

<b>Title</b>	Standard Operating Procedure for Setting Flags for Potentially Violent Patients			
<b>Meeting</b>	Board of Directors			
<b>Date</b>	31 March 2015			
<b>Executive Summary</b>				
<p>Information Strategy Group held on 24 March 2015 considered the attached Standard Operating Procedure (SOP) for the setting of flags for potentially violent patients which had been submitted by the Medical Records Group for consideration and approval.</p> <p>Whilst the Information Strategy Group considered the SOP to be a workable policy and had debated its application previously, concerns were expressed by some members of the Group of the implications of applying such a procedure throughout the Trust. Whilst the Group recognised that currently there were informal processes in place, concerns were raised which included the circumstances in which a flag would be raised, the implications of informing parties involved that a flag had been raised, the need to ensure staff were protected at all times and monitoring of the application of such a procedure.</p> <p>The Group felt that it was appropriate for the proposed Standard Operating Procedure to be considered by the full Board of Directors.</p>				
<b>Recommendation</b>				
<p>The Board of Directors is requested to:-</p> <p>a) Consider and approve the Standard Operating Procedure for the setting of flags for potentially violent patients.</p>				
<b>Report Author</b>	Martin Alexander			
<b>Executive Director/ Sponsor</b>	M Robson			
<b>Purpose of paper</b>	<b>Information</b>	X	<b>Discussion</b>	X
	<b>Decision</b>	X	<b>Assurance</b>	X
	<b>Specific action</b>			
<b>Recommended following approval at:</b>				
<b>Implications</b>	<b>Staffing</b>			
	<b>Finance</b>			
	<b>Legal</b>			
	<b>Public engagement</b>			
	<b>Partnership</b>			
	<b>Communication</b>			
	<b>Equality &amp; Diversity</b>			
	<b>Clinical</b>			
	<b>Patient Safety</b>			
<b>Risk assessment and mitigation (include risk register reference if appropriate)</b>				

<b>Link to STFT Business Plan</b>	
<b>Link to CQC outcome</b>	
<b>Link to Board Assurance Framework</b>	
<b>Link to Strategic Risk Register</b>	

# Choose

South Tyneside   
NHS Foundation Trust

## Standard Operating Procedure for Setting Flags for Potentially Violent Patients

	Version	Issue Date	Review Date	Executive Lead	Information Asset Owner	Author
	One			Director responsible for Personnel & Development	Head of Health Safety & Wellbeing	Fire Safety & Security Manager
<b>Procedure/Policy Number</b>	RM					
<b>Procedure/Policy type</b>	Risk Management					
<b>Date Equality impact assessment completed:</b>					Low	
<b>CQC Outcomes:</b>	10					



## TABLE OF CONTENTS

---

<b>Section</b>	<b>Title</b>	<b>Page</b>
1	Introduction	5
2	Statement of Policy	5
3	Policy Aims	6
4	Equality, Diversity and Human Rights Statement	6
5	Definitions	7
6	Scope	7
7	Systems needed for a marker	8
8	Data Protection Act 1998	9
9	Process for a marker	9
10	Panel	12
11	Notifying the individual	13
12	Informing the victim	14
13	Handling Complaints	14
14	Reviewing a marker	14
15	Placing a marker on records	15
16	Information sharing	16
17	Record keeping	17
18	Publicity	17
19	Monitoring	17
20	Related Legislation	18
Appendix 1	Examples of the type of incident that may warrant a marker	19
Appendix 2	Checklist/Assessment Tool	21

Appendix 3	Template for marker notification letter	.. .. .	23
Appendix 4	Template for notification of the removal of a marker	.. .. .	24
Appendix 5	Decision making process flowchart for placing a risk of violence marker on electronic and paper records: – Model 1	.. .. .	25

## **1. Introduction:**

- 1.1 This policy outlines the procedure that is relevant to South Tyneside NHS Foundation Trust for placing a risk of violence marker on the electronic or paper records of those patients that are known to have committed violence against NHS worker, patient or visitor. It can also be used on occasions where a patient has been known to threaten to commit violence against NHS staff or offers verbal abuse on a regular basis towards NHS staff.
- 1.2 The policy will be implemented in cases where an individual is known to pose a serious/significant risk to the wider public and this risk has been communicated by a recognised agency. This will include the Police, Probation or Multi Agency Public Protection Arrangements (MAPPA) panels. This particular area must comply with the relevant guidelines issued within these agencies and permission must be sought and granted by the relevant agencies recognised lead professional.
- 1.3 It sets out the Trust policy and procedure for using such markers and helps prepare for the national availability of the violent patient indicator (VPI) on electronic records. The Trust understands that patients with a marker for violent and aggressive behaviour could have the potential for presenting themselves at other local NHS providers and therefore, for that purpose, the Trust will on a risk assessment basis consider sharing that information. The decision to share the information and who to share it with will be agreed upon and documented by the panel making the decision to mark the patient's records.
- 1.4 At South Tyneside NHS Foundation Trust the Local Security Management Specialist's (LSMS's) will be responsible for managing the marker system as part of the existing arrangements for managing violence and security management work.
- 1.5 Depending on the incident location a panel consisting of a minimum of three representatives from the following areas: Divisional Director or Clinical Business Manager or Strategic Lead – Patient Safety, relevant clinician, a senior nurse from area of incident and an LSMS will assist in the decision-making process for placing the medical marker on the patient's record.
- 1.6 The proper operation of a marker system will contribute to employers and employees of South Tyneside NHS Foundation Trust fulfilling their obligation under health and safety legislation.
- 1.7 This policy supplements the Trust's Violence and Aggression Policy and Withdrawal of Treatment Policy.

