



Violent Patient Marker Procedure

Procedure information

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Summary of document:

This document outlines the processes and responsibilities that are to be followed when a violent and aggressive incident has taken place and a violent patient marker is to be considered for the individuals' healthcare record

Scope:

This is an Organisation wide document for all service areas

To be read in conjunction with:

[285 - Violence and Aggression Policy](#) – opens in new tab

[010 - Health and Safety Policy](#) – opens in new tab

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514 – Management & investigations of incidents procedure – opens in new tab

Patient information:

Include links to [Patient Information Library](#)

Owning group:

Health and Safety Advisory Group

Executive Director job title:

Andrew Carruthers, Director of Operations

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1 new procedure 17.7.2019

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Glossary of terms

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Aim/Objectives

The purpose of this Procedure is to set out the lawful approach of Hywel Dda University Health Board (H DUHB) regards placing a risk of violence and aggression marker on the healthcare record of individuals who have acted in a violent, aggressive or anti-social manner and present risks that need to be communicated to health board staff or other relevant partners including primary care and Welsh Ambulance Service Trust where appropriate.

It aims to provide a robust framework to ensure a consistent, justified, proportionate, lawful appropriate and necessary approach across the Health Board that is compliant with legislation and statutory regulations such as but not limited to the following:

- Data Protection Act 2018 and General Data Protection Regulation 2016.
- Health & Safety at Work etc. Act 1974
- Management of Health and Safety at Work Regulations 1999

The correct implementation of a warning marker system will:

- Provide information to staff of a particular individual or situation that represents a risk to them, their colleagues, contractors, patients or the public
- Provide security warnings and handling advice to avoid or minimise risk
- Aim to reduce/minimise the number and severity of violent, aggressive or anti-social acts against staff through awareness and risk management.
- Assist in creating a safer and secure environment for staff, patients and visitors
- Ensure information is shared with internal and external stakeholders for the purposes of community safety and security.
- Highlight to individuals that their behaviour is recorded and shared in order to communicate and address risks associated with them.
- Facilitate the lawful sharing of information

Scope

This Procedure is written for the purposes of safety and security with risk management. Where applicable it will apply to all H DUHB staff, other agencies (e.g. G.P. Practices, Social Services, Welsh Ambulance Trust) who may be involved with the patient's on-going care.

Definitions

Work Related Violence

The Health and Safety definition of work-related violence is:

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 and will extend to offences of harassment.

Physical Assault

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

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Non Physical Assault

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

Anti-Social Behaviour

The Police describe Anti-social behaviour as a wide range of unacceptable activity that causes harm to an individual, or to their environment. This could be an action by someone else that leaves others feeling alarmed, harassed or distressed. It also includes fear of crime or concern for public safety, public disorder or public nuisance.

In Healthcare associated environments this could include but not limited to disruption to services due to:

- Nuisance, rowdy, inconsiderate and un-cooperative behaviour;
- Acts of vandalism or graffiti;
- Consumption of alcohol, drugs or psychoactive substances; and
- Failure to control aggressive or dangerous animals/dogs.

Duties

Staff

Staff must ensure they:

- Report violent and aggressive incidents via the Datix reporting system and verbally report the incident to their immediate line manager/supervisor as soon as practicable.
- Take responsibility for keeping themselves informed and up to date regarding warning markers on patient healthcare records where they are likely to have contact with patients, their relatives or associates.
- Adhere to relevant advice regarding control measures or actions on how to manage identified risks are applied at all times.
- They take reasonable care of their own safety and comply with supporting Policies and procedures such as but not limited the Health and Safety Policy, Violence and Aggression Policy.
- Attend violence and aggression training where deemed appropriate including refresher training.

Service Delivery Managers/Ward Managers

Responsible for:

- Reviewing investigations of incidents, assessing the risks to staff, making a recommendation to the relevant Management Team (Hospital, Community, Mental Health, Sexual Health, Women's & Children Health etc) for a warning marker to be placed on a particular record.
- Notifying the members of the Warning Marker Review Panel by completing the referral form [Appendix B](#). The panel is responsible for approving the recommendation for placement and / or removal of a warning marker.

