Health and Safety Guidance

Protocol for tackling violence and antisocial behaviour within In-patient areas

Introduction

The use of violence or antisocial behaviour towards employees of the Trust within work areas either by service users or other persons is not acceptable and appropriate measures must be undertaken to address such incidents as soon as is reasonably practicable to do so. The arrangements contained within this Protocol have been devised following the guidance provided within the Joint Working Agreement between the association of Chief Police Officers, the crown prosecution Service and NHS Protect on behalf of NHS England.

Definition

An incident in which a person is physically, verbally abused or threatened in such a way as for the individual to fear immediate injury or harm.

Incident reporting – mentally disordered persons

The services we provide should be able to be provided in a therapeutic and non-threatening environment. Any action which causes another to be fearful of injury or harm is unacceptable. The criminal justice system provides an appropriate response which is the same whether or not a suspect has mental ill health or learning disabilities. Unless there is clear and reliable information stating that the offending behaviour has been directly caused by a mental disorder, the police should respond and investigate in the same way as they would had the incident taken place elsewhere.

If a member of staff is physically assaulted, consideration is to be given as to whether the incident should be reported to the police using the forms contained within the Annexes within the attached document; this will enable the police to obtain the necessary information to allow them to make an informed decision as whether to arrest the assailant.

In the event that the incident is reported to the police, the procedural action listed below should take place; staff should consult the information contained in the inserted document using the relevant forms, guidance on completing the form *Information forms for mentally disordered suspects* is provided at **Appendix 1.**

The senior Registered Mental Health Nurse on duty should immediately (within 1 hours of the incident):

1. Report the incident to the police.

2. Complete the 'Information for mentally disordered suspects' form.
3. Arrange for the most senior psychiatrist available to attend to complete an assessment within 4 hours (Out of hours this will be the Higher Trainee).

4. Inform the Local Security Management Specialist (LSMS) of incident and action undertaken as soon as is practically possible after the event via email: stephen.price@shsc.nhs.uk

The most senior doctor on duty (out of hours this will be the higher trainee) should (within 4 hours of the incident):

5. Attend the place of the incident.

6. Complete and document a comprehensive mental state examination of the alleged assailant

The Consultant Psychiatrist for the patient should (with 5 days):

7. Review the documentation completed by the registered mental health nurse and most senior doctor on duty.

8. Consider the appropriateness of providing the minimum information required by the Police and Crown Prosecution Service that will help them to make the decision about whether prosecution is in the public interest. The Consultant should be aware of his/her duty as a doctor regarding confidentiality, an excerpt is provided from the General Medical Council publication: Confidentiality, a web link and full document is provided in Section: References.

> ***37***. *Personal information may, therefore, be disclosed in the public interest, without patients' consent, and in exceptional cases where patients have withheld consent, if the benefits to an individual or to society of the disclosure outweigh both the public and the patient's interest in keeping the information confidential. You must weigh the harms that are likely to arise from non-disclosure of information against the possible harm both to the patient, and to the overall trust between doctors and patients, arising from the release of that information.*
>
> ***53.*** *Disclosure of personal information about a patient without consent may be justified in the public interest if failure to disclose may expose others to a risk of death or serious harm. You should still seek the patient's consent to disclosure if practicable and consider any reasons given for refusal.*
>
> ***54.*** *Such a situation might arise, for example, when a disclosure would be likely to assist in the prevention, detection or prosecution of serious crime, especially crimes against the person.*

9. If disclosure of information is appropriate, complete a report describing:

    a. a headline of the psychiatric condition, if known.
    b. what is the Consultant's opinion on prosecution Are there any clinical barriers to it.
    c. an outline of the care management plan should a prosecution not occur
    d. any known previously unreported offending, relevant to the current investigation
    e. any previous history of absconding from psychiatric care
    f. any known failure to return from s17 MHA leave
    g. any known relevant failure to comply with care plans, including any medication programme
    h. is there any information concerning any intended criminal offending
    i. is there any information concerning any continued threats to the health and safety of any person
    j. what is the person's legal status under the Mental Health Act 1983
    k. aggravating factors including: risk of repeat incidents, the fact that the victim is a public service employee, disruption to the normal work/service and associated impact on care delivery for other patients, impact on other patients of witnessing the violence, positive impact of successful prosecution in maintaining the confidence of workforce/other patients, successful prosecution may help the offender accept responsibility for their actions

10. Document in clinical records, including reasons for disclosing or holding information.

11. Forward their formal assessment and the previously completed 'Information for mentally disordered suspects' form to the police. The Consultant will need to submit a report within 5 days, whether the report contains all, some or even none of the required information. This will help the police to make a decision whether or not to proceed in a consistent and timely manner.

12. Complete a formal assessment report detailing aggravating factors including:

    a. Risk of repeat incidents.
    b. The fact that the victim is a public service employee.
    c. Disruption to the normal work/service and associated impact on care delivery for other patients
    d. Impact on other patients of witnessing the violence.
    e. Positive impact of successful prosecution in maintaining the confidence of workforce/other patients.
    f. Successful prosecution may help the offender accept responsibility for their actions.

13. Forward their formal assessment and the previously completed 'Information for mentally disordered suspects' form to the police.

Arrests on NHS premises

The decision to arrest an individual is ultimately a matter for the police in attendance however; this decision will be informed by any clinical considerations, staff are required to be prepared to disclose any information relevant to the incident upon request.

