

Corporate Policy: Violence, Aggression, Sanctions and Redress Policy

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Revision History

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January 2020	New Document – this policy was authored to combine the Violence, Aggression and Disruptive Behaviour Policy and the Sanctions, Redress and Recovery Policy into one document.

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1 INTRODUCTION

- 1.1 Medway NHS Trust has a duty to provide a safe and secure environment for patients, staff and visitors. Abusive or violent behaviour will not be tolerated and the Trust will actively support the prosecution of any person who assaults staff.
- 1.2 This policy defines what constitutes abusive and violent behaviour, describes the framework within which such behaviours will be dealt with, and provides guidance on the practical actions to be taken to minimise and deal with incidents involving unacceptable behaviour.
- 1.3 This policy statement sets out how MFT will approach holding to account any perpetrator of any criminal activity, whether detected or suspected, including acts of violence and aggression perpetrated against staff, visitors or patients.
- 1.4 Those patients, who in the expert judgement of their responsible clinician, such as an individual who becomes abusive as a result of an illness or injury and are not competent to take responsibility for their actions will not be subject to this procedure. In these circumstances arrangements for close supervision must be assessed and implemented as appropriate.
- 1.5 Patients and visitors must be informed that they have the right to challenge any stage of this policy if applied to them through the Trust's formal complaints management process.
 - 1.5.1 For Amber card sanctions the appeals will be via a Trust complaints process.
 - 1.5.2 For Red card sanctions the appeals will be in writing to the Chief Executive.
- 1.6 If an assault occurs to a patient, a member of staff or visitor, please follow the adult pathway, which should be used in conjunction with the relevant sections of this policy. Support and guidance can be obtained from the Clinical Site Manager or Local Security Management Specialist.
- 1.7 Medway NHS Foundation Trust (MFT) is committed to counter any criminal activity and to manage all security related offences by holding to account any individual who commits a crime against any employee or any asset associated with its activities, whether belonging to, or in the care or control of MFT.
- 1.8 In promoting MFT's zero tolerance to crime this policy statement demonstrates that where such is proven, the Trust will seek sanctions, redress or recovery wherever possible. This reinforces the Trust's commitment to ensuring valuable resources and staff are safeguarded and used for the delivery of high quality patient care and services.
- 1.9 This policy statement applies to all employees, visitors, patients and any person working within the auspices of MFT whether permanent and temporary, practitioners, internal and external contractors or patients.
- 1.10 The policy statement is available via MFT's intranet.
- 1.11 It is important to emphasise that whilst this policy statement provides a framework to apply sanctions, redress or recovery it is not prescriptive. The

decision on which method to apply will be made on a case by case basis and take account of any legal or Trust constraints.

- 1.12 This policy statement should be read in conjunction with the Trust's Counter Fraud, Security policies/strategies, Standard Financial Instructions and Media Handling Policy and Guidance for Staff.

2 RESPONSIBILITIES

2.1 Chief Executive

- 2.1.1 The Chief Executive is ultimately accountable for the implementation throughout the Trust of the Violence, Aggression, Sanctions and Redress Policy and Procedures, and to ensure its effectiveness is continually reviewed.

2.2 The Executive Director of Estates and Facilities

- 2.2.1 Meet with the LCFS, LSMS, NHS Counter Fraud Authority (NHSCFA) and legal advisor(s) to seek appropriate advice and guidance before deciding on a course of action for sanction, redress or recovery.
- 2.2.2 In the event of a physical assault on a member of staff, systems are in place so that police are contacted immediately, either by the person who has been assaulted or an appropriate manager or colleague
- 2.2.3 Ensure that full co-operation is given to the police in any investigation
- 2.2.4 Ensure that the Local Security Management Specialist (LSMS) is informed of any incidents and is responsible for ensuring full co-operation is given to them in any investigation or subsequent action which is considered appropriate.
- 2.2.5 Authorise red card sanctions as appropriate.

