

<b>Reference Number:</b> : UHB 203 <b>Version Number:</b> UHB 2	<b>Date of Next Review:</b> 12th Sep 2020 <b>Previous Trust/LHB Reference Number:</b> T94
<p align="center"><b>CARE OF ADULT PATIENTS WITH CAPACITY WHO ARE VIOLENT OR ABUSIVE PROCEDURE</b></p>	
<p><b>Introduction and Aim</b></p> <ul style="list-style-type: none"> <li>• To take all reasonably practical measures to prevent incidents of violence and aggression occurring and to protect staff and other persons from the risks to their personal safety.</li> <li>• Creation of a safe working environment for all UHB staff to reduce the risks of intimidation and violence to staff and others whenever possible.</li> <li>• To provide appropriate support if necessary and aftercare in the event of such incidents.</li> <li>• Outline the management arrangements for Violence and Aggression within the UHB through the Statement of Intent, the organisational arrangements and structures.</li> </ul>	
<p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>• The objective of this Policy is to ensure that provision is made within the Health Board for informing Patients where behaviour is unacceptable and to provide staff with guidance as to what actions can be taken if necessary.</li> </ul>	
<p><b>Scope</b>  All members of staff, including those on honorary contracts and those working primarily for other organisations but on UHB premises, <b>(are expected to observe this procedure)</b></p>	
<b>Equality and Health Impact Assessment</b>	An Equality Impact Assessment has not been completed. 'This is because this procedure has been written to support the implementation of the Violence and Aggression Policy
<b>Documents to read alongside this Procedure</b>	Health and Safety Policy, Lone Worker Policy, Security Policy, Procedure for Care of Children and Young People under 16 years and their Parents/Carers/Visitors who are Violent or Abusive or exhibit difficult or challenging behaviour, Dealing with Visitors who are Violent/Abusive or Vexatious Procedure, Violent Warning Marker Procedure
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<p style="text-align: center;"><b><u>Disclaimer</u></b></p> <p>If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or the <a href="#"><u>Governance Directorate</u></a>.</p>	

Summary of reviews/amendments			
Version Number	Date of Review Approved	Date Published	Summary of Amendments
1	05/09/13	25/10/13	New Document
2	12/09/17	30/11/17	In-line with review date and Amendment to Format

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**PLEASE CONTACT THE CASE MANAGEMENT OFFICE, HEALTH & SAFETY DEPARTMENT FOR WORD VERSIONS OF EXAMPLE LETTERS**  
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## 1. INTRODUCTION

Intimidation and violence in the workplace is increasing and reports suggest health service staff are increasingly at risk. The cost in human terms of violence against staff can be great. Some victims suffer physical and/or psychological pain. Confidence can be seriously affected while stress levels rise.

Violence towards staff is an important health and safety problem which includes not only physical attacks but also verbal abuse (including racial abuse) and threatening behaviour. These can originate from the general public, from patients and from other staff. Intimidation and violence is a significant hazard and as such the risks associated with them need to be managed effectively.

Acts of violence at work are a real threat to the health service. They cause serious injury, and working in an atmosphere of continuing threat is profoundly damaging to the confidence and morale of staff. The public too, will be concerned that, if left unaddressed, continuing violence problems may come to affect the caring commitment at the heart of healthcare work.

The NHS primary function is to provide Healthcare to those in need. This can place staff with difficult clinical decisions when faced with the potential of violence, however there must be a clear message that violence cannot be tolerated and in most cases suitable control measures can be initiated to provide, both the required care and protection to staff. In some instances it is justified to remove care.

Under the Health and Safety at Work etc Act 1974, the Health Board has a legal obligation to manage the risks from work related violence to its employees and to protect the health and safety of patients, staff and visitors.

From the Management of Health and Safety at Work Regulations 1999, Employers must:-

- Assess all risks to the health and safety of their employees
- Identify the precautions needed
- Make arrangements for the effective management of precautions
- Provide information and training to employees
- An employer's general duty under HSW Act s.2 includes ensuring, so far as is reasonably practicable, that his

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employees are not exposed to risks associated with work-related violence.