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- Liaising with the violence and aggression case management to progress warning marker considerations
- Completing, reviewing and updating risk assessments to safely manage situations where required.

Health, Safety & Security Team

Are responsible for:

- Assisting the Management Teams with reviewing investigations of incidents and assessing the risks to staff, making recommendations for promoting safety and risk management
- In line with the Violence and Aggression Policy compile a letter to the patient, relative or associate advising them of the placement and / or removal of a warning marker.
- Where necessary assisting the Management Teams in compiling and sending subsequent patient conduct letters.
- A member of the Health, Safety & Security Team will wherever possible be part of the Warning Marker Review Panel, where practical this will be the Violence and Aggression Case manager.
- Sending the agreed warning marker panel decision to patient information services for inclusion in patient records.

Warning Marker Review Panel

The Warning Marker Review Panel will consist of the following suggestions:

- Hospital Management Team representative
- Community Management Team representative
- Senior clinical staff responsible for the care of the violent/aggressive patient
- Health, Safety & Security representative
- Other persons felt appropriate to provide their opinion on each case (E.g. Safeguarding, Deprivation of liberty, Medical staff,)

The Review Panel's role is to:

- Approve or reject recommendations made by the Service Delivery/Ward Managers with regards to marking records;
- Using the Service Point Call system notify the Data Standards Manager with the patient identification and brief description of the reasons why a warning marker is being attached
<http://hdd-informaticsportal.cymru.nhs.uk/portal/index.php> opens in a new tab
- Provide the Health Board assurances that the decision making process is objective, transparent and fair.
- Review warning markers on a 12 monthly basis to ensure they are relevant, proportionate, ensuring the interests of individuals are appropriately safeguarded.

Data Standards Manager and Information Services

The Information Services department are responsible for:

- Facilitating requests via the Health Board Service Point Call system for warning markers to be placed on electronic recording systems in compliance with current legislation.

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- Notify the various Information Asset owners of the need to place or remove a warning marker on their respective systems.
- Supporting the procedures and processes for placing warning markers onto software packages and platforms.
- Inform the Health Records Management Teams of the need to mark the hard copy Medical Record with a warning marker.

Health Records Management

Upon request and instruction from the Information Services Department, the Health Records Management will be responsible for:

- The placement of warning markers onto hard copy medical records of those records that they have responsibility for.
- The removal of warning markers (subject to Review Panel decision or Data Legislation compliance to remove them).

Director responsible for the management of Health and Safety

The Director of Operations along with the Director of Nursing, Quality & Patient Experience has delegated responsibility for ensuring the Health Board has in place appropriate procedures for the management of violence and aggression.

The Director of Operations is responsible for the endorsement of the decision taken by the Review Panels and will sign letters in accordance with the Health Boards Violence and Aggression Policy which will be sent to the patient.

Administration

Administration of the Patient Marker Procedure including the monitoring of when reviews are made will be managed by the relevant management teams e.g. Community, Hospital, Mental Health etc. This will involve organising a review of the patient's medical record in accordance with this procedure i.e. not exceeding 12 months.

Considerations for Placing Warning Markers

A warning marker may be applied regardless of whether the act was intentional or not. The use of a warning marker will help reduce possible risks to Health Board staff and others by enabling the implementation of measures for everyone's protection and safety.

Examples of types of incident that may warrant a violence and aggression warning marker:

- Physical assault – spitting is included in the definition of physical assault, in circumstances where the spittle hits the member of staff;
- Non-Physical Assault is defined as: The use of inappropriate words or behaviour causing distress and/or constituting harassment.

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Types of categorised non-physical assault include:

Offensive or obscene language, verbal abuse and swearing*

- Brandishing weapons or objects which could be used as weapons
- Attempted assaults
- Offensive gestures
- Threats
- Intimidation
- Harassment or stalking
- Damage to buildings, equipment or vehicles which causes fear for personal safety
- Offensive language or behaviour related to a person's race, gender, nationality, religion, disability, age or sexual orientation.
- Inappropriate sexual language or behaviour.
- Undermining the ability of a department to deliver safe care by any action or disruption

*Note the use of swear words may warrant a warning `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.

