

Unacceptable behaviour – Guidance on warning letters and other written communications

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Introduction

The aim of this guidance is to assist those who have responsibility for dealing with unacceptable behaviour in drafting letters and behaviour agreements, sharing information and ensuring that proper records of decision making are kept.

While examples are given of the type of behaviour which may be dealt with by the actions outlined below, it is recognised that each incident will have its own particular circumstances. Each case then must be considered on its merits and it is not possible to set out what response would be correct for any particular incident of unacceptable behaviour.

Support and advice on unacceptable behaviour and the responses outlined in this document can be obtained from NHS Protect's Area Security Management Specialists (ASMSs) or Legal Protection Unit (LPU). The assistance available from the LPU is set out in more detail below and contact details for both the ASMSs and the LPU are provided.

There is no requirement to escalate the response in the order set out in this document. While the initial response in most cases may be a warning letter, a more robust response can be made where the severity or persistence of the behaviour warrants it. The actions set out in this document can also be taken alongside police or court action however the police or other agency taking action should be consulted before any NHS action is taken.

It is important to remember that unacceptable behaviour can take place not just in person, but also by post or electronically (phone, e-mail text and fax messages).

None of the actions outlined in this document should replace reporting to and involvement of the police where offences have been committed or where the safety of any person is threatened.

For ease of reference, each section can be used as stand alone guidance on the subject covered there. This means that the document contains some degree of repetition.

1. What type of behaviour?

- 1.1. The actions in this guidance can be used to address almost any kind of unacceptable behaviour whether this is from patients, relatives or other visitors. The following examples of unacceptable behaviour are not an exhaustive list and much of the described behaviour could be placed into more than one category. If there is any uncertainty over whether action is appropriate in relation to behaviour not mentioned here further advice can be sought from NHS Protect ASMSs or NHS Protect's LPU.

It is important to note that when establishing how serious an incident or pattern of behaviour is, categorising the type of behaviour is less important than the impact that it has on those subjected to it or the provision of NHS Services.

Unreasonable complainant behaviour

- 1.2. An effective complaints process is essential for the public to hold health bodies to account, however there will be cases where either the complainant refuses to accept the outcome, or makes their point in a manner which is abusive, threatening or in an otherwise unacceptable way. Complaints to NHS bodies should of course be dealt with in line with the NHS Complaints regulations and associated guidance issued by the Department of Health (DH)¹. The DH guidance itself refers readers to further specific guidance on this topic issued by the Local Government Ombudsman² called "Guidance note on management of unreasonable complainant behaviour". In this guidance the following definition may prove useful in identifying relevant cases:

"...unreasonable and unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contacts with an authority, hinder the authority's consideration of their, or other people's, complaints."

- 1.3. It is likely that such people will also cause major inconvenience, upset and distress to the staff involved in dealing with them. In some cases such behaviour can constitute a criminal offence even if carried out by post, telephone, text, fax, e-mail, social media or other internet sites. (See Annex A for details of some possible criminal offences in relation to these types of incidents).
- 1.4. **It is recommended that all health bodies have policies for dealing with unreasonable complainant behaviour (or incorporate measures into existing policies).**

Non-physical assaults

- 1.5. NHS Protect defines a non-physical assault as -

"the use of inappropriate words or behaviour causing distress and/or constituting harassment."

¹ http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_095408

² <http://www.lgo.org.uk/publications/advice-and-guidance/unreasonable-complainants/>

- 1.6. Examples of behaviour which could be defined as non-physical assault include –
- Offensive language, verbal abuse, swearing
 - Unwanted or abusive remarks of a sexual nature
 - Racist, sexist, homophobic or other discriminatory remarks
 - Offensive gestures
 - Threats whether verbal or physical
 - Bullying or intimidating behaviour
 - Attempted assaults where contact is not made including spitting
 - Brandishing weapons or objects which could be used to inflict harm
 - Throwing a weapon or object and missing
 - Stalking or other forms of harassment

Physical assaults

- 1.7. NHS Protect defines a physical assault as -

"The intentional application of force to the person of another without lawful justification, resulting in physical injury or personal discomfort."

- 1.8. Examples of the type of behaviour which would be considered as physical assault would include –

- Punching
- Kicking
- Head butting
- Striking with a weapon or object
- Throwing a weapon or object where contact is made
- Spitting where a person or their clothing is struck

It is not essential that injury results for this definition to be satisfied.

- 1.9. N.B. neither of the above two definitions accurately reflect the legal definition of assault or a battery (an assault by beating) in use in England and Wales which can be found in Annex A along with further information on possible criminal offences.

- 1.10. It is expected that the majority of deliberate physical assaults and many non-physical assaults will be reported to the police for investigation along with consideration of appropriate action in this guidance.**

Anti social and nuisance behaviour

- 1.11. Much of the above behaviour could be described as anti social behaviour (ASB) however this phrase will also cover a great deal of behaviour which could be regarded as unacceptable (though not necessarily illegal). The statutory definition of ASB is - '*Acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household*'. (Crime and Disorder Act 1998)

- 1.12. In addition for health bodies, behaviour which causes a nuisance or otherwise interferes with the effective provision of health services could be termed as ASB.

- 1.13. Examples of Anti Social and nuisance behaviour include:

- “Hospital hoppers”
- Abandoned cars
- Begging
- Climbing on buildings
- Cycling/skateboarding in pedestrian areas/footpaths
- Damage to health body, staff, patient or visitors property
- Dealing or taking drugs in premises or on grounds
- Discarding needles/drug paraphernalia
- Disregard for visiting hours
- Drinking in premises or on grounds
- Dropping litter
- Dumping rubbish
- Duplicate registration to obtain drugs or other services
- False/prank/inappropriate calls to emergency services
- Fly-posting
- Fly-tipping
- Following people
- Games in restricted/inappropriate areas
- Graffiti
- Inappropriate sexual conduct
- Inappropriate use of fireworks
- Inconvenient/illegal parking
- Indecent exposure
- Letting down tyres
- Loud music or other excessive noise
- Misuse of air guns
- Misuse of emergency services
- Obscene/nuisance phone calls, text or fax messages or e-mails
- Pestering people
- Refusal to leave premise/grounds when asked
- Sending nasty/offensive letters
- Smoking in buildings or external restricted areas
- Sniffing volatile substances
- Spitting or vomiting in public
- Taking photos/videos or making sound recordings without permission
- Theft from on-site retail premises
- Trespass
- Uncontrolled animals
- Urinating in public
- Vehicle-related nuisance & inappropriate vehicle use
- Voyeurism

This list is not exhaustive.

- 1.14. Many of the above examples may also be criminal offences in their own right, e.g. making hoax calls, and may be reported to the police. Advice on whether behaviour constitutes criminal conduct can be sought from NHS Protect's LPU and ASMSs.

