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NHS South East London Integrated Care Board

Persistent and Unreasonable Contacts Policy and Procedure (CG13)

V0.1

Approved by	
Date approved	
Name and title of originator/author	Annie Gardner, Head of Patient Experience & Equalities
Name and title of sponsor	Tosca Fairchild – Chief of Staff
Review date	June 2024. This policy will be reviewed no later than two years from the date of original ratification, if necessary, more frequently as required by national or local change.
Description	The aim of this policy is to provide a consistent interpretation and clear guidance for staff on how to communicate with members of the public who are deemed to be demonstrating persistent and/or unreasonable contacts and behaviour towards SEL ICB.
Target audience	All Staff of NHS South East London (including members of the Unitary Board), Integrated Care Partnership, contractors and bidders

Version Control

Version number	0.1
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Document Review Control Information

Version	Date	Reviewer Name(s) and Job title	Change/amendment
0.1	14/06/2022	Amanda Wixon, Corporate Risk and Emergency Planning Lead	New Policy for the implementation of the ICB

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1. Introduction

Handling persistent and unreasonable communications from members of the public places a strain on time and resources and can cause unacceptable stress for staff that may need support in difficult situations. NHS staff are trained to respond with patience and understanding to the needs of all service users but there are times when there is nothing further that can be reasonably done to assist them or to rectify a real or perceived problem.

The aim of this policy is to provide clear guidance and a consistent approach for South East London Integrated Care Board (SEL ICB) staff on how to manage contacts with members of the public who are deemed to be demonstrating persistent and/or unreasonable behaviour.

The policy will only be used after all reasonable measures have been taken to try to resolve requests, concerns and complaints.

2. Purpose and Scope

The objective of this policy is to set out how SEL ICB expects situations to be managed when the volume and/or tone of contacts or behaviour from an individual, or surrounding an individual issue, is deemed to be persistent and or unreasonable.

This policy applies to any kind of contact from members of the public/ individuals to SEL ICB, and any staff working for SEL ICB including Board and committee members.

SEL ICB staff should always consider if contacts from a previous unreasonable/persistent individual are raising new points that should be addressed or investigated. New complaints/requests for information received will therefore be treated on their individual merits. The Chief of Staff will decide if any restrictions which have been applied previously are still appropriate and necessary.

Where staff feel that the contacts received are of a violent, aggressive or abusive nature they should seek immediate advice from their Manager and make an assessment of the risk.

It should be noted that the Protection from Harassment Act 1997 and the Malicious Communications Act 1988 will take precedent over this policy with regards to the behaviour displayed by a member of the public contacting SEL ICB.

This policy does not replace the arrangements for handling vexatious complainants as set out in SEL ICB Complaints Policy and Procedure. Nor does it replace the provisions of the Bullying and Harassment at Work Policy which apply to staff and individuals working within SEL ICB.

3. Definition of a Persistent/Unreasonable member of the public

An individual may be deemed to be exhibiting persistent and/or unreasonable behaviours where current or previous contact with SEL ICB shows that they have met two or more (or are in serious breach of one) of the following criteria:

- A. **Has harassed or been personally abusive or verbally aggressive** on one or more occasion towards employees of SEL ICB.
- B. **Has shown signs of bullying behaviour** towards employees of SEL ICB. This is characterised as offensive, intimidating, malicious or insulting behaviour; an abuse or misuse of power through means intended to undermine, humiliate or injure the recipient. Bullying or harassment may be obvious or insidious and is unwarranted and unwelcome to the individual.
- C. **Persists in pursuing a complaint/appeal** when the correct procedures have been fully and properly implemented and exhausted or when an investigation/appeal is still pending an outcome.
- D. **Does not clearly identify the issue they wish to be investigated** despite reasonable efforts and/or where concerns identified are not within the remit of SEL ICB to investigate.
- E. Changes the substance of a complaint/enquiry or continually raises new issues; or **seeks to prolong contact** by continually raising further concerns or questions.
- F. Have an **excessive number of contacts** with SEL ICB placing unreasonable demands on staff. Contacts can include telephone, email, letter or in person.
- G. **Insists that they have not had an adequate response** in spite of a large volume of correspondence specifically addressing their concerns and confirmation from SEL ICB that the matter is considered closed.
- H. Is **unwilling to accept documented evidence** that has been given as factual or denies receipt of an adequate response in spite of correspondence answering questions or does not accept facts can be difficult to verify when a long period of time has elapsed.
- I. **Refuses to complete necessary paperwork** to enable SEL ICB to progress requests or complaints.
- J. **Consumes a disproportionate amount of time and resource** in trying to identify and respond to concerns.
- K. Continually **focuses on a matter** which is disproportionate to its significance (as this is subjective, careful judgment must be used).
- L. Electronically **records meetings or conversations without the prior knowledge and consent** of the other parties involved. It may be necessary to explain to the

member of the public that such behaviour is unacceptable and can, in some circumstances, be illegal.