## **2. Statement of Policy:**

- 2.1 The Trust has a duty under the Health and Safety at Work Act 1974, Management of Health and Safety at Work Regulations 1999 and the NHS Constitution to provide a safe and secure environment for its staff, service users and others. The Trust attaches great importance to the personal safety and security of employees, service users and other persons undertaking

authorised tasks, for or on behalf of NHS staff and patients, and accepts its legal and moral responsibility to reduce or eradicate risks wherever reasonably practicable. **Violent or abusive behaviour will not be tolerated** and the Trust will take the appropriate action in order to protect NHS workers, patients and visitors.

### **3. Policy Aim:**

3.1 The aim of the Policy is to help alert NHS staff to individuals who pose or could pose a risk of violence and enable them to reduce the risk.

3.2 The marker should achieve this by:

- serving as an early warning for NHS staff of a particular individual or situation that represents a risk to them, their colleagues or other patients;
- providing security warnings and handling advice to NHS staff to avoid or minimise the risk;
- enable NHS workers undertaking home visits to undertake effective risk assessments;
- where appropriate, enabling NHS staff to seek professional advice on what action should be taken;
- helping the Trust meet their obligation under the Health and Safety at Work Act 1974, Management of Health and Safety at Work Regulations 1999 and the NHS Constitution;
- helping reduce the number of violent incidents at a local level;
- assisting in creating a safe and secure environment for NHS workers, patients and visitors to the Trust.

### **4. Equality, Diversity & Human Rights Statement**

4.1 The Trust is committed to promoting human rights and providing equality of opportunity; not only in our employment practices but also in the way we provide services. The Trust also values and respects the diversity of our employees and the communities we serve. In applying this policy, the Trust will have due regard for the need to:

- promote human rights;
- eliminate unlawful discrimination;
- promote equality of opportunity;
- provide for good relations between people of diverse groups;
- consider providing more favourable treatment for people with disabilities.

4.2 This strategy aims to be accessible to everyone regardless of age, disability (physical, mental health or learning disability), gender (including transgender)

race, sexual orientation, religion or belief or any other factor which may result in unfair treatment or inequalities in health or employment.

## 5. Definitions

5.1 In terms of providing a context to this guidance, it is necessary first to define workplace violence. For the purpose, the Health and Safety Executive provides the following definition:

*“Any incident in which a person is abused, threatened or assaulted in circumstances relating to their work”. This can include verbal abuse or threats as well as physical attacks.*

5.2 In the case of an assault or act of violence, it may be appropriate to set a marker regardless of whether an act was intentional or not. An example may be where an assault is directed at an object and the impact on a person is unintended, or where the person cannot be judged to be mentally in control for any reason. In addition, the following NHS Protect working definitions should be used to define violence for the purpose of the marker:

- *physical assault – “the intentional application of force to the person of another without lawful justification, resulting in physical injury or personal discomfort”.*
- *non-physical assault – “the use of inappropriate words or behaviour causing distress and/or constituting harassment”.*

## 6. Scope

6.1 This policy outlines the process for the Trust to apply a marker where a member of NHS staff, patient or visitor has been subject to violence. The term “NHS staff” includes clinical and non-clinical employees of the Trust as well as students and contractors working on behalf of the Trust.

6.2 The use of a marker will help reduce possible risks to NHS staff by enabling them to consider and implement measures for their protection.

6.3 A marker does not just apply to circumstances where the individual abusing the NHS staff member is a patient. The marker could also apply to a patient who is responsible for a dangerous animal and it’s known that the animal could be located at the patient’s home. The marker will be applied to alert the community staff to a potential dangerous animal in the home.

6.4 **It is important to state that the marker is not a mechanism for attributing blame**; it is a process for alerting staff to the possibility of violence, whether such actions are deliberate or take place as a result of a medical condition or as a response to treatment or medication.