2.3 The Finance Director

- 2.3.1 Meet with the LCFS, LSMS, NHS Counter Fraud Authority (NHSCFA) and legal advisor(s) to seek appropriate advice and guidance before deciding on a course of action for sanction, redress or recovery.
- 2.3.2 Agree appropriate course of action for any sanction or redress or recovery. This will include determining whether the sanction or redress results in internal action only or referral to the police, legal representatives or other regulatory bodies
- 2.3.3 Ensure that there is effective system of recovering any losses incurred to fraud, misappropriation, corruption or bribery.
- 2.3.4 Civil redress is progressed effectively through the Trust's Finance department.

2.4 The Local Counter Fraud and Security Management Specialist will work together to:

- 2.4.1 Inform and liaise with NHS Counter Fraud Authority (NHSCFA) to obtain guidance and advice as appropriate.
- 2.4.2 Undertake initial investigations into any alleged fraud, misappropriation, corruption or bribery and any other criminal activity.
- 2.4.3 Be the 'single point of contact' with local police force(s)
 - Local Security Management Specialist (LSMS) security related issues
 - Local Counter Fraud Specialist (LCFS) fraud related issues
- 2.4.4 Refer, co-operate and support any manager within the statutory body or Police in the investigation of any actual or suspected security related incident, fraud, misappropriation, corruption or bribery.
- 2.4.5 Advise on the evidence available to be able to seek sanctions, redress or recovery.
- 2.4.6 Ensure that all records are of sufficient quality to be able to support sanctions, redress or recovery process.
- 2.4.7 Seek agreement with the Executive Director of Estates and Facilities (Security Management Director), Director of Finance, HR Director, senior operational manager and/or a clinician on the most appropriate course of action for sanction, redress or recovery.
- 2.4.8 Liaise with the relevant line manager and payroll provider to facilitate any deductions from salaries.
- 2.4.9 Assist line managers with local incidents investigations and application of amber and red card sanctions for violent and aggressive incidents.
- 2.4.10 Monitor and record the progress of, and report progress to the Audit committee through the Security Management Director/Director of Finance.

2.5 Occupational Health Department

- 2.5.1 The Occupational Health Department has a responsibility to ensure that staff that have been injured or affected by a violent and or aggressive incident, are fit / able to return to their duties. If in their professional opinion this is not possible, then the Occupational Health Department has a duty to ensure the member of staff receives the appropriate care.
- 2.5.2 The Occupational Health Department has a duty to ensure the member of staff receives the appropriate care.
- 2.5.3 Where indicated, Occupational Health will provide support to staff following a violent or aggressive incident. This may be through an individual's self-referral; manager referral or as part of a critical debrief. The Occupational Health Department is responsible for supporting staff involved in violent or aggressive incidents and facilitating access to counselling or appropriate

support and ensuring staff are fit and able to return to their duties following injury or being affected by a violent and or aggressive incident.

2.6 Departmental and Ward Managers

- 2.6.1 The Trust has a legal duty to provide for the safety of its employees. A key requirement is for managers to carry out risk assessments to identify significant risks arising out of any work activity. Once the risks are identified and quantified, local protocols are required to plan, organise, control and monitor prevention and protective measures.
- 2.6.2 Have a duty to ensure that all staff within their area are aware of the Trust policy and procedures on violence and aggression and are actively adhering to its contents.
- 2.6.3 Are responsible for preparing an action plan following a violence and aggression risk assessment and ensuring that the plan is forwarded to the LSMS together with the current risk assessment.
- 2.6.4 Are to ensure that all incidents are reported, managed and investigated in line with the Trust's guidelines and expectations.
- 2.6.5 Ensuring the Police are contacted if an assault has taken place
- 2.6.6 Managers are responsible for identifying the risk and required level of Conflict Resolution and/or Violence & Aggression training each member of staff requires within their team, in addition to agreeing their release to attend and any follow-up support required.
- 2.6.7 Managers should encourage their staff to report all incidents, no matter what the circumstances are.
- 2.6.8 Managers are responsible for ensuring staff who are affected by violence and aggression incidents get the support needed, through Occupational Health or other counselling services.
- 2.6.9 Departmental managers are responsible for the investigation of incidents, although help can be sought from experts were deemed necessary.