Some of the above examples of non-physical assault can be carried out by phone, letter or electronic means.

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, aggression or risks, whether such actions are deliberate or take place as a result of any medical condition or as a response to treatment or medication.

The warning marker and associated additional information such as handling advice, should be available to all Health Board staff who may have face-to-face contact with a particular individual and who may be subject to an increased risk of violence, aggression or harm. This information should be provided in the narrative on the electronic record and on the inside of the hard copy record.

All incidents involving physical assault should be considered for review to consider placing a warning marker on records. Non-physical assault (including threatening behaviour) can be equally serious and incidents should be reviewed to consider placing a warning marker on healthcare records.

Where NHS staff or contracted staff witness assaults committed by patients or members of the public against other patients or members of the public it may warrant the consideration and introduction of a warning marker due to the distress or disruption caused.

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There are various electronic and paper based healthcare record platforms. The way warning markers can be flagged or highlighted will vary between systems and the level of information may vary subject to the systems software and capacity to store data.

Regardless of platform, in essence the key is to ensure information is relayed to identify and highlight the risk to protect staff and others from risk of harm. It is important to ensure that those who access the system can understand the warning being flagged and that the warning marker is easily accessed. As well as the obvious warning marker a narrative of the reasons why the marker has been placed will be provided as well as recommended control measures (e.g. no single handed care)

The evidence to support the warning marker process must be in line with the eight principles of the Data Protection Act 2018/General Data Protection Regulation.

1. **Lawfulness - Transparent & Fair.** You must process all personal data lawfully, fairly and in a transparent manner
2. **Purpose Limitations - Collect data for specified, legitimate purposes.** Process all personal data for a specific purpose.
3. **Data Minimisation - Limit the amount of data.** Review all personal data to ensure it is adequate, relevant and limited to what is necessary.
4. **Data Accuracy - Kept up to date.** Ensure all personal data you store is accurate, up to date and accessible.
5. **Storage limitations - Only keep data you need.** If you no longer need the personal data, for the purposes it was collected, dispose of it appropriately.
6. **Integrity - Data safeguarding.**
Ensure appropriate security of the personal data.
7. **Accountability** – You need to be responsible for, and able to demonstrate your compliance with Data Protection Legislation.

The following risk factors should be considered when determining whether a warning marker should be placed against an individual:

- Nature and type 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 or harm that the individual poses.
- Whether an urgent response is required to alert staff.
- Impact on staff and others who were victims of or witnessed the incident.
- Impact on the provision of services.
- Likelihood that the incident will be repeated.
- Staff are due to visit a location where the individual may be present in the near future.
- The individual is a frequent user of the service (e.g. to a clinic or out-patients).
- 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.

Warning markers **will not** be placed against any individual where:

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- There is insufficient evidence of actual violent, aggressive or anti-social act towards staff or others.
- Mitigating circumstances do not warrant the placement of a marker.
- The incident or circumstances do not comply with the seven principles of the General Data Protection Regulation and the Data Protection Act 2018 or any current legislation to the same effect.

Information Sharing

Article 8 of the Human Rights Act gives protection to an individual's right to respect for their private and family life. Respect for private life includes the respect for private and confidential information, particularly the storing and sharing of such information.

Article 8 is a qualified right and as such the right may be lawfully limited. A balance must be struck between the competing interests of the individual and of the community as a whole. **Reasons for sharing information legitimately include:**

- The protection of rights and freedoms of others;
- For the purposes of public safety;
- The prevention of crime or disorder; or
- The protection of health.

The Crime and Disorder Act 1998 allows any person to disclose information to a relevant authority under section 115 where disclosure is necessary or expedient for the purposes of the Act (i.e. for the reduction and prevention of crime and disorder).

In addition under section 17a there are duties to share information which is relevant to the reduction of crime and disorder including anti-social behaviour. For the Health Board this duty applies to the sharing of information in circumstances such as records relating to hospital admissions relating to assaults, alcohol related harm, domestic abuse and behavioural disorders due to drug use.