6.5 The marker and associated additional information (such as warnings, handling advice, etc) should be available to all internal clinical, community and non-clinical staff who, because they may have face to face contact with a particular individual, may be subject to an increased risk of violence. This is in line with

current health and safety guidance. Information-sharing with external NHS staff, including contactors delivering NHS care, is permissible where the risk justifies it (see section 16).

- 6.6 All incidents of physical assault or continuous verbal abuse must be reviewed to consider placing a marker on records.
- 6.7 Non-physical assaults (including threatening behaviour) can be equally serious and incidents should be reviewed to consider placing a marker on records.
- 6.8 This policy outlines the process, roles and responsibilities that are relevant when an incident has taken place. It is therefore important that the following are aware of how the process will operate:
- all Trust staff who may be subject to incidents of violence;
  - the line managers of staff who have been subject to physical or non physical violence and who share the responsibility for ensuring the safety and security of their staff;
  - the LSMS with responsibility for investigating incidents following a report been received via the Trust Datixweb Incident Form (DIF1), assessing the risks to staff, making a decision for a marker and placing the marker on the patient records;
  - members of the Trust's Violent Patient Panel responsible for approving the LSMS's decision for a marker and/or reviewing decisions not to notify an individual of a marker and considering any complaints associated with a marker.

## **7. Systems needed for a marker**

- 7.1 For the marker to be effective, the Trust will have the following in place:
- a nominated and accredited Local Security Management Specialist (LSMS) in post. This individual will have overall responsibility for investigating incidents of violence, gathering evidence from victims and witnesses, assessing the risks posed and making the decision on marking records. The LSMS will be responsible for referring appropriate cases to the panel for final approval;
  - reporting system – the Trust has a risk management reporting system (Datixweb). All incidents of physical and non-physical assaults must be reported by staff through this process. The risk management team will forward all incidents involving physical and non-physical assaults to the LSMS for follow-up investigative action;
  - panel – the Trust will nominate a panel of staff (see section 10) to approve the decision of the LSMS to mark records. This will serve as a safeguard to ensure that the decision-making process is objective, transparent and fair. The panel will have an agreed criteria for applying markers and reviewing existing markers;

- system for handling complaints – if an individual decides that they wish to challenge a decision to mark their records, they will be advised of the Trusts statutory complaints process and directed down that route to submit a formal complaint.

## **8. Data Protection Act 1998**

- 8.1 The LSMS and individual panel members are to make themselves aware of the provisions in the Information Commissioner’s Office (ICO) guidance on the Data Protection Act 1998 (DPA) and the use of violent markers and ensure that their processes comply with these provisions.
- 8.2 For the purpose of the DPA, the Trusts responsible person is the “data controller” and will retain ultimate responsibility in relation to processing, notification and disclosure of risk information and the security and confidentiality of such information.
- 8.3 The ICO guidance on violent warning markers makes it clear that the employer has a duty of care towards staff under health and safety legislation. The processing of marker information by the Trust is necessary to comply with these legal obligations, so long as it is fair and justified.

## **9. Process for a marker**

- 9.1 This section highlights the process that the Trust must go through when placing a medical marker on an individual’s records.

### *Reporting*

- 9.2 If there is an immediate threat of violence and aggression towards staff at STDH the staff should call 333 and request assistance from site security. If considered necessary, the staff should also request the attendance of the Police. For incidents of a non-emergency situation, staff must call Security on ext 3070. In other healthcare premise out in the local community staff should call 9-999, or alternatively, if issued with a Trust Lone Worker device, should activate it.
- 9.3 The member of staff or line manager must inform the LSMS immediately after an incident occurs or the next working day. Should the incident occur out of hours then the Site Manager or Night Co-ordinator must be informed. In the community setting staff must inform the on-call Matron/Business Manager. Staff must also complete the relevant Datixweb Incident Form (DIF1), which will alert the relevant LSMS to the incident via the Managers DIF2 form.

### *Investigation*

- 9.4 The LSMS should review the DIF2 report and determine what level of further investigation is required. In most cases the LSMS will speak with the victim and any witnesses and seek the views of all relevant staff as an important part of the decision-making process. This will enable a thorough assessment of

future risks to be made before a decision can be made to mark the patient's record.

- 9.5 Whilst it is desirable to have as much information as possible to inform a decision regarding a marker, it may be necessary for the LSMS to make an immediate decision based on discussions with the appropriate NHS workers if it appears that there is a serious or imminent risk to staff. If this is the case, the LSMS must get the support of the Clinical Business Manager before marking the record. Furthermore, in some instances, a detailed investigation may not be required for the purpose of the marker if the information provided on the DIF1 & DIF2 is sufficient. All decisions to mark a patients records following investigation must be annotated on the DIF2 incident form under actions taken during investigation.