M. Displays **unreasonable demands or expectations** and fails to accept these may be unreasonable e.g. timeframes for responding to emails.

N. Purports to act on behalf of a patient or multiple patients, who may **not have a personal complaint**, to raise their own issues.

Persistent and unreasonable behaviours include all methods of contact which may consist of (but is not limited to) written; email; telephone; social media or several methods of communication.

4. Equality Statement

SEL ICB is committed to equality of opportunity for its employees and members and does not unlawfully discriminate on the basis of their “protected characteristics” as defined in the Equality Act 2010 - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. An Equality Impact Assessment has been completed for this policy.

If members or employees have any concerns or issues with the contents of this policy or have difficulty understanding how this policy relates their role, they are advised to contact the Chief of Staff.

5. Organisation arrangements & staff responsibility

There are several stages to managing persistent and unreasonable contacts: staff will need to work through the process and move to another stage if the situation continues.

Staff must also fully record any contacts from individuals that meet the criteria set out in section 3 above. The issues should then be raised with their line manager and the Head of Patient Experience & Complaints who will offer initial advice on use of this policy and appropriate action to take.

Where there is an imminent risk to the safety of any staff member, an incident report form should be completed (in line with SEL ICB’s Incident Reporting Procedure). In exceptional circumstances SEL ICB may need to consider other options for example reporting the matter to the police or taking legal action. In these situations, it may also be necessary to take action without giving any prior warning to the member of public.

6. Process for managing persistent / unreasonable contacts

Judgement and discretion must be used in applying this policy, application of the criteria and action to be taken in each case. The process for managing persistent/ unreasonable contacts will therefore only be used as a last resort and after all reasonable measures have been taken to try to resolve any issues, concerns raised.

The following stages should be followed when implementing this policy.

Stage 1 – Advise the service user.

The member of staff receiving the contacts, or their Manager, should liaise with the Head of Patient Experience and Complaints to arrange for a formal letter, and copy of this policy, to be sent to the individual advising them that their contact is unreasonable/persistent and include an explanation of how this is affecting the member of staff, or organisation, and, if possible, giving the individual an opportunity to alter their behaviour.

Full and accurate documentary records must be kept of all contacts with the individual, which may be shared with them if requested.

Stage 2 – Issue a warning.

When a formal letter and copy of the policy has been sent to the member of public and they continue to behave in a way which is perceived as persistent and unreasonable the Manager and Head of Patient Experience and Complaints will consult with the Director of Corporate Operations (DCO), or nominated deputy, to decide what action is taken.

If the DCO agrees that the contacts continue to be unreasonable and/or persistent they will send a second formal warning letter with a copy of this policy. The warning should explain:

- Why the contacts are found to be unreasonable / persistent.
- The consequences of continuation of unreasonable / persistent contact.
- The restrictions on future contacts with SEL ICB and the consequences of persisting with unacceptable behaviours.

Where possible, warnings should be in writing as this provides a clear statement and an audit trail. If it is necessary to provide a telephone warning this should be followed up in writing.

Stage 3 – Request further action

Where two warnings has been given but the individual continues to behave in a way that is unacceptable, a request to apply further action must be made to the SEL ICB Chief of Staff.

This should include:

- A summary of evidence for applying further action from staff/ relevant Manager.
- Information about any extenuating circumstances.
- Relevant documentation.
- Proof that warnings have been provided and any other efforts made to prevent use of further action.
- What steps are considered appropriate to control any adverse effects on the service user's behaviour.

The action decided upon will be applied for a set period of time, determined by the Chief of Staff (usually 6 months). SEL ICB will automatically consider if unrestricted contact can resume after 6 months, dependent on the individual's behaviour over this period. If unreasonable/ inappropriate contact resumes the Chief of Staff can invoke the restrictions previously applied, including a further review after six months.

If further action is not taken

Upon full consideration of the case the Chief of Staff may decide not to take further action. If this is the case, they should consider:

- The need to provide guidance for staff in dealing with the individual concerned.
- Changing the staff dealing with the individual.
- Steps required to safeguard the health and well-being of staff.