The sharing of information will be guided by the Caldicott principles. Information is shared where it:

- Is justified;
- Is absolutely necessary;
- Uses the minimum personal confidential data necessary for purpose;
- Restricts access to the data on a strict need to know basis;
- Is clear those who handle such information are aware of their responsibilities; and
- Complies with the law.

Following a review of the Caldicott principles during 2012, an important addition to the principles was added:

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- The duty to share information can be as important as the duty to protect the patient.

“Health and social care professionals should have the confidence to share information in the best interests of their patients within the framework set out by these principles”.

Information concerning warning markers will be shared with other agencies as is appropriate and as is necessary (e.g. GP Practices, Social Services, Welsh Ambulance Trust, Dyfed Powys Police), the Caldicott and Data Protection principles concerning the transfer of patient identifiable information will be applied at all times.

Where information is shared with any stakeholder, it is for the purposes of safety, security or the prevention or detection of crime. Information will only be shared once the Review Panel have approved the endorsed recommendation for placement of a marker.

Procedure for Placing a Warning Marker

Following any violence and aggression incident (physical or non-physical), the member of staff affected must report the incident in accordance with the Incident Reporting Policy

The line manager/supervisor or deputy will investigate reported incidents and decide from the outcome and the evidence available whether a recommendation for the placement of a warning marker against an individual will be made to the Review Panel.

The line manager will contact the relevant management team to convene the Review Panel to endorse or reject the placement of the warning marker against the individuals Healthcare Record.

To avoid any unnecessary delays in the placement of warning markers, should individual panel members be unavailable, i.e. on annual leave, sickness absence, a majority decision from available Review Panel members will be taken.

Once a warning marker has been approved by the Review Panel, it will be placed against the healthcare record of the individual in question. The Health, Safety & Security Team will write to the person concerned where appropriate and the letter will be signed by the Director of Operations. Exclusions from this process can be considered whereby the notification would adversely affect the safety of any persons as later described in this document.

Essential Marker Information

For all healthcare record systems, the marker should include the following information:

- Who, or what the marker applies to;

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- A brief classification of the type of incident (see [Appendix B](#)) e.g. unpleasant, intimidating, verbally threatening, fear of violence, physically threatening, actual physical violence.
- Date the warning marker is effective from and review date;
- Whether the individual has been notified; and
- Essential and relevant handling information or advice to staff about who to contact for further advice or guidance.

Where possible, the warning marker will aim to provide staff with additional information to manage the risks that an individual poses. Information may include:

- Advice that staff should exercise caution when dealing with the individual;
- A brief description of the incident, e.g. physical or non-physical assault;
- Security warnings, specific areas of risk or trigger factors;
- Essential guidance on how to deal with the individual;
- Control measures to promote safety

Review Process for a Warning Marker

All warning markers placed against a patient's healthcare record will be reviewed on a 12 monthly basis by the Review Panel and/or records departments. Notification for the panel to reconvene will be provided by the relevant management team.

If the decision is made to remove the warning marker the Panel will notify the Information Services Team who will then contact the Healthcare Records Manager requesting that the warning marker is removed from the patient's healthcare record.

Notifying the patient

In the majority of instances, the patient will be informed in writing as soon as possible following a decision to mark their records. Where the patient does not have capacity, a letter may be sent to their next of kin as appropriate.

The Health, Safety & Security Team via the Director of Operations is responsible for sending the notification letter to the patient outlining the reason for the warning marker. The letter will explain:

- The time, date and nature of the incident;
- That their records will show a marker and the reason for the warning marker;
- The review process for the warning marker;
- Action to be taken if additional incidents are reported and investigated; and
- How to raise a concern if they wish to query placement of the warning marker or do not agree with decisions taken.
- Who the warning marker information has been shared with E.G. Primary Care.

There may be exceptional cases when it is decided that notifying the individual may increase the risk that they pose to staff and that notification is not appropriate. These may include:

- Where informing the individual may provoke a violent reaction and put staff at further risk.