2. Gathering information and record keeping

- 2.1. It is essential that decisions are based on reliable and sufficient information and that detailed and accurate records are maintained in case decisions have to be reviewed or are challenged. There are a number of routes where decisions can be challenged and/or information compulsorily disclosed.
- 2.2. What records should be kept will depend on what is available but the bare minimum should be a report from a reliable source who witnessed the incident. Examples include -
 - Incident or SUI report and victim/witness statements
 - Previous incident reports relating to the same person
 - Details of External incidents
- 2.3. Staff should be informed of best practice regarding recording the content of telephone calls that contain abusive, offensive, obscene or threatening language. staff should be asked to make a written record of the conversation, recording as far as is possible the exact words used. **It is important to make staff aware that without this sort of detailed record it may not be possible to take any action against the caller.**
- 2.4. For letters or packages any envelope or wrapping should be retained and handling should be kept to a minimum to assist any forensic examination.
- 2.5. For e-mails or text messages to official e-mail addresses or mobiles, the e-mail should be printed and the text message transcribed. Further advice should be sought from the IT section or provider to determine how these may be retained.

Action being taken by external agencies

- 2.6. While the taking of the actions outlined in this guidance is ultimately a matter for the health body concerned it is important to establish whether any other body may also be dealing with the individual concerned.
- 2.7. It is important to check whether any action proposed by the NHS may interfere with action being taken by another agency, for example a police investigation or a criminal prosecution. It is also sensible to establish whether other health bodies may be experiencing similar problems and if joint action may prove to be more effective. This information may be held by the health body's LSMS
- 2.8. Organisations that may have relevant information include –
 - Police
 - Crown Prosecution Service
 - Local Authorities
 - Other health bodies (their LSMS should also be contacted).

3. Decision making

Clinical input

- 3.1. Each case will have particular circumstances so any decision making process must consider whether -
- The behaviour complained of may have been caused by a medical condition, mental ill health or a reaction to medication/treatment, or,
 - The action being considered may have an adverse effect on the person's health.

LSMS or senior management

- 3.2. In all cases it is recommended that where the organisation has a LSMS (or access to LSMS services) they should be consulted before action is taken. Where no LSMS is available then senior management (usually the Security Management Director) should be consulted particularly where any restriction on access to premises or services is being considered.

NHS Protect input/assistance

- 3.3. Case specific guidance and assistance can be sought from NHS Protect either via the ASMSs or the LPU. See section 9.5 further on in this guidance for information on when NHS Protect may be able to take action on your behalf.

Input from person displaying unacceptable behaviour

- 3.4. There may be circumstances where the available information is not clear enough to support a decision. It may also be necessary in the interests of fairness to seek the views of the person who is accused of the unacceptable behaviour.
- 3.5. **Depending on the seriousness of the behaviour alleged, and/or the degree of risk posed, it may be necessary to take some form of interim action pending receipt of the person's response. Any letter should make it clear that the action is on an interim basis and may be confirmed or revoked.**

4. Warning letters

Warning letters checklist

4.1. Letters should include:

- Name and role of person sending letter.
- Brief description of the behaviour or incident.
- Details of any previous steps taken to address the behaviour.
- Say why the behaviour is unacceptable and the impact it has had on people and NHS services.
- Set out what will happen if behaviour repeated.
- Say who will be informed or copied in.
- Advise if NHS records marked.
- Give date when warning will be reviewed and/or marking removed from records.
- Provide information on how decision may be challenged and details of complaints process.

A template warning letter can be found at Annex B

Reasons for checklist items

Name and role of person signing/sending letter

4.2. It is standard practice from public bodies to provide names of those sending letters and/or making decisions. Within a health body the issue of a letter by a person not connected with the incident (or delivery of care) may help to divert the behaviour away from those who provide treatment or care to the person involved. It may also help show how seriously the incident or behaviour is being taken.

Brief description of the behaviour or incident.

4.3. Sufficient information should be given to identify the behaviour/incident however, as the letter will be sent to the person concerned there is not need to go into significant detail at this stage.

Impact of behaviour

4.4. Many individuals may not be aware of how their behaviour has affected those subjected to it and how dealing with the behaviour may have impacted on the delivery of services. Where there has been an impact on services (e.g. longer waits for others, misuse of emergency ambulance etc.) this should be clearly stated.

Result of further behaviour

4.5. It is essential to warn the person about the possible further action that may be taken should the unacceptable behaviour be repeated. There are a number of possible actions depending on the nature and extent of the behaviour in question. These may include:

- Restriction on entry to premises
- Provision of services at another location
- Reporting to police where the behaviour may be a criminal offence

- Civil legal action to prevent a repetition of the behaviour
- 4.6. It is important to consider carefully whether it will be possible to take the further actions threatened as failure to follow up may result in an escalation of the behaviour. Where in doubt further advice can be sought from NHS Protect.

Sharing information

- 4.7. It may be necessary to share information with others regardless of what other action is taken. . This may be both in order to assess risk and to prevent other people or organisations from referring the person to premises from which he may have been excluded. The following questions may assist in reaching and recording decisions.
- Do any other staff within your organisation, or in an external body need to know about the incident or the issue of the warning letter in order to protect themselves or others?
 - If so, how much information do you need to share to allow them to assess any risk?
 - How can this information be communicated securely?
 - What are the possible outcomes if the information is not shared?

Records marking

- 4.8. Where an incident of unacceptable behaviour has taken place consideration should always be given to whether the incident should be noted in the person's medical records (or if appropriate their family members', spouse's or partner's records). A decision should also be made on whether other staff or organisations should be made aware in order to help them assess if they are at risk.

Guidance on marking records

- 4.9. The organisation which was replaced by NHS Protect – the NHS Security Management Service published guidance on marking of health records which can be downloaded at -

<http://www.nhsbsa.nhs.uk/SecurityManagement/Documents/SecurityManagement/Procedures.pdf>

- 4.10. The organisation responsible for Data Protection – the Information Commissioner's Office has published general guidance on "The Use of Violent Warning Markers" which can be down loaded at -

http://www.ico.gov.uk/for_organisations/guidance_index/~media/documents/library/Data_Protection/Practical_application/USE_OF_VIOLENT_WARNING_MARKERS.ashx

Reviews, challenges and complaints

- 4.11. The decisions relating to the actions in this guidance, taken by health bodies, or organisations providing NHS services are subject to a review or complaints process. The seriousness of any incident and any risk posed by further behaviour will determine whether any warning remains in place pending the outcome of a review or complaint.

- 4.12. In the vast majority of cases it will not be appropriate for a warning or other action to remain in place for an unlimited period. Best practice would be to review the decision after a set period of between 6 and 12 months. Notification of the outcome of the review should be given in writing and any other parties to whom the information has been copied should also be notified.

Additional Actions

It is essential that staff are kept informed of what action is being taken. This will not only show that the organisation takes unacceptable behaviour seriously but will allow staff to anticipate any adverse reaction to the action from the individual concerned.

It may also be necessary to review any risk assessment where there may be future contact with the person(s) involved.