#### *Decision-making*

- 9.6 The following risk factors must be considered when determining whether a record should be marked:

- nature of the incident (i.e. physical or non-physical);
- degree of violence used or threatened by the individual;
- injuries sustained by the victim;
- the level of risk of violence that the individual poses;
- whether an urgent response is required to alert NHS workers;
- impact on NHS workers and others who were victims of or witnessed the incident;
- risks to children and vulnerable adults in the home;
- impact on the provision of services;
- likelihood that the incident will be repeated;
- any time delay since the incident occurred;
- the individual has an appointment scheduled in the near future;
- NHS workers are due to visit a location where the individual may be present in the near future;
- the individual is a frequent or daily attendee (e.g. A&E, to a clinic or outpatients);
- the individual is an in-patient;
- the incident, while not serious itself, is part of an escalating pattern of behaviour;

- the medical condition and medication of the individual at the time of the incident;
  - mental health and capacity of the individual.
- 9.7 The decision to use a marker must be based on a specific incident and not personal opinion or hearsay. As part of the investigation the victim must be asked by the LSMS for their opinion as to whether a marker would be justified, but this alone will not warrant a marker. The decision must follow an LSMS investigation which provides evidence that a marker is required and that a panel has ratified the decision.
- 9.8 For the purpose of the marker, the incident must be categorised as physical or non-physical assault using NHS Protect definitions. Appendix 1 provides examples of the types of incident that fall under physical and non-physical assaults to assist in this. This list is not exhaustive, but should serve as a helpful guide.
- 9.9 If the police are called to an incident, the LSMS must liaise with the investigating officer to ascertain what action they are taking. Any wait to receive relevant information from the police must not delay the decision-making process for a marker. If a decision is made to mark a record, this should not prevent or replace legal action being taken against the individual.
- 9.10 **In relation to the decision-making process of marking records, the role of LSMS is not to establish whether the act was intentional or based on an underlying clinical condition, treatment or care, but to assist NHS workers in managing future risks.** For incidents where the individual is thought to be responsible for their actions, the LSMS should facilitate any police enquiries or consider further investigation in line with established policies.
- 9.11 The LSMS is responsible for making the final recommendation on the need for a marker, based on consultations with the victim, their line manager, Trust Risk Manager and any others.

*Marker required*

- 9.12 If the LSMS believes that the individual poses a risk to NHS workers based on objective criteria (see section 9.6), they should arrange a marker to be placed on the individual's records **as soon as possible**. The process of investigation and the evidence provided that results in a decision to mark a patient's record must be documented and recorded on the incident report form. This can be in the form of attached documents uploaded to the DATIX-Web reporting system. This documented evidence giving the reasons for the marker being applied could then be used in any subsequent investigation as a result of a complaint made by a patient because of a marker being applied.
- 9.13 The LSMS will be responsible for placing information on DATIX-Web to identify that a medical marker has been placed on the patient's medical

record. This will enable the Trust to keep accurate notes of all decisions made to mark the patient's record.

- 9.14 All decisions will then be referred to the panel for consideration and approval (see section 10.1).
- 9.15 If an animal is involved in an incident (e.g. dangerous dog) and the patient is responsible for the animal, their records should also be considered for a marker. If the animal is at particular address, consideration should be given to marking the records of all those who live at this address.
- 9.16 If a marker is placed on a particular address, this marker must be reviewed if circumstances change and these changes are brought to the attention of the Trust, e.g. the potentially violent individual moves to a new address or the animal is destroyed.
- 9.17 The LSMS will also be responsible for keeping an up to date record of when the patient was given a medical marker and the review date to ensure medical markers don't remain on patient's records for longer than necessary.
- 9.18 Finally, the decision to add a marker should not preclude any other existing lines of communication being used to inform NHS workers if there is an imminent risk, e.g. emails, alerts etc.

*No action required*

- 9.19 There may be circumstances where, following an investigation and the risk assessment as part of the Trust Risk Management process, the LSMS decides that it is not appropriate to mark the record. This may be because following an incident, the individual poses no further or significant risk. In this instance, the LSMS should not recommend a marker and should record the decision taken on the Incident Report Form.

## **10. Panel**

*Role*

- 10.1 The Trust will have a panel of staff to review each LSMS decision for a marker, as well as to review existing markers.
- 10.2 The LSMS will refer all recommendations to mark a record to the panel for approval. The panel will assess the evidence provided by the LSMS and make the final decision as to whether a marker should be placed on or remain on the record.
- 10.3 For the process described in 10.2, the LSMS will submit a list of all individuals recommended for a marker to the panel with accompanying copy of the incident report form and any relevant victim or witness statements for each. The victim should not be involved in the decision-making process at this stage.
- 10.4 The LSMS will provide minutes of the meetings to identifying the decision made by the panel in deciding the outcome of marking any patient records.