## 2 DEFINITION

The Health and Safety Executive define work related violence as:

**“Any incident where staff are abused, threatened or assaulted in circumstances related to their work” (HSE, 1996)**

The All Wales Violence and Aggression Training Passport and Information Scheme define violence as:

**“Any incident where staff are abused, threatened or assaulted in circumstances relating to their work, involving explicit or implicit challenge to their safety, well being or health. This can incorporate some behaviour identified in harassment and bullying, for example verbal Violence.”**

## 3 APPLICATION

The following patients are exempted from the application of this policy:

- Patients who, in the expert judgement of the relevant clinician, are not competent to take responsibility for their actions e.g. an individual who becomes abusive as a result of an illness or injury.
- This policy does not apply to patients detained under the Mental Health Act 1983 although the Health Board does not condone the abuse of its staff by any patient. If appropriate, patients may be asked to complete a specific Mental Health Service Group Patient Contract. Where a patient is unable to meet their individual agreement conditions the Responsible Medical Officer will review their management plan and make recommendations for their future care.
- Patients who in the expert judgement of a relevant clinician require urgent treatment.
- Other than in exceptional circumstances any patient under the age of 16: see (**Procedure for care of children and**

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**young people under 16 years and their parents/carers/visitors who are violent or abusive or exhibit difficult or challenging behaviour).**

#### **4 UNREASONABLE COMPLAINTS BEHAVIOUR**

An effective complaints process is essential for the public to hold the Health Board 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 the Health Board should of course be dealt with by the Health Board Concerns Department. In this guidance the following definition may prove useful in identifying relevant cases.

*Unreasonable and unreasonably persistent complaints 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.*

It is likely that such people will cause major inconvenience, upset and distress to staff involved in dealing with them. In some cases such behaviour can constitute a criminal offence even if carried out by post, telephone, fax, e-mail and social media other internet sites. (See Appendix A for details of some possible criminal offences in relation to these types of incident).

#### **5 UNACCEPTABLE BEHAVIOUR**

The following are forms of verbal abuse, harassment and intimidation which should not be tolerated. An early response can help prevent such behaviour from being repeated or escalating.

- Offensive language or innuendo
- Sexist, racist, homophobic or patronising remarks
- Racist, sectarian or sexually suggestive jokes
- Inappropriate or intimate questioning
- Uninvited and unwelcome behaviour of a sexual, racist or sectarian nature
- Propositions and offensive remarks
- Name calling, including personal comments about physical appearance
- Language that belittles a person's abilities
- Spreading malicious rumours or hurtful gossip

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- Explicit physical threats
- Conduct that belittles in any way, such as being shouted at
- Intrusion by pestering, spying and following
- Apportioning blame wrongly
- Unnecessary highlighting of differences

The following are examples of behaviours that are not acceptable on Health Board premises:

- Excessive noise, e.g. loud or intrusive conversation or shouting.
- Threatening or abusive language involving excessive swearing or offensive remarks.
- Derogatory racial or sexual remarks.
- Malicious allegations relating to members of staff, other patients or Visitors
- Offensive sexual gestures or behaviours.
- Visiting a clinical area under the influence of alcohol or drugs.
- Supplying alcohol or drugs to a patient undergoing treatment.
- Drug dealing.
- Theft
- Threats or threatening behaviour
- Acts of Violence, perceived acts of violence or threats of violence
- Any explicit challenge to the safety, well being or health of any member of staff or other patients.
- Wilful damage to Health Board property
- Breaching the Health Board Smoking Policy

### Anti Social and Nuisance Behaviour

- 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)



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- In addition, behaviour which causes a nuisance or otherwise interferes with the effective provision of healthcare could be termed as ASB.

## 6 APPLICATION

The use of this procedure will only apply to patients who may become violent and abusive, whilst receiving care within Cardiff and the Vale UHB and within Primary Care settings where care is being provided by UHB staff.