5. Exclusion from premises/entry with conditions

5.1. N.B. Any decision to exclude from premises should take account of the views of the relevant clinician.

Exclusion from premises letter checklist

5.2. Letters should include:

- Name and role of person sending letter.
- Brief description of the behaviour or incident.
- Details of any previous steps taken to address the behaviour.
- Say why the behaviour is unacceptable and impacts it has had on people and NHS services.
- State precisely what premises the person is not permitted to attend with reference to an enclosed map if this will clarify matters.
- Set out under what conditions (if any) future entry to premises will be permitted
- Set out what will happen if exclusion or entry conditions are breached or if behaviour repeated.
- Say who will be informed or copied in.
- Advise if NHS records marked.
- Give date when exclusion will be reviewed and/or marking removed from records.
- Provide information on how decision may be challenged and details of complaints process.
- If exclusion is also part of an acceptable behaviour agreement include the agreement as a separate document. (If exclusion from premises or entry only under conditions is to be part of a behaviour agreement please read in conjunction with section 7 and associated template letter/agreement).

A template letter can be found at Annex C

Reasons for checklist items

Name and role of person sending letter

5.3. It is standard practice for public bodies to provide names of those sending letters and/or making decisions. Within a health body the issue of a letter by a person not connected with the incident (or delivery or care) may help to divert the behaviour away from those who provide treatment or care to the person involved. It may also help show how seriously the incident or behaviour is being taken.

Brief description of the behaviour or incident.

5.4. Sufficient information should be given to identify the behaviour/incident but as the letter will be sent to the person concerned there is not need to go into significant detail at this stage.

Impact of behaviour

- 5.5. Many individuals may not be aware of how their behaviour has affected those subjected to it and how dealing with the behaviour may have impacted on the delivery of services. Where there has been an impact on services (e.g. longer waits for others, misuse of emergency ambulance etc.) this should be clearly stated.

Locations and maps

- 5.6. It is important to be clear about the precise location(s) the individual should not attend. This may be a complete exclusion or entry may be permitted under certain specified conditions. Any ambiguity could lead to the individual attending premises and lead to further incidents.
- 5.7. Where the premises have associated external grounds (e.g. a car park) these can also be included in any exclusion though a check should be made to ensure that the grounds do not include any public highways or other rights of way.
- 5.8. Maps may be a useful way of ensuring that the position is made clear to all concerned.
- 5.9. For large sites where access under specified conditions is permitted, it may be useful to specify which routes should be used to enter and leave the site. Again a map may be useful.

Conditions

- 5.10. In many cases it may be necessary for the person displaying the unacceptable behaviour to return to the premises for treatment either on a regular basis or in an emergency. In these cases the individual can be excluded from the site and only permitted access in certain circumstances. The conditions will depend on the nature of the unacceptable behaviour, the type of services offered from the site(s) in question and any medical conditions or mobility factors the person may have.
- 5.11. Example of exclusion from premises conditions which will permit access to a hospital site in certain circumstances:

You are prohibited from entering the premises or grounds of [insert name of premises or refer to map etc.] except in the following circumstances –

- **where you or a member of your immediate family require urgent or emergency medical treatment,**
- **to attend yourself, or to accompany a member of your immediate family, at a pre-arranged appointment,**
- **to attend yourself as an in-patient or to visit a member of your immediate family who is an in-patient,**
- **to attend for non medical purposes any meeting previously arranged in writing.**

Result of further behaviour

5.12. It is essential to warn the person about the possible further action that may be taken if they persist in behaving in an unacceptable manner. There are various possibilities depending on the nature and extent of the behaviour in question. These may include –

- Provision of services at another location
- Reporting to police where the behaviour may be a criminal offence
- Civil legal action to prevent a repetition of the behaviour

5.13. It is important to consider carefully whether it will actually be possible to take the further actions threatened as failure to follow up could result in an escalation of the behaviour. Where in doubt further advice can be sought from NHS Protect.

Sharing information

5.14. It may also be necessary to share information with others even if the person's health records have been marked. This may be both in order to assess risk and to prevent other people or organisations from referring the person to premises from which he may have been excluded. The following questions may assist in reaching and recording decisions.

- Do any other staff within your organisation, or in an external body need to know about the incident or the issue of the exclusion letter in order to protect themselves or others or to challenge and/or report an inappropriate attendance?
- Does anyone else need to know that person is no longer permitted on the premises in question? (e.g. other health care professionals who may refer the person to the premises or who may visit the person at home)
- If so, how much information do you need to share to allow them to assess any risk?
- What are the possible outcomes if the information is not shared?

Records marking

5.15. Where an incident of unacceptable behaviour has taken place consideration should always be given to whether the incident should be noted in the person's medical records (or if appropriate their family members', spouse's or partner's records). A decision should also be made on whether other staff or organisations should be made aware in order to assess if they are at risk.

Guidance on marking records

5.16. The forerunner of NHS Protect – the NHS Security Management Service published guidance on marking of health records which can be downloaded at -

<http://www.nhsbsa.nhs.uk/SecurityManagement/Documents/SecurityManagement/Procedures.pdf>

5.17. The organisation responsible for Data Protection – the Information Commissioner's Office has published general guidance on "The Use of Violent Warning Markers" which can be down loaded at -

Reviews, challenges and complaints

- 5.18. The decisions relating to the actions in this guidance, taken by NHS bodies, or organisations providing NHS services are subject to a review or complaints process. The seriousness of any incident and any risk posed from further behaviour will determine whether any exclusion or conditions on entry remains in place pending the outcome of a review or complaint.
- 5.19. In the vast majority of cases it will not be appropriate for an exclusion to remain in place for an unlimited period. Usual practice would be to review whether it is still necessary after a set period of between 6 and 12 months. Notification of the outcome of the review should be given in writing and any other parties to whom the information has been copied should also be notified.
- 5.20. In some cases where the individual in question has no need to access services at the premises in question either now or in the foreseeable future it may be appropriate to exclude them until further notice.

Additional Actions

It is essential that staff are kept informed of what action is being taken. This will not only show that the organisation takes unacceptable behaviour seriously but will allow staff to anticipate any adverse reaction to the action from the individual concerned.

It may also be necessary to review any risk assessment where there may be future contact with the person(s) involved.

6. Other actions against persistent or nuisance persons

- 6.1. There may be occasions where the unacceptable behaviour does not take place face to face but by letter, telephone or other means of communication. In such cases it may not be necessary to restrict or prevent attendance at premises in person and alternative action may be required to address the behaviour.
- 6.2. The Local Government Ombudsman's "Guidance note on management of unreasonable complainant behaviour" makes the following suggestions:
- Placing time limits on telephone conversations and personal contacts.
 - Restricting the number of telephone calls that will be taken (for example, one call on one specified morning/afternoon of any week).
 - Limiting the complainant to one medium of contact (telephone, letter, email etc) and/or requiring the complainant to communicate only with one named member of staff.
 - Requiring any personal contacts to take place in the presence of a witness.
 - Refusing to register and process further complaints about the same matter.
 - Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters, faxes, or emails, or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged. A designated officer should be identified who will read future correspondence.
- 6.3. As with the other actions outlined in this guidance any decisions are subject to a review process. Whether they should also be the subject of the complaints process will depend on whether any complaint is simply another method of revisiting the original or closed complaint.
- 6.4. Other actions could include –
- Seeking advice from the relevant technical expert in the health body or telecoms provider to see if phone calls, e-mails etc. may be blocked or diverted.
 - Where the person's telephone or internet provider is known seeking assistance from them. In many cases contracts to provide such services may be withdrawn if the services are used maliciously or to cause nuisance or commit offences.