## *Structure*

- 10.5 The Trust Security Management Director is responsible for identifying an appropriate forum to act as a panel to manage the decision-making process effectively.
- 10.6 The panel will meet at least once every month to avoid possible delays in approving markers.
- 10.7 A panel consisting of a minimum of three with representatives from the following areas: Divisional Director or Clinical Business Manager or Strategic Lead – Patient Safety, relevant Clinician, a Senior Nurse from area of incident Trust Risk Manager and an LSMS will assist in the decision-making process for placing the medical marker on the patient's record.
- 10.8 Panel decisions should be reached by a majority vote to ensure a consensus outcome is reached in every case. A panel will have a minimum of 3 members.
- 10.9 One of the key responsibilities of the panel will be to review existing markers, (see section 14). The LSMS will be responsible for presenting patient's details for review at the Panel's monthly meeting. The outcome of any reviews undertaken will be documented in the minutes of all panel meetings.

## **11. Notifying the individual**

- 11.1 The individual, where possible and appropriate to do so, should be informed in writing as soon as possible following the decision to mark their records. The decision to write to the individual will be made by the panel on a case by case basis, the decision not to write to an individual would be based on the probability of increased risk to individuals and/or the organisation and documented on the panel's minutes for each meeting.
- 11.2 There may be exceptional cases when it is decided that notifying the individual may increase the risk that they pose to NHS workers and that notification is not appropriate. These may include situations where:
  - informing the individual may provoke a violent reaction and put NHS workers at further risk. A detailed record must be kept of any decision not to notify an individual and the reasons for this course of action;
  - notification of a marker may adversely affect an individual's health. In this instance, the senior clinician responsible for the individual's care must review the case and make a decision that notification is not appropriate for clinical reasons;
  - consideration must be given in these cases to assess the best way to manage these cases and identify the appropriate setting in which care can be provided.
- 11.3 Any decision, based on exceptional circumstances, not to notify an individual should be reviewed by a panel. In each instance, the LSMS is responsible for

making the initial decision during the investigation and submitting the necessary evidence to the panel outlining the reasons not to notify. If the decision is based on health grounds, the evidence should include a written statement from a senior clinician explaining the reasons why notification may adversely affect an individual's health. If notification may provoke a violent reaction, the evidence should support this (e.g. the individual has a prolonged history of violence against NHS workers).

11.4 The Divisional Director or Clinical Business Manager is responsible for sending a notification letter to the individual outlining the reasons for the marker. The letter should clearly explain:

- the nature of the incident;
- that their records will show a marker;
- the reasons why the marker is being placed on their records;
- who the information may be shared with and for what purpose;
- when the marker will be reviewed for removal;
- the process for complaints;
- relevant contact details.

11.5 See Appendix 3 for template notification letter.

## **12. Informing the victim**

12.1 The LSMS will inform the victim of the decision reached. When a marker is placed on records, this feedback will assist in developing a pro-security culture and encourage more NHS workers to report future incidents. If a decision has been reached that a marker is not required, the LSMS will explain the reasons to the victim and offer them any further assistance that is necessary.

## **13. Handling Complaints**

13.1 When an individual is notified that a marker is to be placed on their records, they should be advised how to complain about the decision if they wish to and given the relevant contact details of the Trust's Complaints Department.

13.2 All complaints should be dealt with in accordance with Trust Policy for dealing with complaints.

## **14. Reviewing a marker**

14.1 Best practice requires that markers are reviewed six monthly, to ensure they are up to date and remain relevant. Records should not be marked for longer than necessary and markers should be removed when there is no longer a risk. When a marker is first placed on the records, the LSMS is responsible for adding all relevant dates, including when the incident occurred, when the

marker is effective from and a review date. When operating a paper and or electronic system, the LSMS should ensure that these dates are recorded on the record itself and or on other centrally held records.

- 14.2 No patient's records should be archived with an active marker recorded on the notes. Markers can be transferred from old notes to new should they still be active when the notes are archived.
- 14.3 The LSMS will on a quarterly basis identify those markers that require review and submit these with recommendations to the panel for consideration.
- 14.4 The LSMS will have a system in place that alerts them when a marker is due for review. All marked records are to be kept secure and access controlled to prevent unauthorised use.
- 14.5 The maximum review date shall be within 12 months of the incident occurring. Timescales for review can be flexible and review periods such as 3 month or 6 month can be set by the panel dependant on whether the risk is likely to persist.
- 14.6 If the decision is to retain the marker on the record, a further date for review is to be set. The same considerations will apply to notifying the individual of any decisions to retain the marker as are specified in Section 11.
- 14.7 As part of the decision-making process, those reviewing the marker must consider the original decision on which the marker is based, including;
  - the severity of the original incident and the impact on the NHS worker;
  - any continuing risk that an individual may pose;
  - any further incidents involving the individual;
  - any indication that the incident is likely to be repeated;
  - any action taken by other agencies, e.g. police, the courts or probation services
- 14.8 When a decision is taken that the individual's behaviour gives no further cause for concern, the LSMS is responsible for removing the marker. If the individual was aware of the marker the individual should be notified of the removal of the marker as soon as possible.