Stage 4 – Further action

The Chief of Staff will decide if further action should be applied and what action to implement, which could be one or more of the following.

A. **Restricting the method/ type of contacts**, e.g. written communications only. If SEL ICB is to withdraw from telephone contact with the individual a suggested statement should be prepared for staff to use.

B. **Restricting the point of contact**, e.g. single point of access via a generic email

C. **Drawing up an 'agreement'** setting out a code of behaviour and process of communication that the individual must comply with. This agreement should last for a period of six months at which point it will be reviewed and can be extended or repealed dependent on the behaviour of the individual during the six-month period. A code of behaviour could include the following:

- Restricting contact to a named individual (see point B).
- Restricting the method of communication, e.g. by letter only (see point A).
- Restricting the time allocated if contact is to be made by telephone.
- Offer a meeting to attempt to resolve any outstanding issues.

D. **Decline further communications.** Where SEL ICB has responded fully to the points raised by the client and tried to resolve the issues without success, and continuing contact on the matter would serve no useful purpose, the individual will be notified that contact is at an end and any further communication will be acknowledged but not responded to.

E. In exceptional circumstances the ICB might **take legal advice** or, if appropriate, refer the matter to the police.

The Chief of Staff will arrange for a letter to be sent to the individual notifying them why they have been classified as unreasonably persistent, the action that will be taken and date this decision will be reviewed.

7. Review of a decision to apply further action.

At the specified review date, the individual will be reviewed, and a decision made if appropriate to withdraw persistent/unreasonable status. The decision will be based on the individual's conduct during the review period and if any breaches are evident. Once a decision is reached a letter should be sent to the individual advising them of the outcome and confirming if the status has been lifted or the period of restriction extended.

8. Right of Appeal

If the individual wishes to appeal the action that has been taken a request should be made in writing to the Head of Patient Experience & Complaints, who will arrange for the decision to be reviewed at a meeting with the Chief Executive Officer, Chief of Staff, Director of Corporate Operations and a Non Executive Director.

If the individual remains unhappy with the outcome of their appeal, they should be directed to the SEL ICB formal complaints process, which has recourse to the Parliamentary and Health Service Ombudsman for independent review.

9. Monitoring

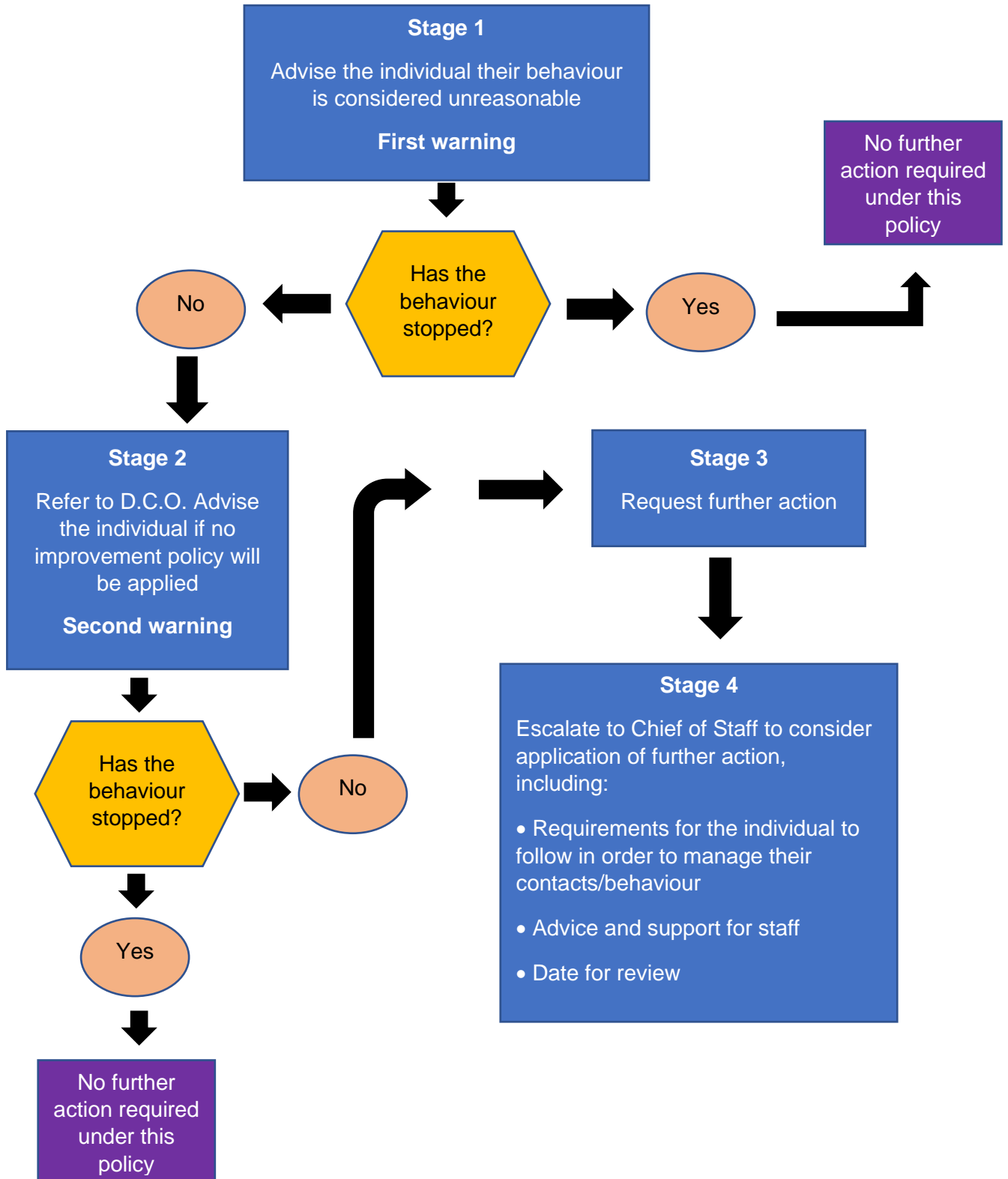
A central register of decisions to apply further actions will be held by the Head of Patient Experience and Complaints and regular reports to demonstrate monitoring and assurance of this procedure will be presented to the board to ensure oversight and quality.