The Local Government Ombudsman's guidance is available here –

<http://www.lgo.org.uk/publications/advice-and-guidance/unreasonable-complainants/>

Additional Actions

It is essential that staff are kept informed of what action is being taken. This will not only show that the organisation takes unacceptable behaviour seriously but will allow staff to anticipate any adverse reaction to the action from the individual concerned.

It may also be necessary to review any risk assessment where there may be future contact with the person(s) involved.

7. Acceptable behaviour agreements³

Acceptable Behaviour Agreement letter checklist

7.1. Letters should include:

- Name and role of person sending letter.
- Brief description of the behaviour or incident
- Details of any previous steps taken to address the behaviour.
- Say why the behaviour is unacceptable and impacts it has had on people and NHS services.
- Set out under what type of behaviour is expected/not acceptable and if appropriate the conditions (if any) placed upon any future entry to premises
- Set out what will happen if conditions are breached or if behaviour repeated.
- Say who will be informed or copied in.
- Advise if NHS records marked.
- Give date when agreement will be reviewed and/or marking removed from records.
- Provide information on how decision may be challenged and details of complaints process.

A template letter and agreement can be found at Annex D

To ensure clarity and to assist in appropriate information sharing it is recommended that the agreement should be set out separately from the letter.

Behaviour agreements are also used by the police and local authorities as part of the process of tackling anti social behaviour. In appropriate cases it may be useful to seek police involvement, e.g. issuing joint letters/agreements or signing agreements with police presence or at a police station.

Reasons for checklist items

Name and role of person sending letter

7.2. It is standard practice from public bodies to provide names of those sending letters and/or making decisions. Within a health body the issue of a letter by a person not connected with the incident or delivery or care may help to divert the behaviour away from those who provide treatment or care to the person involved. It may also help show how seriously the incident or behaviour is being taken.

Brief description of the behaviour or incident.

7.3. Sufficient information should be given to identify the behaviour/incident but as the letter will be sent to the person concerned there is not need to go into significant detail at this stage.

Impact of behaviour

7.4. Many individuals may not be aware of how their behaviour has affected those subjected to it and how dealing with the behaviour may have impacted on the

³ Previously referred to as Acknowledgement of Responsibilities Agreements (ARAs).

delivery of services. Where there has been an impact on services (e.g. longer waits for others, misuse of emergency ambulance etc.) this should be clearly stated.

Conditions

- 7.5. It is not possible to provide a list of conditions for every possible situation. There may however be some conditions which would apply to many cases, for example –
- I will not use violence, or foul or abusive language or threatening behaviour towards any person while on NHS premises.
 - I will treat all staff, patients and visitors with courtesy and respect at all times
 - I will leave the premises when asked to do so by staff
- 7.6. A behaviour agreement is voluntary and no one can be compelled to sign one, nor can a lack of response be taken as agreement. Conditions then can be tailored to the circumstances and because it is a voluntary agreement, conditions can be included which it may not be possible to use in any legal contract or court order. An example of this would be where a condition relates to agreeing to take medication as prescribed.
- 7.7. **In all cases the conditions of the agreement must be clear; the person signing the agreement must be in no doubt about the behaviour expected.**

Clinical input

- 7.8. Where a condition may in some way restrict access to services or premises then the relevant clinician should be consulted in order that any potential impact on the person's health is considered before the agreement is drafted.

Result of further behaviour

- 7.9. It is essential to warn the person about the possible further action that may be taken if they persist in behaving in an unacceptable manner. There are various possibilities depending on the nature and extent of the behaviour in question. This may include –
- Provision of services at another location
 - Reporting to police where the behaviour may be a criminal offence
 - Civil legal action to prevent a repetition of further behaviour
- 7.10. It is important to consider carefully whether it will actually be possible to take the further actions threatened, as failure to follow up could result in an escalation of the behaviour. Where in doubt further advice can be sought from NHS Protect.

Records marking

- 7.11. Where an incident of unacceptable behaviour has taken place consideration should always be given to whether the incident should be noted in the person's medical records (or if appropriate their family members', spouse's or partner's records). A decision should also be made on whether other staff or organisations should be made aware in order to assess if they are at risk.

Guidance on marking records

7.12. The forerunner of NHS Protect – the NHS Security Management Service published guidance on marking of health records which can be downloaded at -

<http://www.nhsbsa.nhs.uk/SecurityManagement/Documents/SecurityManagement/Procedures.pdf>

7.13. The organisation responsible for Data Protection – the Information Commissioner’s Office has published general guidance on ‘The Use of Violent Warning Markers’ which can be down loaded at -

http://www.ico.gov.uk/for_organisations/guidance_index/~media/documents/library/Data_Protection/Practical_application/USE_OF_VIOLENT_WARNING_MARKERS.ashx

Sharing information

7.14. It may also be necessary to share information with others even if the person’s health records have been marked. This may be both in order to assess risk and to prevent other people or organisations from referring the person to premises where he may have been excluded. The following questions may assist in reaching and recording decisions.

- Do any other staff within your organisation, or in an external body need to know about the incident or the behaviour agreement in order to protect themselves or others or to challenge and/or report any breaches of the agreement?
- Does anyone else need to know that person is no longer permitted on the premises in question?
- If so, how much information do you need to share to allow them to assess any risk?
- What are the possible outcomes if the information is not shared?

Reviews and complaints

7.15. The decisions relating to the actions in this guidance, taken by NHS bodies, or organisations providing NHS services are subject to a review or complaints process. The seriousness of any incident and any risk posed by further behaviour will determine whether any agreement, exclusion or conditions remain in place pending the outcome of a review or complaint.

7.16. In the vast majority of cases it will not be appropriate for a warning or other action to remain in place for an unlimited period. Usual practice would be to review the decision after a set period of between 6 and 12 months. Notification of the outcome of the review should be given in writing and any other parties to whom the information has been copied should also be notified.

Additional Actions

It is essential that staff are kept informed of what action is being taken. This will not only show that the organisation takes unacceptable behaviour seriously but will allow staff to anticipate any adverse reaction to the action from the individual concerned.

It may also be necessary to review any risk assessment where there may be future contact with the person(s) involved.

8. Provision of services at an alternative location or by an alternative provider

- 8.1. In exceptional circumstances it may be necessary to continue to provide services but at an alternative location. For example, this could prove necessary in extreme cases where the risk to staff outweighs the responsibility to provide treatment at a patient's home, meaning it is necessary to provide the service at premises where security provision can be provided and effectively managed.
- 8.2. Where there has been a complete breakdown in the relationship between staff and the person involved, or where the risk to staff or others cannot be managed to an acceptable level it may be necessary to consider providing care at an alternative location.
- 8.3. In primary care there are existing arrangements within commissioning contracts for removal of persons from patient lists and for this reason it is not intended to cover these here. In GP services the majority of locations will have a Violent Patient Scheme as part of the Directed Enhanced Services provision.
- 8.4. In secondary care, provision of services at an alternative location within the trust may not be an option. The refusal of further service provision should only ever be considered as a last resort, when all other means of tackling the problem have been exhausted. (This may include involving the police and/or taking legal action). Where it proves necessary to change the secondary care provider, the person's GP, PCT or commissioning consortia and new secondary care provider should discuss and reach agreement on an acceptable risk controlled course of action.