## **15 Placing a marker on records**

- 15.1 Those involved in the process of placing markers on records must make themselves aware of the Data Protection Act 1998 and guidance issued by the Information Commissioners Office (ICO). This policy has been approved by the Trust's Information Strategy Group.
- 15.2 At the request of the LSMS the Trust's Healthcare Records Manager will have access to the PCS system for the legitimate purpose of fulfilling the duty of

placing a marker on the records to warn NHS workers of the potential risk of violence.

- 15.3 In all circumstances, it will be the LSMS's responsibility to ensure that the marker is put in place in a timely manner.
- 15.4 Marking paper records will consist of placing a visible physical marker discreetly inside the record, e.g. using a coloured sticker or symbol to indicate physical assault and a different colour or symbol to indicate non-physical assault.
- 15.5 If a visible marker is used to mark an individual's paper record, its meaning should be clear and unambiguous to NHS workers, whilst at the same time being discreet and only recognisable to NHS workers, not the individual concerned.
- 15.6 The marker should include the following information:
- who or what the marker applies to;
  - a brief classification of the type of incident (See Appendix 1);
  - date the marker is effective from and review date;
  - whether the individual has been notified;
  - essential and relevant handling information or advice to NHS workers about who to contact for further advice or guidance. This should include relevant contact for NHS workers who work off-site or out of hours.
- 15.7 If the assailant is considered vulnerable, e.g. if they have mental health conditions, or learning disabilities, a history of alcohol or other dependency, or a serious underlying clinical condition, the LSMS is to seek advice from an appropriate senior health professional responsible for the individual's care to inform the handling information.

## **16 Information sharing**

### *Principles*

- 16.1 In line with the ICO guidance, and in compliance with the DPA, sharing information relating to a marker between NHS colleagues internally or from one Trust to another, to alert NHS workers to the potential risks of violence, is permissible and legitimate, as long as the processing by the Trust is fair and justified.
- 16.2 The department where the incident took place should conduct a risk assessment to identify those individuals and/or providers that may come into contact with the individual and determine who the information needs to be shared with. This should cover all local NHS providers that have an input into the care of or come into contact with the individual, potentially including NHS Trusts, Ambulance Services, GP practices, NHS Pharmacies and Social

Services. The relevant LSMS will be responsible for sharing the information on the approval by the panel. The panel will review the risk to other providers based on the risk assessment carried out by the reporting department and a decision to disclose will be made and documented in the minutes from the panel meeting. The relevant LSMS will then be responsible to inform the outcome of any review undertaken to those providers so that necessary arrangements can be made to remove or retain any marker discussed.

- 16.3 An important provision before information-sharing is to ensure that the LSMS or nominated staff member, where appropriate to do so, explains to the individual in the notification letter (Appendix 3) that information associated with a marker may be shared with colleagues and other providers and for what purpose.

## **17 Record keeping**

- 17.1 The relevant LSMS is to ensure there is a separate list kept of all individuals that have a marker on their records. This should be kept secure and access restricted, whether the records are paper-based or electronic.
- 17.2 Centrally held records should be reviewed regularly to ensure that they are up to date and accurate. When a marker has expired and has been removed from the patient's records, the LSMS should have a process in place to ensure records are revised accordingly.

## **18 Publicity**

- 18.1 The Trust's communications team should ensure that appropriate publicity is generated regarding the use of a violence marker system. Individual cases will not be the subject of publicity.
- 18.2 This policy will be held on the Trust's intranet site and also available on the Trust's website.
- 18.3 All staff will be made aware of the process of placing a risk of violence marker on electronic and paper records.

## **19. Monitoring and Compliance**

- 19.1 The effectiveness of this policy will be monitored by the Health and Safety Committee (HSC) and reported on by the LSMS
- 19.2 As part of the reporting activity to the HSC the LSMS will:
- periodically reviewing adverse incident reports relating to any incident that involves acts of violence and aggression;
  - reviewing the control measures taken to ensure the incident does not re-occur;
  - ensure completion of violence and aggression risk assessments;

- reviewing risk assessment compliance by method of spot checks and risk assessment signature records;
- provide a review of the number of medical markers issued on a quarterly basis.