There has been a dramatic increase in recent years in the level of violence and abuse faced by staff, visitors and patients within this UHB. Incidents have included significant injury to staff, damage to vital equipment and extreme verbal abuse and threats. There is a widespread recognition amongst staff and management and an outstanding need to tackle such behaviour effectively in view of the belief that the fear of violence is seriously affecting morale and our ability to retain and recruit staff. The UHB has a statutory (**duty as well as a moral**) obligation to provide a safe and secure environment for its staff and others, as well as to take all reasonable steps to protect and support its staff. The decision making process will have to take into account the safety and welfare needs of the staff.

The procedure is designed as an important step to improving the Health Boards ability to tackle incidents of violence and abuse. The aim of the policy is to detail the behaviours, which are unacceptable and the sanctions available in the face of such behaviour, including a mechanism whereby patients who are extreme or persistent in their unacceptable behaviour, can as a last resort be excluded from the Health Board, (Persistent unacceptable behaviour refers to behaviour both within one admission and/or over a number of separate attendances within period of sanction). This policy has been introduced in the context of the principles of ensuring that all staff are able to provide care to patients within a safe environment and must be applied effectively in all appropriate situations.

This Procedure is designed as an important step in improving the UHB's ability to tackle incidents involving violence and abuse. The aim of the Procedure is to detail the behaviours that are unacceptable and the alternative remedies available in the face of such behaviour.

## 7 SANCTIONS



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There are a range of sanctions which can be taken against those who abuse the Health Board staff or property.

Whilst these sanctions are described as a sequential process, the policy can be initiated at any stage if, in the judgement of the staff involved, the severity of the behaviour warrants the level of intervention.

- **Verbal Warning**

Patients who display any of the behaviour in section 7 will be asked to desist and offered the opportunity to explain their actions.

- **Formal Warning/Patient Contract**

A written warning letter will be issued (Appendix B). This would remain on file for a 12 month period. This should be signed by the Consultant responsible for the Patient's Care and the Chief Executive or Nominated Deputy and sent to the patient and their GP.

- **Withdrawal of Treatment**

If the patient breaches the expected standards of behaviour, despite a formal warning a decision to withdraw treatment will be made. This would remain in place for a 12 month period (Appendix C). A warning letter will be issued. This should be signed by the Chief Executive or nominated Deputy.

Such exclusion will last one year, subject to alternative care arrangements being made; the provision of such arrangements will be pursued with vigour by the relevant clinician. In the event of an excluded individual presenting at the Health Boards Accident and Emergency Unit for emergency treatment, that individual will be treated and stabilised with, if necessary, security staff in attendance. Where possible, they would then be transferred immediately. However if admission is unavoidable security staff will, if necessary, remain in attendance. The need for security attendance will be determined by an appropriate member of staff, in consultation with the Health Board Security Manager.

- At any stage of the process the Police may be informed.

## 8. KEY PRINCIPLES

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- The patients clinical care should not be compromised in any way;
- Where substances abuse has been identified, appropriate assistance will be provided.
- A record of the action/decision will be held centrally on the Data Base held by the Case Management team and a copy will also be kept in the patient's notes and on the PMS/Paris alert screen for a period of 12 months.
- That the Health Board will fully investigate all valid concerns raised by the patient.
- Patients will be given appropriate warning before a decision to withdraw treatment is made.
- There must be clear documentary evidence of the process followed in the patient's records.
- The decision must be clearly communicated to the Patient and their GP.
- Failure to comply with the policy will, at the request of the relevant Directorate Manager and Clinical Director (or nominated deputies) results in the exclusion from the Health Board.
- Any patient behaving unlawfully will be reported to the police and the Health Board's Case Manager will seek the application of the maximum penalties available in law. The Health Board will prosecute perpetrators of crime on or against Health Board property, assets and staff.

