**Procedure for Managing Habitual, Unreasonable and Persistent (HUP) Complaints**

**1 Introduction**

This procedure aims to establish the main characteristics which constitute a Habitual Unreasonable or Persistent (HUP) complaint. It will also identify what process can be followed for dealing with complaints of this nature. It is important to note that the implementation of this procedure does not mean that care of the person, who is raising the complaint, will be withdrawn.

1.1 It is imperative to distinguish between people who make several complaints because they genuinely believe something has gone wrong, and people who are persisting for answers on a case after their questions have been answered and even after they have been advised to follow up their complaint with the Parliamentary Health Service Ombudsman (PHSO). It is important to remember that people who make a complaint may be frustrated, upset, or aggrieved and therefore it is important to consider the merits of the case, rather than the approach of the person.

1.2 Sometimes people who are unwell may contact the PALS and Complaints Team on numerous occasions and they may exhibit behaviours and actions which are beyond their control. We are committed to ensuring that we continue to consider the care and the wellbeing of people that may be unwell especially if the nature of their complaint raises concerns about their mental and emotional wellbeing. The Complaints Team will ensure that they liaise with the relevant health professionals regarding how best to support the person and manage their complaint.

1.3 All incidents of abuse directed at staff need to be documented and reported on Datix, as appropriate, and action should be taken in line with the Trust’s Criminal Behaviour Within a Health Environment (Zero Tolerance) Policy.

1.4 Even though someone has made HUP complaints in the past, it cannot be assumed that the next complaint does not warrant a thorough investigation. Each complaint must be read and assessed individually and viewed via the vision of the person and only then should a decision be made, as to whether the complaint is habitual, unreasonable, persistent, or genuine and fair.

1.5 A person’s complaint may be deemed to be a HUP if previous or current contact demonstrates that they have met any of the following criteria. This must be clearly documented at the time of them occurring to establish an evidence based trail:

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**2.0 The following criteria should be used to identify a HUP complaint:**

2.1 If a complaint issue is pursued persistently, despite the Trust’s view that the complaints procedure has been thoroughly and fairly applied.

2.2 If the person making the complaint raises new issues that seem to prolong contact with the Trust, to no productive or reasonable end. Care must be taken not to overlook new issues, which are significantly different from the original complaint.

2.3 If the person making the complaint is unwilling to accept documented evidence of treatment given as being factual e.g., medical records, nursing records or psychology and therapy records.

2.4 If a person denies receiving an adequate response to their complaint even though correspondence specifically answering their concerns/questions has been supplied

2.5 If a person refuses to recognise and accept that facts can sometimes be difficult to verify once a long period of time has elapsed

2.6 If physical violence has been used or threatened towards staff at any time. This will cause personal contact with the person who has complained and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication.

2.7 The person who has complained has, harassed or been abusive, including (but not limited to) racist, sexist, homophobic abuse, or been verbally aggressive towards staff dealing with their complaint.

2.8 In the course, of pursuing a complaint the person complaining has had an excessive number of contacts with the Trust, placing unreasonable demands on staff. Discretion is required to determine how many contacts constitute as excessive, along with good judgement based on the specific circumstances of each individual case. Each contact must be recorded in writing, to be able to make a judgment that is evidence based.

2.9 If meetings or conversations are known to have been recorded electronically without the prior knowledge or consent of all parties involved. At the onset of an investigation, it may be necessary to highlight to the person who has raised the complaint about the unacceptability and potential illegality of such behaviour.

2.10 If the person raising a complaint makes defamatory remarks about staff or the Trust on social media or to the press.

**3. Options for dealing with people who make HUP complaint**

3.1 If the complaint has been identified as a HUP by consensus in the Complaint Team and with discussion with the Director of Patient Experience, in accordance with the above criteria, the Director of Patient Experience will refer to the Chief Executive Officer (CEO) or the Executive Director with responsibility for Complaints, to decide what action should be taken, and each case will be considered on its own merit.

3.2 The Trust should always strive to resolve matters before invoking this procedure, and/or the sanctions detailed within it, and should consider drawing up an agreement with the person as a first step. This arrangement should set out an agreed code of behaviour for all the parties involved, to allow the Trust to continue dealing with the complaint. If this agreement is breached consideration would then be given to implementing other actions as outlined below:

3.3 Decline further contact with the person, by telephone, letter or email – or any combination of these – provided that one form of contact is maintained, albeit restricted.

3.4 Alternatively, further contact could be restricted to liaison through a third party, such as a professional advocate, the Trust’s Family Liaison Manager or a staff member that already has a positive relationship with the person or family and is willing to undertake this role if there is no risk to them.

3.5 Inform the person/family that in extreme circumstances the Trust reserves the right to refer HUP complaints to the Trust’s Legal Advisors Solicitor, legal department and/or, if appropriate, the police.

3.6 Temporarily suspend all contact with person who is complaining or the investigation of a complaint, whilst seeking legal advice or guidance from the Integrated Care Board (ICB), PHSO, Information Commissioner’s Office (ICO), Department of Health or other relevant agencies.

3.7 Any of the following people; CEO, Director of Patient Experience, Head of Complaints should inform the person in writing that their complaint is to be classified as a HUP, and the reasons why should be clearly explained, along with notification of what action will be taken.

3.8 The notification of this decision must also be copied promptly to those individuals already involved in an investigation or working with this person/family, with the necessary information. A record must be kept, for future reference, of the reasons why the complaint has been classified as a HUP and the actions taken.

**4. Withdrawing Habitual Unreasonable and Persistent Complaint status**

4.1 Once the complaint has been reviewed and deemed a HUP, there needs to be a mechanism for withdrawing this status if necessary. For example, the status may be withdrawn if the said person or persons, involved in making a HUP complaint, subsequently demonstrate a more reasonable approach or if they submit a further complaint for which the usual complaints procedures would be appropriate.

**END**