## 20 Related Legislation

- 20.1 The policy has been written to ensure compliance with relevant legislation and statutory regulations which are related to operating a marker system (see below):

Directions to NHS bodies on measures to deal with violence against NHS staff, Department of Health (2003)

<http://www.nhsbsa.nhs.uk/SecurityManagement/2286.aspx>

Tackling violence against staff: Explanatory notes for reporting procedures introduced by Secretary of State Directions in November 2003, CFSMS (2007)

<http://www.nhsbsa.nhs.uk/SecurityManagement/2286.aspx>

Directions to NHS bodies on security management measures, Department of Health (2004)

<http://www.nhsbsa.nhs.uk/SecurityManagement/2286.aspx>

The Health and Safety at Work Act (1974)

<http://www.hse.gov.uk/legislation/hswa.htm>

The Management of Health and Safety at Work Regulations (1999)

ISBN0110856252

<http://www.opsi.gov.uk/SI/si1999/19993242.htm>

Data Protection Good Practice Note - The use of violent warning markers, Information Commissioner's Office (2006)

[http://www.ico.gov.uk/what\\_we\\_cover/data\\_protection/guidance/good\\_practice\\_notes.aspx](http://www.ico.gov.uk/what_we_cover/data_protection/guidance/good_practice_notes.aspx)

The Guide to Data Protection – Information Commissioner's Officer (2009):

[http://www.ico.gov.uk/for\\_organisations/data\\_protection\\_guide.aspx](http://www.ico.gov.uk/for_organisations/data_protection_guide.aspx)

Nursing and Midwifery Council - The code: Standards of conduct, performance and ethics for nurses and midwives

<http://www.nmc-uk.org/aArticle.aspx?ArticleID=3056>

Also, Nursing and Midwifery Council - Advice sheet: Confidentiality

<http://www.nmc-uk.org/aArticle.aspx?ArticleID=3614>

**Examples of the type of incident that may warrant a marker**

It is impossible to list every category of incident which may warrant marking on a person’s records. Not only will the nature of the incident have to be considered but also the effect the incident has on all of those involved (staff, patients, relatives and visitors) and the likelihood of a further incident taking place.

NHS Protect uses two definitions to establish a nationally consistent reporting standard for the NHS. **Staff** should be familiar with these definitions so that they know what types of incident should be reported to their LSMS. The following definitions and categories are applicable when considering placing a marker on records and each category should include appropriate handling information. **Note:** These lists are not exhaustive.

Physical assault is defined as: *‘The intentional application of force against the person of another, without lawful justification, resulting in physical injury or personal discomfort’.*

<b>Type of categorised physical assault</b>
<ul style="list-style-type: none"> <li>• Physical assault (no physical injury suffered)*</li> </ul>
<ul style="list-style-type: none"> <li>• Physical assault (physical injury sustained)</li> </ul>

*\* Spitting is included in the definition of a physical assault, in circumstances where the spittle hits the individual.*

Non-physical assault is defined as: ‘The use of inappropriate words or behaviour causing distress and/or constituting harassment’.

<b>Type of categorised non-physical assault</b>
<ul style="list-style-type: none"> <li>• Offensive or obscene language, verbal abuse and swearing*</li> </ul>
<ul style="list-style-type: none"> <li>• Brandishing weapons, or objects which could be used as weapons</li> </ul>
<ul style="list-style-type: none"> <li>• Attempted assaults</li> </ul>
<ul style="list-style-type: none"> <li>• Offensive gestures</li> </ul>
<ul style="list-style-type: none"> <li>• Threats</li> </ul>
<ul style="list-style-type: none"> <li>• Intimidation</li> </ul>
<ul style="list-style-type: none"> <li>• Harassment or stalking</li> </ul>

<ul style="list-style-type: none"><li>• Damage to buildings, equipment or vehicles which causes fear for personal safety</li></ul>
<ul style="list-style-type: none"><li>• Offensive language or behaviour related to a person's race, gender, nationality, religion, disability, age or sexual orientation</li></ul>
<ul style="list-style-type: none"><li>• Inappropriate sexual language or behaviour</li></ul>

*\*The use of swear words may warrant a marker depending on the circumstances in which they are used. For some individuals, swear words may be used in everyday speech, however a marker should be considered where swear words are used aggressively.*

***N.B. Some of the above examples of non-physical assault can be carried out by phone, letter or electronic means (e.g. e-mail, fax and text).***

**Checklist/Assessment Tool to Determine the Need for a VP Marker**

The following checklist/assessment tool will assist both the LSMS and Panel in assessing the main risk factors which should be considered when determining whether a patient’s record should be marked. Each patient recommended for a violent patient (VP) marker will have one of these completed checklists included in the evidence paperwork presented to the Panel, so that an informed decision can be made on the final decision to mark the patient’s record.

(This list is not exhaustive, and it is likely that other factors will come into play when assessing the level of risk of violence that an individual poses).