Clinical input

- 8.5. Consideration of changing the location or the provider of services must take into account the views of the relevant clinicians **before** any decision is reached and/or communicated. In cases where there is disagreement within the health body (e.g. staff involved, clinical expert, and LSMS/security manager) it may be necessary to seek legal advice before proceeding.

Patients with mobility issues and alternative travel arrangements

- 8.6. In cases where treatment is to be provided at another location it may be necessary to consider providing travel for patients with mobility issues. In these cases travel providers should be consulted/informed as part of the process to ascertain if they can provide the service especially where it is judged that the patient (or relative accompanying) may pose a risk to their staff.

Content

8.7. Letters should include:

- Name and role of person sending letter.
- Brief description of the behaviour or incident
- Details of any previous steps taken to address the behaviour.
- Say why the behaviour is unacceptable and the impact it has had on people and NHS services.
- Give details of new location or provider, or other arrangements made to provide services.

- Say who will be informed or copied in.
- Advise if NHS records marked.
- Give date when new arrangements may be reviewed (if applicable) and/or when any marking removed from records.
- Provide information on how decision may be challenged and details of complaints process.

A template letter can be found at Annex E

Records marking

- 8.8. Where an incident of unacceptable behaviour has taken place consideration should always be given to whether the incident should be noted in the person's medical records (or if appropriate their family members', spouse's or partner's records). A decision should also be made on whether other staff or organisations should be made aware in order to assess if they are at risk.

Guidance on marking records

- 8.9. The forerunner of NHS Protect – the NHS Security Management Service published guidance on marking of health records which can be downloaded at -

<http://www.nhsbsa.nhs.uk/SecurityManagement/Documents/SecurityManagement/Procedures.pdf>

- 8.10. The organisation responsible for Data Protection – the Information Commissioner's Office has published general guidance on 'The Use of Violent Warning Markers' which can be downloaded at -

http://www.ico.gov.uk/for_organisations/guidance_index/~media/documents/library/Data_Protection/Practical_application/USE_OF_VIOLENT_WARNING_MARKERS.ashx

Sharing information

- 8.11. In cases where treatment is to be provided at a different location or a change of provider is proposed it is important that consultation takes place between the health organisations involved before any decisions are made. It is not appropriate to simply pass the problem on to another organisation without discussion and disclosure of information relevant to risk.

- 8.12. The following questions may assist in reaching and recording decisions.

- Who will need to know of any decisions in order to manage access to premises or in order to protect themselves or others?
- Do any external bodies (e.g. the police) need to know that person is no longer permitted on the premises in question?
- If so, how much information do you need to share to allow them to assess any risk?
- What are the possible outcomes if the information is not shared?

Reviews and complaints

- 8.13. The decisions relating to the actions in this guidance, taken by NHS bodies, or organisations providing NHS services, are subject to a review or complaints process. The seriousness of any incident and any risk posed by further behaviour will

determine whether any agreement, exclusion or conditions remain in place pending the outcome of a review or complaint.

- 8.14. In the vast majority of cases it will not be appropriate for a warning or other action to remain in place for an unlimited period. Usual practice would be to review the decision after a set period of between 6 and 12 months. Notification of the outcome of the review should be given in writing and any other parties to whom the information has been copied should also be notified.

Additional Actions

It is essential that staff are kept informed of what action is being taken. This will not only show that the organisation takes unacceptable behaviour seriously but will allow staff to anticipate any adverse reaction to the action from the individual concerned.

It may also be necessary to review any risk assessment where there may be future contact with the person(s) involved.

9. Issuing letters

It is essential that staff are kept informed of what action is being taken. This will not only show that the organisation takes unacceptable behaviour seriously but will allow staff to anticipate any adverse reaction to the action from the individual concerned.

Who should issue any communication?

- 9.1. Consideration should be given as to the most appropriate person to issue warning letters, agreements etc. In some cases the unwanted attention may be diverted away from the member of staff directly involved to the person issuing any letter.
- 9.2. If the person is a patient or a regular visitor it may be sensible for the letter to be issued by someone who is not likely to come into contact with that individual on a regular basis.
- 9.3. It may also be useful as an indication of how seriously the matter is being taken, if the letter is issued by a Local Security Management Specialist or in the name of the most senior individual in the organisation.
- 9.4. Where clear information is available that the individual is behaving in an unacceptable manner in a number of locations or is affecting a number of organisations it may be appropriate for the matter to be dealt with at a regional or national level. Advice can be sought from NHS Protect in such cases.

Assistance from NHS Protect's Legal Protection Unit (LPU)

- 9.5. The LPU can assist health bodies when the actions outlined above are being considered. This assistance can include:
 - General advice on potential action
 - Reviewing and Drafting letters and agreements
 - Detailed advice and Issuing letters and agreements

General advice on potential action

- 9.6. The LPU can be contacted by phone or e-mail to discuss issues and potential action in general terms. Such discussions would be considered informal assistance and so records should not assert that NHS Protect have authorised or endorsed any particular course of action.

Reviewing and Drafting letters and agreements

- 9.7. The LPU can provide assistance either in reviewing the style and content of written communications and if appropriate and required can draft written communications on behalf of the health body. Again this would not constitute NHS Protect authorising or endorsing any particular response.

In most cases covered in 9.6 and 9.7 this will not require a detailed submission to the LPU.

Detailed advice and Issuing letters and agreements

- 9.8. Where the LPU is asked for their view on what action may be appropriate, or whether a proposed course of action is justified this will entail detailed consideration of all the available information.
- 9.9. The LPU may also issue letters and seek agreements on behalf of health bodies though again this will require consideration of all the available information.

Method of delivery and proof of receipt

- 9.10. There are a number of factors which will contribute to the decision on the most appropriate method of delivery. A balance must be struck between ensuring that the individual in question receives any letter and the risk that certain delivery methods pose.

Hand delivery on NHS Premises

- 9.11. In some cases it may be appropriate to invite the person concerned to a meeting to discuss their behaviour and issue any letter to them in person. This may be useful where the person is likely to have on-going contact with the members of staff involved. This method of delivery guarantees that the person involved has received the information. **Before any meeting takes place a thorough assessment of the potential risks involved must be carried out.**

Hand delivery at person's address

- 9.12. This method of delivery may be appropriate where previous correspondence has been returned and it is known that this is a deliberate attempt to avoid receipt. Unless the person delivering the letter knows or confirms verbally that the addressee is the person taking delivery (rather than simply posting it through the letter box) this method will only confirm that delivery has been made to the address. **Due to the risks of attending a person's address and delivering what may be unwelcome news this method should only be used when absolutely necessary and after a thorough risk assessment.**

Postal delivery

- 9.13. For the majority of letters normal postal services will suffice. Enhanced postal services (e.g. recorded and special delivery) may offer some proof of posting however it should be noted that they can only prove that an item was delivered to the address stated. The Post Office delivers to addresses not to individuals and will accept signatures where required from any adult at the address. Delivery by post offers no guarantee that the individual to whom the letter is addressed has taken receipt.

