

## Guidance for Managing Unacceptable Behaviour by Complainants

The vast majority of people who complain about an independent healthcare provider (IHP) that subscribes to the Independent Sector Complaints Adjudication Service (ISCAS) act entirely reasonably. Occasionally, complainants may act inappropriately towards the staff involved in the investigation of a complaint for several reasons. To assist subscribing IHPs in managing unacceptable behaviour by complainants, the following is a guide that subscribing IHPs can adopt to develop their complaints management policy. ISCAS acknowledges PrioryHealthcare for sharing its organisational policy in the publishing of this ISCAS guide.

Services will, from time to time, encounter a small number of complainants who absorb a disproportionate amount of staff resource in dealing with their complaint. It is important to identify those situations in which a complainant might be behaving unacceptably and to suggest ways of responding to those situations which are fair to both staff and complainant.

1. The IHP should make clear its expectations of complainants in terms of behaviours, which should help to avoid any complainant behaving in a way that is not acceptable.
2. Handling unacceptable behaviour by complainants places a great strain on time and resources and causes undue stress for the complainant and staff who may need extra support. A complainant who behaves in a way that is unacceptable should be provided with a response to all their genuine grievances and be given details of independent organisations that can assist them, e.g. Citizens Advice Bureau, Patient Organisation, independent advocacy.
3. Although staff are trained to respond with patience and empathy to the needs of all complainants, there can be times when there is nothing further which can reasonably be done to assist them or to rectify a real or perceived problem.
4. In determining arrangements for handling such complainants, staff are presented with the following key considerations:
  - a) To ensure that the complaints process has been correctly implemented as far as possible and that no material element of a complaint is overlooked or inadequately addressed.
  - b) To appreciate that a complainant who behaves in a way that is unacceptable may believe they have grievances which contain some genuine substance.
  - c) To ensure a fair, reasonable and unbiased approach.
  - d) To be able to identify unacceptable behaviours.
5. IHPs must set out how to decide whether a complainant is behaving in a way that is unacceptable, and how the organisation will respond in those circumstances. Examples of unacceptable behaviours include:
  - a) Persistent refusal to accept a decision made in relation to a complaint and that the complaints process has been fully and properly implemented and exhausted.
  - b) Seeking to prolong contact by changing the substance of a complaint or persistently raising the same or new issues with multiple members of staff not involved in the investigation of the complaint and questions whilst the complaint is being addressed. **(Care must be taken not to discard new**

**issues which are significantly different from the original complaint. These might need to be addressed as separate complaints.)**

- c) Unwillingness to accept documented evidence of treatment given as being factual e.g. drug records, medical records, nursing notes.
  - d) Denying receipt of an adequate response despite evidence of correspondence specifically answering their questions.
  - e) Refusing to accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
  - f) Demanding a complaint is investigated but that their identity is kept anonymous and without communicating with key persons involved in the complaints incident.
  - g) Refusing to clearly identify the precise issues which they wish to be investigated, despite reasonable efforts by staff to help them specify their concerns, or where the concerns identified are not within the remit of the service to investigate.
  - h) Focusing on a trivial matter to an extent that is out of proportion to its significance and continuing to focus on this point. (Determining what is a 'trivial' matter can be subjective and careful judgement must be used in applying this criteria).
  - i) Having, while a complaint has been registered, an excessive number of contacts with the service, placing unreasonable demands on staff, including leaving an excessive number of voicemails or emails. (Discretion must be used in determining the precise number of "excessive contacts" applicable under this section using judgement based on the specific circumstances of each individual case).
  - j) Recording meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.
  - k) Making unreasonable demands or expectations and failing to accept that these may be unreasonable (e.g. insisting on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice and refusing to engage with and meet/speak directly with the IHP, thereby limiting the ability of the IHP to resolve issues raised).
  - l) Threatening or using actual physical violence towards staff or their families or associates at any time - this will in itself cause personal contact with the complainant or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication.
  - m) Harassing or being abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates, including the use of social media i.e. seeking to contact staff involved outside of the working environment or obtaining personal information via social media channels to intimidate staff. Complainants may be intimidating without being 'abusive'. **(Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this.)**
- 6 Where a complaint investigation is ongoing - the appropriate manager should write to the complainant setting parameters for a code of behaviour and the lines of communication. If these terms are contravened, consideration will then be given to implementing other action.
7. Where a complaint investigation is complete - at an appropriate stage, the

appropriatemanager should write a letter informing the complainant that:

- a) they have responded fully to the points raised, and
  - b) have tried to resolve the complaint, and
  - c) there is nothing more that can be added, therefore, the correspondence is now at an end.
  - d) (Optional) state that future letters will be acknowledged but not answered.
8. In extreme cases, the appropriate manager should reserve the right to take legal action against the complainant.
  9. **Resuming regular interactions - Once complainants have ceased behaving unacceptably there needs to be a mechanism for stating that the policy on unacceptable behaviours no longer applies if, for example, the complainant subsequently demonstrates a more reasonable approach or if they submit a further complaint for which the normal complaints process would appear appropriate.**
  10. As staff use discretion in identifying unacceptable behaviours discretion should similarly be used when recommending that the policy on unacceptable behaviour no longer applies.