**Please fill in all sections and all Panel members to sign below:**

Patients Name:

DOB:

PAS Number:

Patients Address:

**Section 1**

**Brief description of incident (include location):**

--

**Section 2**

No.	Assessment Question	Yes /No
1	Does the individual have a medical condition or was the individual taking medication at the time of the incident which may have influenced his/her actions? (requires advice from a senior clinician)?	
2	Was the incident of a physical nature?	
3	Was the incident related to sexual or racial remarks?	
4	Did the victim sustain any injuries?	
5	Did the victim (or witnesses) require medical and/or psychological attention following the incident?	
6	Is an urgent response required to alert staff?	
7	Did the incident involve a dangerous animal or weapon?	
8	Does the individual have a history of previous incidents of violence or aggression?	
9	Is the incident, if not serious itself, part of an escalating pattern of behaviour?	
10	Are staff likely to come into contact with the patient while working alone?	

--	--	--

**Section 3**

No.	Decision Making Questions	Yes/No
1	Will the patient receive a VP Marker? Use Section 4 to explain reasons for Yes or No?	
2	If YES, will the patient be informed of the decision? (If the decision is not to inform the patient see Section 5 to explain reasons)	
3	Will this information be shared to other NHS Services as appropriate? See Section 6.	

**Section 4**

**Give reasons why the patient's record will be marked or not marked:**

**Section 5**

**Give reasons why the patient will not be informed of the decision:**

**Section 6**

**Identify other NHS Services to be informed of the patient marker:**

**Panel Members: (Minimum of 3 required to sign off)**

Name: Position: Signature:

## Template for marker notification letter

Dear (individual's name)

### Notification of risk of violence marker being placed on an NHS record

I am writing to you from (insert name of trust), where I am a (insert job title). Part of my role is to protect NHS staff from abusive and violent behaviour and it is in connection with this that I am writing to you.

(Insert summary of behaviour complained of, include dates, effect on staff/services and any police/court action if known)

Behaviour such as this is unacceptable and will not be tolerated. (Insert name of trust) is firmly of the view that all those who work in or provide services to the NHS have the right to do so without fear of violence, threats or abuse.

The NHS Constitution makes it clear that just as the NHS has a responsibility to NHS service users, so service users have a responsibility to treat staff with respect and in an appropriate way.

All employers have a legal obligation to inform staff of any potential risks to their health and safety. One of the ways this is done is by marking the records of individuals who have in the past behaved in a violent, threatening or abusive manner and therefore may pose a risk of similar behaviour in the future. Such a marker may also be placed to warn of risks from those associated with service users (e.g. relatives, friends, animals, etc).

A copy of the trust policy on risk of violence markers is enclosed/can be obtained from [insert details]

I (or the panel – insert panel name) have carefully considered the reports of the behaviour referred to above and have decided that a risk of violence marker will be placed on your records. This information may be shared with other NHS bodies and other providers we jointly provide services with (e.g. ambulance trusts, social services and NHS pharmacies) for the purpose of their health and safety.

This decision will be reviewed in (6/12) months' time (insert date if known) and if your behaviour gives no further cause for concern this risk marker will be removed from your records. Any other provider we have shared this information with will be advised of our decision.

If you do not agree with the decision to place a marker on your record, and wish to submit a complaint in relation to this matter, this should be submitted in writing to:

(Insert complaints service details.

Yours (sincerely/faithfully),

Insert name, job title and contact details

## Template for notification for removal of a marker

Dear (individual's name)

### Notification of risk of violence marker being removed from an NHS record

I am writing to you from (insert name of trust), where I am the (job title).

I wrote to you previously on (date/reference) concerning the placement of a risk of violence marker on your records after careful consideration of an incident...

(Insert summary of behaviour complained of, include dates, effect on staff/services and any police/court action if known)

This risk of violence marker was recently reviewed after a period of 6/12 months. After careful consideration, I (or the panel – insert panel name) have decided that there is no further cause for immediate concern.

(State specific reasons for the decision, if any.)

Therefore, the risk of violence marker has been removed from your records. Any other provider with whom we have shared this information will also be notified of our decision to remove the marker.

However, you should be advised that any future incidents in which you are involved, and which indicate a risk to staff of physical or non-physical violence or abuse, may result in a risk of violence marker once again being placed onto your records. Behaviour such as this is unacceptable and will not be tolerated.

(Insert name of trust) is firmly of the view that all those who work in or provide services to the NHS have the right to do so without fear of violence, threats or abuse. The NHS Constitution makes it clear that just as the NHS has a responsibility to NHS service users, so service users have a responsibility to treat staff with respect and in an appropriate way.

A copy of the trust policy on risk of violence markers is enclosed/can be obtained from [insert details].

Yours (sincerely/faithfully),

Insert name, job title and contact details

Decision making process flowchart – MODEL 1

