious the relevant member of staff dealing with the individual will issue him or her with a warning. The individual will be contacted either by phone, in writing or by email to explain why this behaviour is causing concern, and ask them to change this behaviour. They will also be warned of the actions that may be taken if the behaviour does not change.
- 3.4 If the behaviour continues, the COO will decide whether to limit contact from the individual and to what extent. Any restriction that is imposed on contact with the CCG will be appropriate and proportionate and may be subject to review. The kinds of restriction which may be imposed are:
- Limiting contact to a specific mailbox or one named member of staff
 - Refusing to accept telephone calls
 - Only accepting telephone contact through a third party for example via a solicitor or friend acting on their behalf
 - Indicating that correspondence will not be responded to unless substantially new matters are raised (this implies that all incoming correspondence will be read).

- 3.5 When the decision has been taken to apply this policy, the individual will be written to with reasons for the decision and what action the CCGs are taking. That decision may be amended if the individual continues to behave in a way which is unacceptable.
- 3.6 The CCG Central Team, and other individuals likely to come into contact with the individual, will be briefed in full so that they are aware of what actions have been agreed and what should they do if they come into contact with this individual. The decision on who will be most appropriate to brief the team will be decided by the COO depending upon the circumstances.
- 3.7 Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, the CCGs may consider other options, for example reporting the matter to the police or taking legal action. In such cases, the CCGs may not give the individual warning of that action.

4. New complaints or concerns from individuals who are (or whose complaints are) treated as abusive, vexatious or persistent

- 4.1 New issues raised by people who have come under this policy will be treated on their merits. Any imposed restrictions will not apply to new matters although the individual may be warned not to repeat behaviours which led to those restrictions.

5. Review

- 5.1 The status of an individual judged to be unreasonably persistent or vexatious will be reviewed by the CCG's Head of Communications, Engagement and OD after six months and at the end of every subsequent six months.
- 5.2 The individual will be informed of the result of this review if the decision to apply this policy to them has been changed or extended. This decision will be taken by the Chief Operating Officer.

6. Record keeping

- 6.1 Adequate records will be retained by the appropriate service manager of the details of the case and the action that has been taken. The Head of Communications and Engagement will retain a record of:
 - The name and contact details of everyone who is (or whose complaint has been) treated as abusive, vexatious or persistent
 - When the restriction came into force and when it ends
 - What the restrictions are
 - When the individual and members of staff were advised.