

Abusive, persistent or vexatious complainants

Introduction

Dealing with a complaint is usually a straightforward process but in a very small minority of cases people can pursue their complaints in a way which can either impede the investigation of their complaint, has an unacceptable impact on staff members or creates significant resource issues for the Trust.

MHT is committed to dealing with all complaints fairly, comprehensively, and in a timely manner. Everyone who contacts MHT has a right to be heard, understood and respected and MHT recognises that people may have difficulty expressing themselves when anxious or upset, and make allowances for this. MHT will not normally limit the contact which complainants have with staff.

However MHT has a duty to its employees and volunteers (collectively referred to as staff in this policy) and does not expect them to tolerate unacceptable behaviour.

MHT will take action to protect staff from such behaviour, and to protect the resources and reputation of the organisation. If someone behaves in this way the Trust will follow this policy.

The issues – identifying inappropriate behaviour

Raising legitimate queries should not lead to a complainant being labelled vexatious. Likewise, if a complainant is unhappy about the outcome of a complaint and seeks to challenge it, that should not necessarily lead to him/her being labelled as unreasonably persistent.

If it is clear that a complainant genuinely believes their complaint has merit (even though Trust staff know it is without foundation) then it is not vexatious and should be dealt with in accordance with the Trust's complaints' process. There should be a proportionate investigation and if the evidence does not support the complaint, the complainant will then be informed of the outcome.

Abusive, persistent or vexatious behaviour can take many forms and the outline below should not be taken to exclude other forms of behaviour.

Using foul, inappropriate or discriminatory language.

Unreasonable demands or being unreasonably persistent impacts on the ability of staff to do their jobs. It might include requesting responses within an unreasonable timescale; insisting on speaking to or corresponding with a particular member of staff, frequent phone calls, visits, e-mails, or letters; repeatedly changing the substance of the complaint or raising unrelated concerns.

Unreasonable persistence includes continual refusal to accept that a decision has been made in relation to a complaint; insisting that staff answer questions when they have already done so or explained why they will not; persistent refusal to accept explanations about what the Trust can or cannot do; sending e-mails to multiple members of staff, Board members or to external bodies or individuals; or repeatedly trying to revisit a case once the complaints process, has come to an end.

Vexatious complaints are ones without foundation or which are disproportionate, and which may have the effect of overwhelming, victimising, harassing, embarrassing or worrying Trust staff. They may also include complaints made with such high frequency that they become an unnecessary drain on resources.

Handling behaviour as outlined above could place a strain on resources and cause unacceptable stress for staff, who may need support in difficult situations.

The procedures outlined in this document will only be used as a last resort and after all reasonable measures have been taken to try to resolve issues, including use of the complaints procedure.

Dealing with abusive, persistent or vexatious complainants

There is an internal staff policy for dealing with difficult situations arising from the way in which a member of the public is behaving. With phone calls, this may culminate in extreme cases in the member of staff ending the telephone call if the caller is aggressive, offensive or abusive. Staff must be accountable for their actions and are required to log all instances of when calls have been terminated, noting the reason(s) for ending the call. The policy also covers the procedure for dealing with a difficult member of the public visiting the office.

A difficult first contact may be the start of a series of interactions and it is important that staff record the event contemporaneously in as much detail as possible. Staff should always report what has happened to their line manager or, if the conduct is persistent or is serious, to the CEO.

A record should be made and retained of all subsequent communications.

Complainants may not realise that their attitude/behaviour is causing unnecessary distress to others. Where staff consider that a member of the public's actions or behaviour is likely to have a negative effect, the member of the public should politely be informed that their behaviour is not acceptable and the reasons why. If appropriate the request may be given or reinforced by a senior member of staff or the CEO.

Staff must be satisfied before taking any further action under this policy that the complainant's circumstances have been taken into account, including any protected characteristics.

If the actions or behaviour by the individual continues, MHT will take steps to prevent or minimise the negative effects. If a complaint has been dealt with, and the complainant informed of the outcome, the first step may be to inform the complainant that the Trust will enter into no more correspondence on the relevant topic. Wherever appropriate, MHT will continue with a review of the person's complaint whilst ensuring that action is taken to protect staff and to ensure that they can work effectively.

The CEO will decide if an individual should be classified as an abusive, persistent or vexatious complainant and whether measures need to be implemented pursuant to this policy. The CEO should make a written record of his/her decision, the control measures to

be used and the reasons why it has been made. If the CEO does so decide, he/she should notify the Chair.

In the event that the complaint is directed at the CEO, the Secretary to the Board will act in place of the CEO.

The appropriate control measures to be used will vary depending on the circumstances. Examples of some of the control measures (not intended as an exclusive list) which might be authorised by the CEO to restrict future contact from a person are:

- Designating a single method and named point of contact
- Limit the person to making telephone calls on a specified day and time per week;
- Stipulate that MHT will call them at an agreed time instead of them calling MHT;
- Not accept any further telephone calls from the person but in those circumstances keep at least one other form of contact.
- Limit the number of emails which may be sent each week, and designate an email address
- Removing the 'implied licence' to visit the office if they are a continual or abusive visitor
- Require the person to communicate with MHT through a representative or a different representative where it is the representative whose behaviour is causing concern.
- Read and file any future correspondence but acknowledge receipt
- Not respond to further contact in relation to a specific topic.
- Informing the complainant that any further complaints will only be considered if the CEO agrees they warrant investigation.

If the CEO decides it is necessary to block or restrict contact, the complainant should be informed in writing of:

the decision which has been taken

why the decision has been taken,

the duration of the action and

when it will be reviewed.

A restriction on contact should normally be time limited but will be kept under review by the CEO (see below).

If the conduct is extreme MHT may have to consider legal action or if the behaviour constitutes an offence, the police should be notified. MHT need not warn the complainant prior to taking either of these courses of action.

Expiration and limitation of status as an abusive, persistent or vexatious complainant

When individuals have been classified as abusive, persistent or vexatious, the designation will usually be applied for a fixed time period, depending on circumstances. At the end of that period, the designation will be reviewed by the CEO and may be extended or

withdrawn if, for example, the person subsequently demonstrates a more reasonable approach.

New Complaints from those designated as an abusive persistent or vexatious claimant

The status of abusive, persistent or vexatious complainant will normally only apply in relation to a specific issue. If a new issue is raised by someone who has been designated under this policy, it will be considered by the CEO in consultation with the Chair of Staffing Committee and investigated if it might have substance. The individual will not be deemed to be abusive, persistent or vexatious in relation to a new topic unless that behaviour is also demonstrated in relation to the new issue.

Ceasing all contact with a complainant

In some circumstances it may be appropriate or necessary for the CEO to authorise cessation of all contact between staff and an individual for a period of time, such as (but not limited to) where a matter is being investigated by the police, where legal action is being taken, or if there is some form of ongoing investigation by another regulatory body.

Review

The complainant has a right to request a review of any decision reached in accordance with this policy. Review requests must be received within 28 days of the date of the decision. Review requests will be investigated by any 2 committee chairs and the outcome confirmed in writing.

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