### **Removal from GP's Surgeries/Primary Care**

- Patients who are violent, abusive or threatening towards healthcare staff at their GP surgery will be immediately removed from the practice's list of patients and referred to the Safe Haven Scheme (GP Service for Violent Patients). The Service Lead can be contacted on 029 20745705.
- Information on the procedure for removal of violent or abusive patients from GP Practices and the Safe Haven Patient removal documents are available from the Primary Care Team (contact Lee Virgo on 029 20 556038 / 41538).
- Referrals into the Safe Haven Scheme are made by GP practices and authorised by the Head of Primary Care or Head of Primary Care service Delivery.

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- The Authorisation Document will be held by the Primary Care Team with copies held at Safe Haven and Shared Services Partnership, contractor Services.
- Patients that require ongoing medical or nursing treatment within Primary Care settings that have been removed from any GP's list will be referred for care to the Safe Haven facility at Cardiff Royal Infirmary.
- Any patient behaving unlawfully will be immediately reported to the police and the Health Board Case Management Team will seek the application of the maximum penalties available in law. The Health Board will seek police prosecution of perpetrators of crime on or against Health Board property, assets, and staff. This means that staff will be expected to co-operate in the provision of evidence.

## 9 DECISION MAKING

### Clinical Input

Each case will have particular circumstances so any decision making process must consider –

- The behaviour complained of may have been caused by a medical condition, mental health or reaction to medication/treatment or,
- The action being considered may have an adverse effect on the person's health.

### Case Management

In all cases it is recommended that the Case Management Team Is consulted before action is taken. If the Case Management Team is not available, the Head of Health and Safety should be consulted particularly where any restriction on access to premises or services is being considered.

### Welsh Health Legal Services

Case specific guidance and assistance can be sought from the Welsh Health Legal Service (WHLS)

### Input from person displaying unacceptable behaviour

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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.

**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.**

## 10 WARNING LETTERS

### Warning Letter Checklist

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 the Health Boards Services
- Set out what will happen if behaviour is 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 concerns process.

A template warning letter can be found at Annex B

### Reasons for Checklist items

#### Name and role of person signing/sending letter

It is standard practice from public bodies to provide names of those sending letters and/or making decisions. Within the Health Board the issue of sending a letter by 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

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

### **Impact of behaviour**

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

### **Result of further Unacceptable behaviour**

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 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

It is important to consider carefully whether it will be possible to take further actions threatened as failure to follow up may result in an escalation of the behaviour. When doubt further advice can be sought from the Case Management Team.

### **Sharing Information**

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/she may have been excluded. The following questions may assist in reaching and recording decisions.

- Do any other staff within the Health Board or 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?

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## 11. OTHER ACTIONS AGAINST PERSISTENT OR NUISANCE PERSONS

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.

### **Guidance note on management of unreasonable behaviour:**

- Placing time limits on telephone conversations and personal contact
- Restricting the number of telephone calls that are taken (for example, one call on one specified morning/afternoon of any week)
- Limiting the complaint to one medium of contact (telephone, letter, e mail, 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 on the file but not acknowledged. A designated officer should be identified who will read further correspondence.

As with 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. Other actions could include:

- Seeking advice from the relevant technical expert in the health board to see if phone calls, emails etc, may be blocked or diverted.

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 Health Board takes**

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**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.**

## **12 PROVISION OF SERVICES AT AN ALTERNATIVE LOCATION OR BY AN ALTERNATIVE PROVIDER.**

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.

Where there has been a complete breakdown in the relationship between staff and the person involved, or where the risk to staff and others cannot be managed to an acceptable level it may be necessary to consider care at an alternative location.

In Primary Care there are existing arrangements within commissioning contracts for the removal of persons from patient lists. GP services have a violent patient scheme as part of Alternative Primary Healthcare Scheme (Monitored by the Shared Service Partnership).

In secondary care, provision of service at an alternative location within the Health Board 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 case manager to include the police and/or taking legal action). Where it proves necessary to change the secondary care provider, the persons GP, Primary Care or new secondary care provider should discuss and reach agreement on an acceptable risk controlled course of action.

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 Board (e.g. staff involved, clinical expert, and Case Management Team) it may be necessary to seek legal advice before proceeding.



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In cases where treatment may need 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.

## Issuing Letters

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

## Who should issue the communication?

Consideration should be given 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 the letter.