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- Notifications of a warning marker may adversely affect an individual's health.

Informing and supporting the victim

The victim's line manager and or the Health and Safety & Security Team will inform the member of staff (victim) and / or others affected by the incident of the decision reached. When a warning marker is placed on records, the reporter and / or victim will be informed. Providing feedback reflects best practice.

Where a decision has been reached that a warning marker is not required, the line manager and or the Health and Safety & Security Team will explain the reasons to the victim and offer them any further assistance that is necessary.

Managers must ensure that victims have access to appropriate support if required.

Appeals Process

Where an individual wishes to appeal against the Review Panel decision for a warning marker being placed on their healthcare record, their concern will be referred for consideration to the Review Panel in the first instance.

Where the appeal is upheld by the Review Panel, the warning marker will be removed with immediate effect. The individual will be informed in writing ([Appendix E](#)).

Where it is deemed that the warning marker is appropriate and should remain against the individual's record, the individual will be notified of the decision in writing ([Appendix E](#)).

Should the individual be dissatisfied with the Review Panels appeal decision to retain the warning marker on their healthcare record, they will be referred to the Patient Support Department and the concern will be dealt with in accordance with the Raising Concerns and Complaints Policy.

Record Keeping

The Director of Operations administration staff is responsible for keeping appropriate records to include the following:

- Date the warning marker was applied to the patient record.
- Date the individual and/or their associate was informed by letter.
- Date the warning marker was approved by the Panel.
- Whether the individual raised a concern or query including the date and outcome
- Date(s) the warning marker was reviewed by the Review Panel to determine whether it should remain.

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- Date and rationale when the warning marker is removed from the individual's patient record.

Monitoring

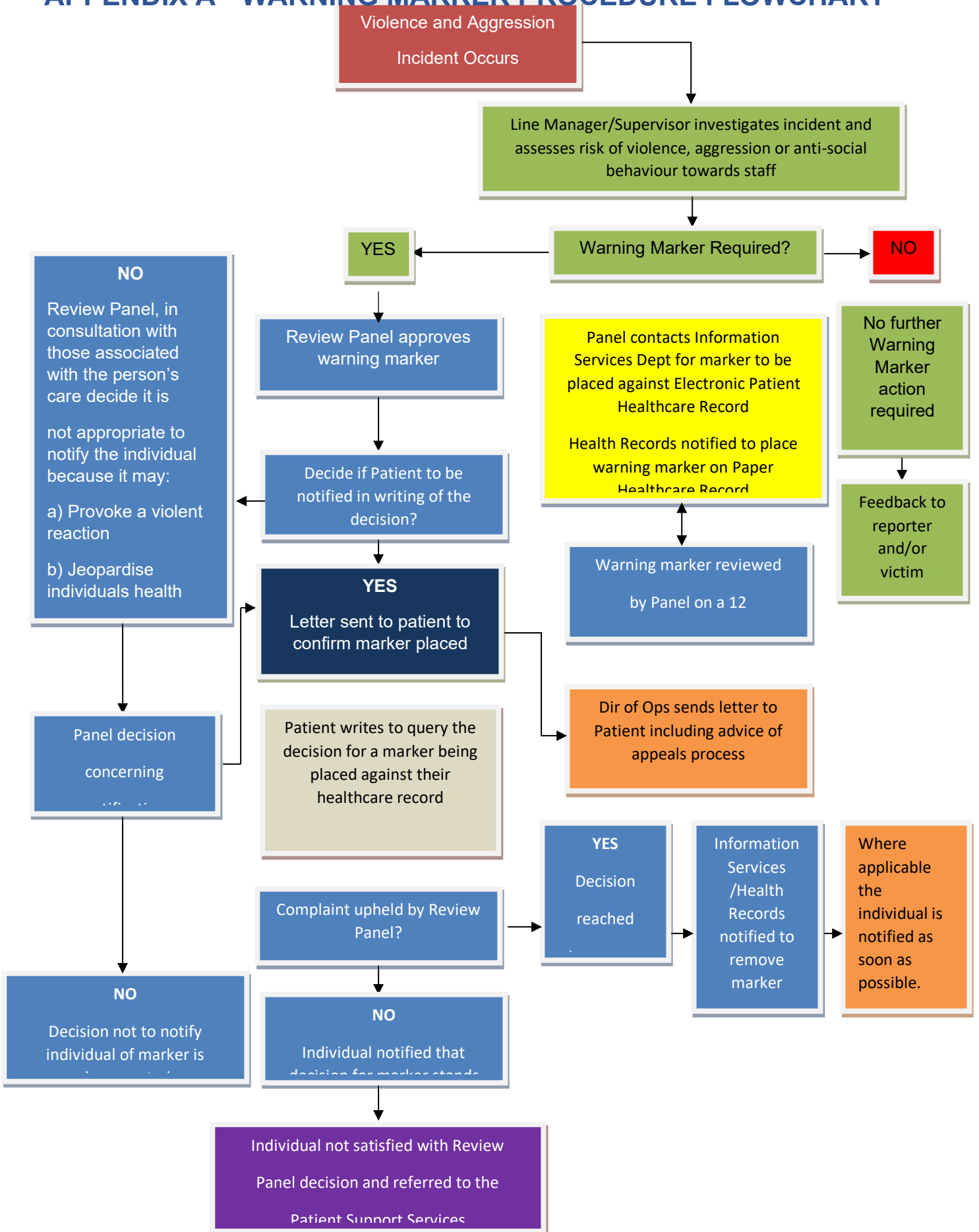
The Health Board Health and Safety and Emergency Planning Sub-Committee will receive regular updates from the Health, Safety & Security Team including the number of warning markers placed during that quarter.