Requesting response

- 9.14. Where a response is required, and where face to face delivery has not been used, it may be prudent to include a prepaid return envelope. This should remove a potential excuse for not responding and may prevent further attendance(s) at the premises.

10. NHS Protect Security Alerts

- 10.1. Where the unacceptable behaviour of an individual is restricted to a particular locality then consideration to sharing information with others to manage risk will usually be confined to that area. For example, problems in secondary care may warrant advising other care providers, ambulance services etc.
- 10.2. However, where information is held which suggests that either the behaviour is more widespread or that the action taken may displace the activity to other areas then consideration should be given to advising NHS Protect.
- 10.3. In appropriate cases where the behaviour causes a risk on a regional or national level to NHS staff or resources NHS Protect can issue an alert advising health bodies of any risk. This will allow security staff at relevant health bodies to assess the risk to their own staff, patients and visitors.

Annex A – Potential criminal offences

1. This section contains a brief outline of some of the more common criminal offences NHS staff may encounter in their work. Further information can be obtained from NHS Protect's Legal Protection Unit.

2. **Common Assault: Section 39 Criminal Justice Act 1988**

An assault is committed when a person intentionally or recklessly causes another to apprehend the immediate infliction of unlawful force.

A battery is committed when a person intentionally and recklessly applies unlawful force to another.

3. **Assault occasioning actual bodily harm, contrary to section 47 of the Offences against the Person Act 1861 (ABH)**

The offence is committed when a person assaults another, and causes actual bodily harm. Bodily harm is any hurt calculated to interfere with the health or comfort of the victim: such hurt need not be permanent, but must be more than transient and trifling:

4. **Unlawful wounding/inflicting grievous bodily harm, contrary to section 20 of the Offences against the Person Act 1861. (wounding/GBH)**

The offence is committed when a person unlawfully and maliciously, either:

wounds another person; or inflicts grievous bodily harm upon another person.

N.B. While the nature and extent of any injury is the main factor used to determine the correct offence to be charged, there will be some overlap, e.g. an ABH with minor injury may be charged as a common assault (assault by beating/battery).

5. **Threats to Kill contrary to section 16 of the Offences Against the Person Act 1861**

*'A person who without lawful excuse makes to another a threat, **intending that that other would fear it would be carried out**, to kill that other or a third person shall be guilty of an offence...'*

This offence is usually only charged in very serious cases. The main difficulty in proving such an offence is in showing that circumstances surrounding the incident mean (i) that the person who receives the threat actually fears that it will happen, rather than viewing it as part of a menacing incident, **and** (ii) that it is the intention of the person making the threat that it should be believed. It is not necessary that the person who receives the threat is the same person at whom the threat is directed.

More detailed information on the above offences can be found on the Crown Prosecution Service (CPS) website at -

http://www.cps.gov.uk/legal/l_to_o/offences_against_the_person/#P33_669

Public Order Act 1986 offences

6. Section 2 Violent Disorder

Violent Disorder involves three or more people who are present together and use or threaten unlawful violence so that the conduct of them (taken together) would cause a person of reasonable firmness present at the scene to fear for his or her personal safety.

The offence may be committed in a **public or private place**. The relevant conduct may be directed against a person or persons or against property.

7. Section 3 Affray

Affray takes place where a person uses or threatens unlawful violence towards another and his conduct is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety.

The actions must involve conduct which is more than just words or violent conduct towards property. The offence may be committed in a **public or private place**.

It is not enough for the prosecution to prove that unlawful violence has been used. There has to be violence of such a kind that a bystander would fear for his safety.

8. Section 4 causing fear or provocation of violence, often known as 'threatening behaviour'.

This offence is committed where a person uses towards another person threatening, abusive or insulting words or behaviour, or distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting, and with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked.

9. Section 4A causing intentional harassment, alarm or distress.

This offence is committed where a person, with intent to cause a person harassment, alarm or distress, uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or displays any writing, sign or other visible representation which is threatening, abusive or insulting, and actually causes that or another person harassment, alarm or distress.

10. Section 5 threatening, abusive or insulting words or behaviour likely to cause harassment, alarm or distress.

This offence is committed where a person uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or displays any writing, sign or other visible representation which is threatening, abusive or insulting, within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby.

Offences under sections 4, 4A and 5 can take place in a public or private place but not where the offender or potential victim(s) are in a dwelling.

By virtue of section 31(1)(c) of the Crime and Disorder Act 1998 (as amended by the Anti-Terrorism, Crime and Security Act 2001), sections 4, 4A and 5 are all capable of being charged as separate racially or religiously aggravated offences.

Guidance on public order offences can be found on the CPS website at:

http://www.cps.gov.uk/legal/p_to_r/public_order_offences/

11. Obstructing Emergency Workers

The Emergency Workers (Obstruction) Act 2006 contains two offences:

- I. Obstructing or hindering certain emergency workers who are responding to an emergency situation; and
- II. Obstructing or hindering those who are assisting emergency workers responding to emergency circumstances.

In relation to the NHS this offence is most likely to involve ambulance crew and NHS Blood and Transplant staff involved in emergency situations and other staff assisting them during such situations.

12. Offence of causing nuisance or disturbance on NHS premises

Section 119(1) of the Criminal Justice and Immigration Act 2008 ('CJIA 2008') creates a new offence of causing without reasonable excuse and while on NHS premises, a nuisance or disturbance to an NHS staff member who is working there or is otherwise there in connection with work **and refuses to leave when asked to do so.**

It will not apply to those who are legitimately present for the purpose of seeking treatment, care or advice unless they have been refused treatment care of advice within a set time.

Guidance on this offence can be downloaded from the Department of Health website at:

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/@sta/@perf/documents/digitalasset/dh_109250.pdf

13. Protection from Harassment Act 1997

Much of the conduct covered by the preceding offences may, if there has been more than one incident, constitute an offence under one or more sections of the Protection from Harassment Act 1997.

The Protection from Harassment Act 1997 defines harassment as:

- any act by a person which causes harassment, alarm or distress, and
- forms part of a 'course of conduct'
- against one or more other people,
- 'which he knows or ought to know amounts to harassment' and,
- is not reasonable in the circumstances, or,
- is not for the prevention and detection of crime, or,
- is not a legal requirement.

The act qualifies some of the terms used as follows:

A 'course of conduct' is more than one act against one person, or at least one act against each of two people.

If more than one person is being harassed (for example, two or more members of staff of an organisation), the alleged assailant must be shown to be acting for a purpose that would fall within the definition at section 1(1A)(c):

(c) by which he intends to persuade any person (whether or not one of those mentioned above)-

- (i) not to do something that he is entitled or required to do, or
- (ii) to do something that he is not under any obligation to do.

Also in relation to harassment of more than one person, it is possible for the offence to be committed if the alleged assailant is assisted by another with the same purpose.