10. Implementation and Training

SEL ICB will ensure that all staff are aware of, and have access to, this policy and procedure. Staff members may also seek guidance from their Manager, and/or the Head of Patient Experience and Complaints.

Appendix 1: Flow chart for management of persistent/ unreasonable contacts

This is a high-level flow chart showing key stages only
Please refer to the policy and guidance for full details of process



Appendix 2: Equality Analysis screening tool

This is a checklist to ensure that relevant equality and equity aspects of proposals have been addressed either in the main body of the document or in a separate Equality & Equity Impact Assessment (EEIA)/ Equality Analysis. It is not a substitute for an EEIA which is required unless it can be shown that a proposal has no capacity to influence equality. The checklist is to enable the policy lead and the relevant committee to see whether an EEIA is required and to give assurance that the proposals will be legal, fair and equitable.

The word “proposal” is a generic term for any policy, procedure or strategy that requires assessment.

Equality Analysis Screening Tool

Date of Assessment	14/06/22
Assessor Name(s) & Job Title(s)	Simon Beard, AD Corporate Operations
Organisation	SEL CCG
Name of the project/decision	SEL ICB Persistent and Unreasonable Contacts policy
Aim/Purpose of the project/decision	To determine the process for managing persistent and unreasonable contacts into the ICB.

1. Do you consider the project/decision to have an **adverse workforce equality impact and/or health inequality impact** on any of the protected groups as defined by the Equality Act 2010? Write either ‘yes’ or ‘no’ next to the appropriate group(s).

Protected group	Yes/No	Protected group	Yes/No	Protected group	Yes/No
Age	No	Pregnancy/Maternity	No	Marriage/Civil Partnership (employment only)	No
Disability	No	Race	No	Socio-economic / Deprivation	No
Gender	No	Religion/Belief	No	Carers	No
Gender reassignment	No	Sexual orientation	No		

2. If you answered 'yes' to any of the above give your reasons why

n/a

3. If you answered 'no' to any of the above give your reasons why

No anticipated detrimental impact on any equality group. The policy adheres to best practice. This Policy will be applied to all NHS staff employed by the organisation and there is no evidence that the policy will impact, disadvantage or discriminate against any particular protected characteristic group.

4. Please indicate if a Full Equality Analysis is recommended:		NO	YES
Signature of Project Lead:	Date completed	No	
Signature of reviewing member of Equality Team:	Date reviewed:	IF YES, BEGIN TO GATHER DATA FOR COMPLETION OF A FULL EQUALITY ANALYSIS	