2.7 Employees

- 2.7.1 All members of staff must take responsibility for their own essential training on Conflict Resolution and/or Violence & Aggression, as identified in the mandatory training matrix, or as identified through discussion and agreement during appraisal with their line manager.
- 2.7.2 Employees are responsible for reporting any incidents of violence and/or aggression through the Trust incident reporting system (Datix).
- 2.7.3 All Trust employees (including those on honorary contracts and those working primarily for other organisations but on Trust premises) have a duty to adhere to and to uphold this policy.

3 SANCTIONS AND REDRESS

- 3.1 Sanction, redress or recovery allows resources that are lost to security related incidents and criminal activity to be returned to MFT or the NHS for use as intended, for provision of high-quality patient care and services.
- 3.2 As a general rule, sanction, redress or recovery associated with any loss caused by the perpetrator should always be sought.
- 3.3 Where an investigation by the LCFS, LSMS, Police or NHSCFA identifies a loss through a security related incident or criminal activity, pursuance of sanction, redress or recovery will always be considered.
- 3.4 Any decision on sanction, redress or recovery will be taken in the light of the particular circumstances of each case in accordance with point 2.4.7 above.
- 3.5 Levels of warning
 - 3.5.1 This is an escalating system of warnings; however some behaviours may be assessed on review as being so unacceptable that a higher level of warning may be issued. Once the period of alert has concluded then this cannot be considered for future unacceptable behaviours and will be removed from a person's records.
 - 3.5.2 Initial verbal warning to people demonstrating below behaviours. Any junior staff in this situation should be supported by senior management teams during the day and clinical site team out of hours. This can be supported by security if the staff member feels vulnerable.
 - 3.5.3 Amber Alert involves informing the person that their behaviour or conduct is unacceptable. This alert is valid for 1 year from date of issue. Should further unacceptable behaviour occur either within that 1 attendance or on further attendances then a red card may be issued. This is supported by the Amber alert information sheet.
 - 3.5.4 Red Card 1 year sanction is for any episodes of continued unacceptable behaviour or an initial incident of significantly disruptive actions. This 1 year exclusion is for a first instance. This means that the person will be excluded from receiving non-emergency treatment. Staff are to give the person an information sheet that their behaviour is being considered for this sanction. Police may need to be contacted as outlined above. The person will then receive a confirmation letter via post from the LSMS with a copy to their GP to enable them to make alternative arrangements for the person's non urgent care. A flag will be placed on ED Symphony system and staff may require security assistance/accompaniment during any emergency treatment.
 - 3.5.5 Red Card 2 years sanction is given for a repeat offense within the first Red Card sanction. This exclusion will last 2 years and the same above process will be followed for informing the GP and ED. This repeat offense may be within the initial attendance or at any point within the existing exclusion period.