References

- Caldicott review: information governance in the health and social care system. April 2013.
- Crime and Disorder Act 1988.
- Data Protection Act 2018.
- Department of Health. Information: To Share or not to Share.
- Government Response to the Caldicott Review 2013.
- Health and Safety at Work Act 1974.
- Home Office National Support Framework. Delivering Safer and Confident Communities. Information sharing for community safety guidance. Aug 2010.
- Human Rights Act 1998
- Management of Health and Safety at Work Regulations 1999.
- NHS Protect guidance on procedures for placing a risk of violence marker on electronic records.
- Secretary of State NHS Directions 2004 – security management measures.
- Social Care Institute for Excellence website. What does the law say about sharing information? – Adult Safeguarding: sharing information.
- Police description of Anti-social behaviour. Police UK website

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APPENDIX A - WARNING MARKER PROCEDURE FLOWCHART



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Appendix B: Panel Referral Form

Name of Patient	
Date of birth	
Patient's address	
NHS number	
Date of incident	
Time of incident	
Incident took place at	
Name of Staff member involved	
Others involved	
Incident reported by	
Police Officer attending (number, name)	
Incident reference number	
Police action taken	

Please describe the incident and any events that led up to it:

Name of person completing this request

Signature

Date:

Consequences of the incident what do you consider to be the severity of the incident?

Please tick:- ✓

Unpleasant		Intimidating		Physically Threatening	
Verbally Threatening		There was fear of violence		There was actual violence	

Appendix C: Notification of Warning Marker Template Letter



Stage 1 Personal/Patient Notice

Date

Mr/Mrs

Datix No HD

This is to formally confirm to you that reports have been made with regard to your conduct

It is reported that you

As a result of this report you are now subject to Stage 1 of the violence and aggression policy and the enclosed document is supplied for your information. This document explains the types of behaviours that are unacceptable within the Health Board services.

This first stage is to highlight to you that your behaviour has fallen short of what is acceptable and Hywel Dda University Health Board is committed to providing a safe and secure environment for all its staff and service users.

A copy of this letter will also be placed on your Hospital Healthcare Records which will be accessed by those employed by the Health Board who may come into contact with you as part of any on-going or future care. It may also be shared with other healthcare providers for example: General Practice, Primary Care, and Local Authority departments.