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.

It may also be useful as an indication of how seriously the matter is being taken, if the letter is issued by the Health Board Chief Executive.

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 national level. Advice can be sought from WHLS in such cases.

## Assistance from the Welsh Health Legal Service (WHLS)

The WHLS can assist the Health Boards when the actions outlined above are being considered. This assistance can include:

- General Advice on potential action
- Reviewing drafting letters and agreements
- Detailed advice and issuing letters and agreements

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The WHLS 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 the WHLS have authorised or endorsed any particular course of action, (Please seek Case Management Team Advice).

## Reviewing and Drafting letters and agreements

The WHLS 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 Board. Again this would not constitute WHLS authorising or endorsing any particular response.

Where the WHLS 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.

The WHLS may also issue letters and seek agreements on behalf of the Health Board though this again will require consideration of all the available information.

## Hand Delivery on Health Board Premises

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 member of staff involved. This method of delivery guarantees that the person involved has received the information. **Before the meeting a thorough assessment of the potential risk should be carried out with the Health Board Case Management Team.**

## Hand delivery at person's address

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 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**

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**absolutely necessary and after a thorough risk assessment with the Health Board Case Management Team is carried out.**

### **Postal delivery**

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**

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.

### **All Wales Security Alerts**

Where 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 Primary care may warrant advising other care providers, ambulance services etc.

However where information is held which suggests that either the behaviour is more widespread or that action taken may displace the activity to other areas then consideration should be given to advising WHLS.

In appropriate cases where the behaviour causes a risk on a regional or national level to NHS staff or resources WHLS can issue an alert advising health boards of any risk. This will allow the Case Manager to assess the risk to the health board staff, patients and visitors.

## **13 EQUALITY**

The Health Board is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we

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treat our staff reflects their individual needs and does not discriminate against individuals or groups on the basis of their ethnic origin, physical or mental abilities, gender, age, religious beliefs or sexual orientation.

Should a member of staff or any other person require access to this policy in another language or format (such as Braille or large print) they can do so by contacting the Health, Safety and Environment Unit. Cardiff and Vale University Health Board will do its utmost to support and develop equitable access to all policies and procedures.

An equality impact assessment has been under taken and it concluded that this policy has low impact on equality legislative requirements.

## 14 REVIEW

The Policy will be reviewed within three years of implementation or as the Health Board changes and/or when legislation, codes of practice and official guidance dictate, by the Head of Health and Safety and Case Manager in collaboration with the Executive Lead.

## 15 REFERENCES AND ASSOCIATED HEALTH BOARD POLICIES

1. Health and Safety Policy
2. Occupational Health Policy
3. Risk Management Policy and Strategic Framework
4. Equal Opportunities Policy
5. Lone Worker Policy
6. Dignity at Work Policy
7. Management of Violence and Aggression Policy
8. Security Policy

### References

- Legislation -Health and Safety at Work etc Act 1974
- HSC Management of Health and Safety at Work Regulations 1999 Approved Code of Practice L21
- Safety Representatives & Safety Committees Regulations 1977
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
- HSE – Successful Management of Health and Safety HSG
- Welsh Assembly Government Action Plan of Violence and Aggression
- All Wales NHS Violence and Aggression Training Passport and Information Scheme

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## **Appendix A - Potential Criminal Offences**

1. This section contains a brief outline of the more common criminal offences Health Board staff may encounter in their work. Further information can be obtained from the Health Board V&A Case Manager.

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 a Person Act 1861**

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

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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 treat is the same person at whom the threat is directed.

More detailed information can be found on the Crown prosecution Services (CPS) website at-

[http://www.cps.gov.uk/legal/l\\_to\\_o/offences\\_against\\_the\\_person/#P33\\_669](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 safety.

The offence may be committed in a **public or a 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 a private place**. It is not enough for the prosecution to prove that unlawful violence has been used.

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



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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, or abusive or insulting, and with the intent to cause that person to believe immediate unlawful violence will be used against him or another by a 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.