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- 3.5.6 Red Card 3 years sanction is for any person who is a repeat offender within the red card 2 year exclusion. This is for people who continue to use violent, aggressive or disruptive behaviours despite their existing red card sanction. The same process above will be followed.
- 3.6 Amber card sanctions will be issued for the following (the list is not exhaustive):
 - 3.6.1 Verbal assault – low to moderate impact
 - 3.6.2 Threats of low to moderate violence (slapping, punching or kicking)
 - 3.6.3 Throwing objects – not aimed to hit a member of staff or other patient/visitor.
 - 3.6.4 Kicking or hitting items (furniture, door, etc.) without causing damage to it.
 - 3.6.5 Low value theft
- 3.7 Red card sanctions will be issued for the following (the list is not exhaustive):
 - 3.7.1 Physical assault – including grabbing, punching, kicking and spitting (or purposefully contaminating with any other bodily fluids)
 - 3.7.2 Attempted physical assault – attempts to punch, grab, kick or spit
 - 3.7.3 Throwing objects that hit or aim to hit a member of staff or other patient/visitor
 - 3.7.4 Threats to kill
 - 3.7.5 Threats to use weapons – including makeshift, bladed and firearms
 - 3.7.6 Threats of serious physical violence – i.e. threats to cause grievous bodily harm, threats to stab, etc.
 - 3.7.7 High impact verbal assault – racially or sexually aggravated
 - 3.7.8 Criminal damage
 - 3.7.9 High value or multiple thefts
- 3.8 In some cases (taking into consideration all the facts of a case), MFT may decide that no further sanction, redress or recovery action is taken. This decision will be in accordance with 2.4.7 above
- 3.9 In cases of security related incidents, fraud, misappropriation, corruption or bribery where sanctions, redress or recovery are considered appropriate, the following will be considered :
 - 3.9.1 Disciplinary action relating to the status of the employee;
 - 3.9.2 Use of civil law to recover lost funds,
 - 3.9.3 Use of criminal law to apply an appropriate criminal penalty upon the individual(s),
 - 3.9.4 Referral of information and evidence to appropriate external professional bodies or regulators for misconduct proceedings

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- 3.9.5 Penalty charges
- 3.9.6 NHSCFA can also apply to the courts to make a restraining order or confiscation order under the Proceeds of Crime Act 2002 (POCA). This means that a person's money may be taken away from them if it is concluded that the person benefited from the crime. It could also include restraining assets during the course of the investigation.
- 3.10 The appropriate senior manager, in conjunction with the Human Resources department, will be responsible for initiating any necessary disciplinary action in accordance with the Trust's Disciplinary policy. Arrangements may be made to recover losses via payroll if the subject is still employed by MFT. In all cases, current legislation must be complied with.
- 3.11 The civil recovery route is also available to MFT if this is cost-effective and/or desirable for deterrence purposes. This could involve a number of options such as applying through the Small Claims Court and/or recovery through debt collection agencies. Each case needs to be discussed with the Finance Director (Security Management Director) or Director of Estates and Facilities to determine the most appropriate action.
- 3.12 Criminal investigations are primarily used for dealing with any criminal activity. The main purpose is to determine if activity was undertaken with criminal intent. Following such an investigation, it may be necessary to bring this activity to the attention of the criminal courts (Magistrates' court and Crown court). Depending on the extent of the loss and the proceedings in the case, it may be suitable for the recovery of losses to be considered under POCA.
- 3.13 Section 39 of the Health Act 1999 provides for a penalty charge to be imposed where a person fails to pay any amount in respect of NHS charges. The Penalty Charge Regulations came into effect on 1 November 2000. The penalty charge is a civil fine payable by someone who fraudulently obtains help with NHS health charges for themselves or someone else. The penalty payable is five times the amount of the NHS charge owed, up to a maximum of £100, plus the unpaid charge itself. For cases of repeated or persistent fraud of this nature may be considered for criminal action.
- 3.14 Action to pursue any sanction, redress or recovery will be commenced as soon as practicable after the loss has been identified. Given the various options open to the, it may be necessary for various departments to liaise about the most appropriate option.
- 3.15 In order to provide assurance that policies were adhered to, the Executive Director of Estates and Facilities (SMD) will maintain a record highlighting when recovery action was required and issued and when the action taken. This will be reviewed and updated on a regular basis.
- 3.16 Where any successful sanction, redress or recovery is achieved MFT may choose to promote this through its media and communications systems. This will

be undertaken to prevent and deter future potential cases of fraud, misappropriation, corruption, bribery or other criminal activity.