The violent patient marker will be reviewed in 12 months time. You will be advised in writing of the outcome of this review and whether the marker will be removed from your records or whether it is considered that it should remain in place.

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If you have any queries following receipt of this letter, they should be submitted in writing and marked for my attention. Should you wish to appeal against the marker decision, your appeal will be referred to an independent panel for review and you will be notified of any decision taken following panel review.

Should you, on any occasion in the future fail to comply with the expected standards of behaviour explained by the attached notice, Stage 2 of the Health Board Policy will then be applied with Personal Undertakings being put in place with relevant conditions.

More serious breaches could result in the consideration of the immediate exclusion from Health Board premises by staff/police. Further criminal or civil sanctions may also be instigated.

We would urge you to consider your conduct towards our staff and on our premises at all times.

Yours sincerely

Director of Operations

Appendix D: Review of Warning Marker Template Letter



Individuals Name

Address,

Postcode,

Date:

HB Reference: (Incident reference number)

FAO:

Ref: Notification of risk of violence marker being removed from NHS Healthcare Record

I wrote to you previously on date / reference concerning the placement of a risk of violence marker on your records after consideration of an incident on (brief description of incident events added here, this may include additional incidents that may have occurred following the placement of the original marker).

The risk of violence against staff marker placed against your Healthcare Record was recently reviewed after a period of 12 months.

Template Option A (Marker remains following 12 monthly Panel review)

a) The Review Panel have carefully considered the events that triggered the placement of a marker against your Healthcare Records. Based on the facts and circumstances, the decision to place a marker on your Healthcare Record stands. The risk to staff is considered sufficient to warrant the marker remaining in situ until further review in another 12 months time.

If you have any queries following receipt of this letter, they should be submitted in writing and marked for my attention. Should you wish to appeal against the marker decision, your appeal will be referred to an independent panel for review and you will be notified of any decision taken following panel review.

Template Option B (Marker removed following 12 monthly Panel review)

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b) There have been no further incidents recorded by the Health Board linked to you concerning any unacceptable behaviour.

Therefore, the risk of violence warning marker has been removed from your Hospital Healthcare Records. Any organisations with whom marker information was shared with will be notified of our decision to remove the marker.

You are advised that any future incidents in which you are involved, and which indicate anti-social behaviour or a risk to staff from violent or aggressive behaviour is likely to result in a marker being reinstated.

Yours sincerely

Director of Operations

Hywel Dda University Health Board

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Appendix E: Appeals to Review Panel Template Letter



Individuals Name

Address,

Postcode,

Date: Date of letter

Trust Reference: (Incident reference number)

FAO:

Ref: Appeal Concerning Marker Reviewed by Independent Panel

I am the Violence and Aggression Case Manager for the Hywel Dda University Health Board.

I wrote to you previously on date / reference concerning the placement of a risk of violence marker on your Hospital Healthcare record following an incident that occurred on (date and brief description of incident events added here).

The letter you subsequently sent to me on (date / individuals reference) has been submitted to an independent Panel for review.

Template Option A (Marker remains following Panel review of appeal)

a) The Review Panel have carefully considered the events and note the concerns you have raised.

Based on the facts and circumstances, the decision to place a marker on your Healthcare Record stands. Your appeal has not been upheld. The risk to staff is considered sufficient to warrant the marker remaining in situ until further review in 12 months time.

Should you be dissatisfied with the Review Panel decision to keep the marker against your records, any further queries or concerns must be referred to the Patient Support Services

Department who can be contacted in writing at the following address:

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Freepost RTJR-ZKJG-JZTC
Patient Support Services
Hywel Dda University Health Board
Fishguard Road
HAVERFORDWEST
SA61 2PZ

hdhb.patientsupportservices@wales.nhs.uk

Template Option B (Marker removed following Panel review of appeal)

b) The Review Panel have carefully considered the events and note the concerns you have raised to appeal against the decision to place a marker against your Hospital Healthcare Record.

Your appeal has been upheld and the marker has been removed from your Hospital Healthcare Record. Organisations with whom marker information was shared with will also be notified of the decision to remove the marker.

Yours sincerely

Director of Operations