References

- **NHS Protect: Tackling violence and antisocial behaviour in the NHS** Joint Working Agreement between the association of Chief Police Officers, the crown prosecution Service and NHS Protect. Forms and detailed guidance for consideration are contained within the inserted document. A web link and a copy of the document are provided below.

- **SHSC Policy: Aggression and Violence: Respectful Response and Reduction** (*October 2014)*

- **SHSC Policy: Security***(March 2013)*

- **SHSC Policy: Incident Reporting and Investigation Policy** *(March 2013)*

http://www.nhsbsa.nhs.uk/searchpage.aspx?terms=tackling+violence+and+antisocial+behaviour+in+the+nhs

Tackling violence and antisocial behaviour ir

- **General Medical Council: Confidentiality:** Duties of a doctor registered with the General Medical Council. A web link and a copy of the document are provided below.

http://www.gmc-uk.org/static/documents/content/Confidentiality_0910.pdf

GMC Confidentiality_0910.

Appendix 1

Guidance for staff completing Annex B: *Information forms for mentally disordered suspects*

The following guidance below is provided to assist staff in completing the form contained in the document: NHS Protect – *Tackling violence and antisocial behaviour in the NHS: Annex B: Information forms for mentally disordered suspects*

The following considerations must be given:

- The form **must not** be completed by the victim of an alleged offence;
- The most senior nurse on duty on the ward should complete the form even if not nominally in charge of the shift;
- If the most senior nurse on the ward is the victim of the alleged offence, another qualified nurse should complete the form – this might require help from on-call staff;
- If the reporting staff did not witness the incident, they should consult relevant others, including any direct witnesses, in order to be as sure as can be of the facts;
- The initial report is a record of your OPINION about the service user, your opinion may not be the same as that expressed in subsequent reports however; this does not matter; all information gathered will be used to inform any decision to take a case forward;
- Be aware that answering '**NO'** to any of the questions about the service user's mental state may result in a case not proceeding.
- Staff completing the Form should keep in mind the first principle of the Mental Capacity Act when considering your answers:

  "a person ***must*** be assumed to have capacity unless it is ***established*** that he lacks capacity" (Emphasis added).

- Record the **reasons** for your answers, including any discussions with others, in the daily record.

Information on the Form:

- **NHS incident reference no**

  This will be provided by the Risk Department, it will not be available out of hours – it will be added later;

- **Alleged offence:**

  Describe the incident, **Do Not** attempt to give a legal description such as 'assault' for example:

  X struck (staff members name) with a piece of wood;

  Y pushed (staff members name) to the ground and kicked him/her in the face;

- **Service User Details**

  Detailed under MHA 1983? : If so, give Section;

  Service user no: Insight number

- **Service User's Mental State**

  Question 1

  Would you consider the service user at the time of the alleged offence was capable of understanding his/her actions? YES NO

  Comment: This question is about **Intent**. Is it your opinion that the service user deliberately tried to harm or cause fear to the victim, consider:

  › the immediate antecedents; what happened *immediately* beforehand, was the incident a direct response?;

  › any previous violence from this service user towards this victim:

  › any previous threats towards or other targeting of victims (such as complaints or allegations of unfair treatment;

Information on the Form cont 1…

- any evidence of planning the incident, such as weapon, if a weapon was used, was it an object that came to hand or had it been manufactured or sought?

- any verbal reason or explanation given by the service user for what they said/did, dos this suggest psychosis? (NB – even if psychotically driven, actions can be planned and deliberate, prosecution could prevent further incidents likely to cause fear, injury or harm, perhaps save a life);

- any verbal reaction to the event such as immediately expressing shock or remorse or expressing satisfaction about the outcome;

- any non-verbal indication of the service user's response such as gestures or posture indicating immediate shock or remorse; gestures or posture indicating satisfaction at the outcome;

- indications of the service user's emotion/affective state – perhaps crying or laughing, perhaps lacking affect or incongruent;

- history of similar incidents involving someone other than this victim;

- **Question 2**

  Would you consider the service user at the time of the alleged offence was capable of controlling his/her actions? *YES NO*

  Comment: This question is about **Intent**. Is it your opinion that the service user had No control over the incident?

Information on the Form cont 2…

- **Question 3**

  Would you consider the service user is capable of understanding the legal process if a prosecution is sought? *YES NO*

  Comment: This is a question based on what is considered common knowledge or general understanding of an average person '*person in the street'* - **NOT** a person with specialist knowledge or training

  › Is it your opinion that the service user understands that if a person does something wrong the consequences might be that they are arrested and could possibly go to court?

- **Question 4**

  Would you consider that a prosecution of the service user would be detrimental to his/her care plan? *YES NO*

  Comment: it is accepted that the prosecution of anyone, service user or not can have a detrimental effect on them.

  › For this question it is important to consider that the outcome of a successful prosecution might be a better 'Care Plan' with the service user receiving care that meets both their mental health and offering needs, perhaps in an appropriate secure environment.

  › Is it your opinion that there is something so significant about the service user's care plan that 'NO' would be the appropriate response to this question?

  › Any subsequent report provided by the Responsible Clinician will address this question in greater detail.

  Note:

  Please ensure that all relevant boxes are completed and the form is handed to the Police Officer when they attend; a copy should be retained for the Ward records with a duplicate copy provided to the LSMS (Stephen Price: Fire and Security Officer).