The 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 a private place but not where the offender or potential victim(s) are in a dwelling.

By virtue of section 31(1) of the Crime and Disorder Act 1998 (as amended by the Anti Terrorism, Crime and Security Act 2001), section 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/](http://www.cps.gov.uk/legal/p_to_r/public_order_offences/)

## 11. Obstructing Emergency Workers

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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. 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 a 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 the Health Board), 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)-

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- 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 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 six-month time-bar in bringing a prosecution. The maximum pen

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**PLEASE CONTACT THE CASE MANAGEMENT OFFICE, HEALTH & SAFETY DEPARTMENT FOR WORD VERSIONS OF THE FOLLOWING EXAMPLE LETTERS APPENDIX B-E**

## Appendix B – Example Warning Letter

Dear [insert person's name]

### Warning letter – unacceptable behaviour

I am [insert name] and I am the [insert role/position in Health Board] for the Cardiff and Vale Health Board. One of my roles is to protect Health Board staff from abusive and violent behaviour and Health Board 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 alleged that on [insert date(s) of incident(s) and a brief description of behaviour].

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

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

The health Board is firmly of the view that all those that work in or provide services to the NHS have a right to do so without fear of violence or abuse.

Such behaviour also [insert details of behaviour e.g. deprives health bodies of staff time/resources/makes other patients wait longer/deprives the community of life saving ambulance services 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 Health Board 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 the Welsh Health Legal Services.

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

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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 will be placed on your records/A marker will be placed on your records. **[amend as per policy]**.

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 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 the decision may be challenged and details of the complaints process]**.

**Yours etc**

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## Appendix 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]. One of my roles is to protect Health Board staff from abusive and violent behaviour and Health Board 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 Cardiff and Vale Health Board is firmly in 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 the impact of the behaviour].

It has been decided that you will no longer be permitted to attend [insert details of location involved and refer to enclosed map/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]-

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

[amend as appropriate]

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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 the 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 WHLS

**[amend as appropriate]**

If any legal action is necessary any costs incurred will be sought from you and these could 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 required]**.

The 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.



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## Appendix D – Example Acceptable Behaviour Agreement Letter

Dear **[insert person's name]**

### Unacceptable behaviour – proposed Acceptable Behaviour Agreement

I am **[insert your name]** and I am the **[insert role position in Health Board]** for the Cardiff and Vale Health Board. One of my roles is to protect Health Board staff from abusive and violent behaviour and Health Board 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 Cardiff and Vale Health Board is firmly in the view that all those who work in or provide services to the Health Board have the right to do so without fear of violence or abuse.

Such behaviour also **[insert details of the impact of the behaviour]**

Just as the Health Board 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 the Health Board 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 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.

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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 WHLS
- Seeking a court order

**[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.

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 decisions may be challenged and details of the complaints process]**.

Yours etc.

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**[ensure that agreement is on a separate sheet of paper]**

### **Acceptable Behaviour Agreement**

The agreement is between

Cardiff and Vale Health Board  
And

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

I agree with 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 Health Board premises.
- I will treat all people with courtesy and respect while on Health Board premises or when contacting them 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:

### **Cardiff and Vale Health Board**

Signed:

Print Name:

Position:

Dated:

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## **Appendix E – Example change of location for receiving NHS services/change of NHS Services provider template letter**

Dear **[insert persons name]**

### **Unacceptable behaviour – change of location for receiving NHS services of NHS service provider**

I am **[insert your name]** and I am the **[insert role/position in organisation]** for the Cardiff and Vale Health Board. One of my roles is to protect Health Board staff from abusive and violent behaviour and Health Board resources from misuse and it is 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 Cardiff and Vale Health Board is firmly of the view that all those who work in or provide services to the Health Board have the right to do so without fear of violence or abuse.

Such behaviour also **[insert details of the impact of the behaviour]**

It has been decided that **[insert details of service]** will no longer provide 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

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- 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 WHLS

**[amend as appropriate]**

If any legal action is necessary any costs incurred will be sought from you and these could 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 required]**.

The 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.

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