The act created a number of offences and also new court orders to help protect victims. The first offence is at Section 2 – the offence of harassment. This is a summary only offence and so is subject to a six-month time-bar in bringing a prosecution. The maximum penalty for an adult offender is a level 5 fine, six months' imprisonment, or both.

There is also an offence in Section 4 – putting people in fear of violence. This is a more serious offence which can be heard in either the magistrates' or Crown Court. The maximum penalty available for an adult offender in this case is five years' imprisonment, a fine, or both. In prosecutions for this offence, the court has the option of finding the defendant guilty of the Section 2 offence instead.

Both the above offences are mirrored in Section 32 of the Crime and Disorder Act 1998 for offences that are racially or religiously aggravated. These offences have maximum penalties of two and seven years' imprisonment respectively.

Guidance on stalking and harassment can be found on the CPS website at:

http://www.cps.gov.uk/legal/s_to_u/stalking_and_harassment/

14. Communications Act 2003

S127 Improper Use of a Public Electronic Communications Network

- (1) A person is guilty of an offence if he-
 - (a) **sends** by means of a **public** electronic communications network a message or other matter that is **grossly offensive or of an indecent, obscene or menacing character**; or
 - (b) causes any such message or matter to be so sent.

- (2) A person is guilty of an offence if, for the purpose of causing annoyance, inconvenience or needless anxiety to another, he-
 - (a) **sends** by means of a **public** electronic communications network, **a message that he knows to be false**,
 - (b) causes such a message to be sent; or
 - (c) persistently makes use of a public electronic communications network.

- (3) A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

Note that in (2) there is a requirement to show an intention.

The term 'electronic communication' includes:

- landline telephone conversations
- mobile telephone conversations
- messages left on an answering machine
- messages that have to be retrieved from an answering service

- text messages
- faxes
- emails and other online messaging services.

The network must be publicly accessible, i.e. not using an organisation's internal network.

15. **Malicious Communications Act 1988**

(As amended by the Criminal Justice and Police Act 2001 and the Communications Act 2003.)

1.—(1) Any person who **sends** to another person—

(a) a letter, electronic communication or article of any description which conveys—

(i) a message which is indecent or grossly offensive;

(ii) **a threat**; or

(iii) information which is false and known or believed to be false by the sender; or

(b) any article or electronic communication which is, in whole or part, of an **indecent or grossly offensive nature**,

is guilty of an offence **if his purpose**, or one of his purposes, in sending it is that it should, so far as falling within paragraph (a) or (b) above, **cause distress or anxiety** to the recipient or to any other person to whom he intends that it or its contents or nature should be communicated.

(2) A person is not guilty of an offence by virtue of subsection (1)(a)(ii) above if he shows—

(a) that the threat was used to reinforce a demand made by him on reasonable grounds; and

(b) that he believed, and had reasonable grounds for believing, that the use of the threat was a proper means of reinforcing the demand.

(2A) In this section "electronic communication" includes-

(a) any oral or other communication by means of an electronic communications network; and

(b) any communication (however sent) that is in electronic form

(3) In this section references to sending include references to delivering or transmitting and to causing to be sent, delivered or transmitted and "sender" shall be construed accordingly.

(4) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

N.B. This offence covers not only electronic communications, but also letters and articles of 'any description'. As there is no reference to 'public', it is possible that offences could be committed via internal message/postal systems.

The term 'electronic communication' includes:

- landline telephone conversations
- mobile telephone conversations
- messages left on an answering machine
- messages that have to be retrieved from an answering service
- text messages
- faxes
- emails and other online messaging services.

16. Postal Services Act 2000

Prohibition on sending certain articles by post

85. (3) A person commits an offence if he **sends by post** a postal packet which encloses-

- (a) any **indecent or obscene** print, painting, photograph, lithograph, engraving, cinematograph film or other record of a picture or pictures, book, card or written communication, or
- (b) any other **indecent or obscene** article (whether or not of a similar kind to those mentioned in paragraph (a)).

(4) A person commits an offence if he sends by post a postal packet which has on the packet, or on the cover of the packet, any words, marks or designs which are of an **indecent or obscene** character.

(5) A person who commits an offence under this section shall be liable-

- (a) on summary conviction, to a fine not exceeding the statutory maximum,
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding twelve months or to both.

Under this act, there is no requirement to prove any intention behind the sending of such articles, and the offence is widely drafted so as to include almost any item that is indecent or obscene.

Annex B – Example Warning Letter

Dear [insert person's name]

Warning letter – unacceptable behaviour

I am [insert your name] and I am the [insert role/position in organisation] for the [insert name of organisation]. One of my roles is to protect NHS staff from abusive and violent behaviour and NHS resources from misuse and it is in connection with this that I am writing to you.

I have received a report (a number of reports) where it is alleged that on [insert date(s) of incident(s) and a brief description of behaviour].

As you are aware [insert details of any previous action taken if appropriate].

Behaviour such as this is unacceptable and will not be tolerated.

The [name of organisation] is firmly of the view that all those who work in or provide services to the NHS have the right to do so without fear of violence or abuse.

Such behaviour also [insert details of impact of behaviour e.g. deprives health bodies of staff time/resources/makes other patients wait longer/deprives the community of life saving ambulance service etc.]

Should there be any repetition of this type of behaviour; consideration will be given to taking action against you.

Such action may include the following:

- Excluding you from premises
- Seeking an Acceptable Behaviour Agreement
- Providing NHS services at a different location
- Reporting to the police where your behaviour constitutes a criminal offence and fully supporting any prosecution they may pursue.
- Consideration of a private criminal prosecution or civil legal action by NHS Protect.

[amend as appropriate]

If any legal action is necessary any costs incurred will be sought from you and these may be considerable.

A copy of this letter has been sent to [say who will be informed or copied in].

A copy will also be placed on your records/A note of this incident will be placed on your records/A marker will be placed on your records. [amend as per organisation policy on record marking]

This warning will be reviewed in [insert length of time, e.g. 6 or 12 months]. You will be advised in writing of the outcome of this review and if any reference or marker will be removed from your records.

If you do not agree with what has been set out in this letter or have any comments to make please [provide information on how decision may be challenged and details of complaints process.]

Yours etc.

Annex C – Example Exclusion from premises/entry with conditions letter

Dear [insert person's name]

Unacceptable behaviour – Restriction on Attending NHS Premises

I am [insert your name] and I am the [insert role/position in organisation] for the [insert name of organisation]. One of my roles is to protect NHS staff from abusive and violent behaviour and NHS resources from misuse and it is in connection with this that I am writing to you.

I have received a report (a number of reports) where it is alleged that on [insert date(s) of incident(s) and a brief description of behaviour].

As you are aware [insert details of any previous action taken if appropriate].

Behaviour such as this is unacceptable and will not be tolerated.

The [name of organisation] is firmly of the view that all those who work in or provide services to the NHS have the right to do so without fear of violence or abuse.

Such behaviour also [insert details of impact of behaviour e.g. deprives health bodies of staff time/resources/makes other patients wait longer/deprives the community of life saving ambulance service etc.]