4 PUBLICISING SANCTIONS

4.1 One of the basic principles of public sector is the proper use of public funds. It is, therefore, important to enforce the rules against illegal acts involving dishonesty or damage to property. Medway NHS Foundation Trust is committed to protection of public funds and will seek to publicise successful criminal and civil sanctions in all cases where a criminal activity is involved. Publicity surrounding counter fraud, bribery, corruption, theft, criminal damage and other criminal activity will deter some who perpetrate or consider perpetrating related offences. The Trust will publicise successful investigation outcomes both internally and externally as appropriate in order to aid the deterrent effect. The Trust will review each case on an individual basis and the decision will be made whether or not to publicise the outcome of each case. This will be recorded and a central register of all cases and decisions made will be maintained.

4.2 The Executive Director of Estates and Facilities (SMD) or the Director of Finance will be a lead and a decision maker in this matter and may consult other relevant parties to assist with the decision making process. The Trust will consider the benefits of publicising successful investigations' outcomes against other factors, such as cost and potential impact on the individual involved.

5 DEFINITIONS

- 5.1 **Physical Assault** – “the intentional application of force to the person or another, without lawful justification, resulting in physical injury or personal discomfort”.
- 5.2 **Verbal assault** – “the use of inappropriate words or behaviour causing distress and/or constituting harassment”
- 5.3 **Unacceptable Behaviour:** In addition to behaviours explicit in 3.6 and 3.7 above the following are examples of behaviours that are not acceptable on Trust premises.
- 5.3.1 Excessive noise, e.g. loud or intrusive conversation or shouting
 - 5.3.2 Malicious allegations relating to members of staff, other patients or visitors.
 - 5.3.3 Offensive sexual gestures or behaviours
 - 5.3.4 Drinking of alcohol
 - 5.3.5 Taking non prescribed drugs in hospital (all medically identified substance abuse problems will be treated appropriately)

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- 5.3.6 Dangerous driving
- 5.3.7 Drug dealing
- 5.3.8 Smoking
- 5.3.9 Any criminal act to Trust property
- 5.3.10 Theft

6 REFERENCE

Document	Ref No
References:	
Counter Fraud Manual of Guidance	
Security Management Manual of Guidance	
Trust Associated Documents:	
PROCHR002 - Disciplinary Policy	
POLCHR014 - Raising Concerns At Work Policy (Whistleblowing)	
POLCGR004 - Gifts and Hospitality Register Commercial and Charitable Sponsorship Policy	
POLCOM003 - Security Management Policy	
POLCGR071 - Serious Incident Policy (SI)	
POLCF002 - Reservation of Powers to the Board and Delegation of Powers Including Detailed Scheme of Delegation	
POLCS010 - Violence and Aggression	
POLCF001 - Anti-Fraud, Bribery and Corruption Policy	
POLCPCM023 - Missing Persons Policy and Workbook (1 attachment)	
POLCS007 - Lone Worker Policy (1 attachment)	
POLCPCM030 - Discharge Policy (1 attachment)	

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POLCPCM027 - Safeguarding and Protecting Children Policy (1 attachment)
POLCHR038 - Learning Education and Development Policy (1 attachment)
GUCPCM001 - Safeguarding Vulnerable Adults (1 attachment)
POLCGR101 - Restraint, Seclusion & Emergency Medication Policy (1 attachment)
OTCS060 - Violence Aggression and Disruptive Behaviour - Adult Pathway
SOP0106 - Violence Aggression and Disruptive Behaviour - First Response
OTCGR154 - Violence Aggression and Disruptive Behaviour - Information Card for Symphony and Oasis Alerts
SOP0107 - Violence Aggression and Disruptive Behaviour - Investigation Procedure
SOP0147 - Violence Aggression and Disruptive Behaviour - Warning Escalation - Adults
OTCS064 - Violence and Aggression - Emergency Clinical Care Risk Assessment
OTCS061 – Violence Aggression and Disruptive Behaviour - Red and Amber Alert Leaflet

7 REVIEW

- 7.1 This policy statement will be reviewed annually and updated to take account of any major changes in the Trust and will include:
- a) Monitoring its effectiveness
 - b) Taking account of any relevant changes in legislation or other guidance
 - c) Reviewing the policy in light of any comments received.