It has been decided that you will no longer be permitted to attend [insert details of location involved and refer to enclosed map and/or entry/exit routes if appropriate] except in accordance with the following conditions [insert appropriate conditions, those below are examples, in exceptional cases all further attendances can be prohibited]–

- a. where you (or a member of your immediate family) require urgent or emergency medical treatment,
- b. to attend, (or to accompany a member of your immediate family), at a pre-arranged appointment,
- c. to attend as an in-patient (or to visit a member of your immediate family who is an in-patient),
- d. to attend for non medical purposes any meeting previously arranged in writing.

[Amend as appropriate]

If you attend at any other time without good cause, you may be asked to leave the premises immediately. If you refuse to leave security or the police may be called to remove you.

If there are any unauthorised attendances or any further incidents of unacceptable behaviour; consideration will be given to taking further action against you.

Such action may include the following:

- Completely Excluding you from premises
- Seeking an Acceptable Behaviour Agreement
- Providing NHS services at a different location
- Reporting to the police where your behaviour constitutes a criminal offence and fully supporting any prosecution they may pursue.
- Consideration of a private criminal prosecution or civil legal action by NHS Protect.

[amend as appropriate]

If any legal action is necessary any costs incurred will be sought from you and these may be considerable.

A copy of this letter will be sent to [say who will be informed or copied in].

A copy will also be placed on your records/A note of this incident will be placed on your records/A marker will be placed on your records. [amend as per organisation policy on record marking]

This decision will be reviewed in [insert length of time, e.g. 6 or 12 months]. You will be advised in writing of the outcome of this review and if any reference or marker will be removed from your records.

If you do not agree with what has been set out in this letter or have any comments to make please [provide information on how decision may be challenged and details of complaints process.]

Yours etc.

Annex D – Example Acceptable Behaviour Agreement Letter and agreement

Dear [insert person's name]

Unacceptable behaviour – proposed Acceptable Behaviour Agreement

I am [insert your name] and I am the [insert role/position in organisation] for the [insert name of organisation]. One of my roles is to protect NHS staff from abusive and violent behaviour and NHS resources from misuse and it is in connection with this that I am writing to you.

I have received a report (a number of reports) where it is alleged that on [insert date(s) of incident(s) and a brief description of behaviour].

As you are aware [insert details of any previous action taken if appropriate].

Behaviour such as this is unacceptable and will not be tolerated.

The [name of organisation] is firmly of the view that all those who work in or provide services to the NHS have the right to do so without fear of violence or abuse.

Such behaviour also [insert details of impact of behaviour e.g. deprives health bodies of staff time/resources/makes other patients wait longer/deprives the community of life saving ambulance service etc.]

Just as the NHS has a responsibility to you, so you have a responsibility to use its resources and treat its staff in an appropriate way.

We would urge you to consider your behaviour when attending NHS premises in the future and to accept the following conditions:

- You will.
- You will
- You will not
- You will not

Enclosed are two copies of an Acceptable Behaviour Agreement for your attention. I would be grateful if you could sign both of these and return one in the envelope provided. In the event that no reply is received within the next 14 days, consideration will be given to taking further action against you.

If after signing and returning the agreement, you decide not to abide by the conditions or should there be any further incidents of unacceptable behaviour; consideration will be given to taking further action against you.

Such action may include the following:

- Excluding you from premises
- Providing NHS services at a different location
- Reporting to the police where your behaviour constitutes a criminal offence and fully supporting any prosecution they may pursue.
- Consideration of a private criminal prosecution or civil legal action by NHS Protect.
- Seeking a court order to restrict your behaviour

[amend as appropriate]

If any legal action is necessary any costs incurred will be sought from you and these may be considerable.

Should you sign the agreement a copy will be sent to [say who will be informed or copied in].

Even if you refuse to sign the agreement a copy of this letter may be sent to [say who will be informed or copied in].

A copy will also be placed on your records/A note of this incident will be placed on your records/A marker will be placed on your records. [amend as per organisation policy on record marking]

IF you sign this agreement it will be reviewed in [insert length of time, e.g. 6 or 12 months]. You will be advised in writing of the outcome of this review and if any reference or marker will be removed from your records.

If you do not agree with what has been set out in this letter or have any comments to make please [provide information on how decision may be challenged and details of complaints process.]

Yours etc.

[Ensure that agreement is on a separate sheet of paper]

Acceptable Behaviour Agreement

This agreement is between:

[insert name of organisation]

And

[Insert name and date of birth or other unique identifying details]

I agree to the following in respect of my future behaviour – [insert appropriate conditions, those below are examples which may be appropriate in many cases]

- I will
- I will not use violence, or foul or abusive language or threatening behaviour towards any person while on NHS premises.
- I will treat all people with courtesy and respect while on NHS Premises or when contacting NHS Premises by phone
- I will not
- I will not
- I will not

Declaration

I, _____, confirm that I have read and understood the attached letter and this agreement and that I accept the conditions set out above and agree to abide by them.

Signed:

Dated:

[insert name of organisation]

Signed:

Print name:

Position:

Dated:

Annex E – Example Change of location for receiving NHS services/change of NHS Services provider template letter

Dear [insert person's name]

Unacceptable behaviour – Change of location for receiving NHS services/change of NHS Services provider

I am [insert your name] and I am the [insert role/position in organisation] for the [insert name of organisation]. One of my roles is to protect NHS staff from abusive and violent behaviour and NHS resources from misuse and it is in connection with this that I am writing to you.

I have received a report (a number of reports) where it is alleged that on [insert date(s) of incident(s) and a brief description of behaviour].

As you are aware [insert details of any previous action taken if appropriate].

Behaviour such as this is unacceptable and will not be tolerated.

The [name of organisation] is firmly of the view that all those who work in or provide services to the NHS have the right to do so without fear of violence or abuse.

Such behaviour also [insert details of impact of behaviour e.g. deprives health bodies of staff time/resources/makes other patients wait longer/deprives the community of life saving ambulance service etc.]

It has been decided that [insert details of services] will no longer be provided to you at [insert details of location] **OR**

It has been decided that [insert details of services] will no longer be provided to you by [insert details of organisation no longer providing services]

From [insert date] you will receive [insert details of services] [insert new location or service provider].

If there are any further incidents of unacceptable behaviour; consideration will be given to taking further action against you.

Such action may include the following:

- Seeking an Acceptable Behaviour Agreement
- Providing NHS services at a different location
- Reporting to the police where your behaviour constitutes a criminal offence and fully supporting any prosecution they may pursue.

- Consideration of a private criminal prosecution or civil legal action by NHS Protect.

[amend as appropriate]

If any legal action is necessary any costs incurred will be sought from you and these may be considerable.

A copy of this letter will be sent to [say who will be informed or copied in].

A copy will also be placed on your records/A note of this incident will be placed on your records/A marker will be placed on your records. [amend as per organisation policy on record marking]

This decision will be reviewed in [insert length of time, e.g. 6 or 12 months]. You will be advised in writing of the outcome of this review and if any reference or marker will be removed from your records.

If you do not agree with what has been set out in this letter or have any comments to make please [provide information on how decision may be challenged and details of complaints process.]

Yours etc.

Annex F – NHS Protect Contact Information

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