Gloucestershire County Council
Application & Monitoring of Electronic Case Warnings, Flags, Hazards & Communication Protocols Policy

1. Policy Statement

There are occasions when it is necessary for staff to put a communications protocol in place or apply a warning, flag or hazard to the record of a service user or individual known to the Council, either for the increased safety of that individual, other people they are associated with, or staff members who are working with them.

A ‘warning’, ‘flag’ or ‘hazard’ will be applied to an individual’s electronic record when, in the professional opinion of the worker/staff member, and following discussion with their line manager, it is deemed appropriate to do so. A communications protocol will be established for an individual when a senior manager feels it is no longer appropriate or safe for that individual to have contact with staff in general across the County Council. In all instances, providing it is safe to do so, the individual concerned will be informed of the addition to their record or change to their communication method.

The County Council supports the application of warnings/flags/hazards and the application of communications protocols where appropriate, and will take action to protect staff from behaviour which is abusive, offensive or threatening, but wishes to ensure a robust process is in place to manage this.

2. Purpose

To provide an overarching local authority policy from which individual areas of the Council can develop and implement their own service-specific procedures. **It is not intended to replace existing specialist flag/alert processes in areas such as Safeguarding Children or Adults.**
To protect both individuals and staff as appropriate, by making the Council's position clear, and offering procedural advice to ensure staff are working in a safe and supportive manner.

To ensure a robust overarching process is in place for the application, monitoring and removal, where appropriate, of file warnings/flags/hazards and communication protocols.

3. Scope

This policy applies to all employees, elected members, partners, contractors, agents, representatives and temporary staff working for or on behalf of the Council.

This policy applies to all contact mediums and recording mechanisms associated with individuals' records.

This policy does not apply to those flags assigned to individuals who have been convicted of offences against children.

4. Legal context & relationship with existing policies

Health and Safety at Work Act 1974 An Act to make further provision for securing the health, safety and welfare of persons at work, for protecting others against risks to health or safety in connection with the activities of persons at work.

The Children Act 1989 imposes a duty on local authorities to identify children in need and to safeguard and promote their welfare.

NHS and Community Care Act 1990 aims to help people live safely in the community. It requires councils with social care responsibilities to carry out formal assessments, and arrange for the provision of social care services to meet the assessed needs of individuals.

Crime and Disorder Act 1998 In order to cope with exchanges of information which might otherwise have infringed the Data Protection legislation, Section 115 of the Crime and Disorder Act, 1998 provides an explicit power, where none previously existed, for people to disclose information to a number of agencies if the disclosure is necessary or expedient for any of the purposes of the Act.
Data Protection Act 1998  This Act makes provision for the regulation of the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information.

Data Protection Act 1998 - guidance for social services.  The Data Protection Act 1998 (DPA) came into force on 1 March 2000. The purpose of this guidance to local authority social services is to provide information about how the DPA works in relation to giving access to social work records.

Human Rights Act 1998  sets out the fundamental rights and freedoms that individuals in the UK have access to.

Recording with Care: Inspection of case recording in Social Services Departments 1999  This report aimed to improve case recording in social services departments.

Care Standards Act 2000  The Care Standards Act 2000 created a new regulatory framework for all currently regulated social care and independent health care services.

The Children Act 2004 identifies and places a responsibility on child practitioners to work together to help a child meet five priority outcomes: be healthy; stay safe; enjoy and achieve; make a positive contribution; and achieve economic wellbeing.

Defining the Electronic Social Care Record: Information Management in Social Care 2004  This document sets out the content of the Electronic Social Care Record.

The Bichard Inquiry Report 2004  makes recommendations that are relevant for police, social services, education establishments, vetting departments and the Government to protect children and the vulnerable nationally.

Working Together to Safeguard Children  This guidance sets out how organisations and individuals should work together to safeguard and promote the welfare of children and young people.

The Local Authority Social Services Complaints (England) Regulations 2006  These regulations align adult social care and health complaints processes into a single set of arrangements.

The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007  sets out the policy framework for Civil Parking Enforcement (CPE). It explains how to approach, carry out and review parking enforcement.
The **Tribunals, Courts and Enforcement Act 2007** creates a new, simplified statutory framework for tribunals, bringing existing tribunal jurisdictions together and providing a structure for new jurisdictions and new appeal rights.

**Equality Act 2010** The Equality Act 2010 aims to protect disabled people and prevent disability discrimination. It provides legal rights for disabled people in the areas of employment, education, access to goods, services and facilities including larger private clubs and land based transport services, buying and renting land or property, functions of public bodies.

The Equality Act also provides rights for people not to be directly discriminated against or harassed because they have an association with a disabled person. This can apply to a carer or parent of a disabled person. In addition, people must not be directly discriminated against or harassed because they are wrongly perceived to be disabled.

**The Health & Care Professions Council** (HCPC) is a regulator set up to protect the public. They keep a register of health and care professionals who meet their standards for training, professional skills, behaviour and health.

**This policy should also be read in conjunction with:**

**Dealing with Complainants who Demonstrate Unreasonable Persistence or Unacceptable Behaviour** This policy is designed to help staff deal fairly, honestly and appropriately with people who persistently use the social care complaints procedure, while ensuring that other service users, staff members or the Local Authority as a whole do not suffer any detriment and that the Local Authority’s resources are used as effectively as possible.

**Freedom of Information Vexatious Requests Policy** The Information Commissioner has recognised that there may be a risk that some individuals and perhaps some organisations may seek to abuse the right of access with requests. Such cases may well arise in connection with a grievance or complaint which an individual is pursuing. In all cases that are considered possibly vexatious, repeated or manifestly unreasonable Gloucestershire County Council will undertake an assessment to determine if it is acceptable to define the request under one of those headings.

The **Safer Working Practice Guidance** provides information for staff to help them reduce the risks of violent or abusive incidents. It also outlines the responsibilities
that staff have to safeguard themselves, colleagues, service users and other members of the public.

The Adult Social Care Recording Policy and the Children’s Social Care Recording Policy both relate to all social care records, whether paper or electronic.

5. Roles and responsibilities

5.1 Any decision to add a warning, flag or hazard to an individual’s record, should be based on a specific incident or expression of clearly identifiable concern by a professional; this could include a developing pattern of unacceptable/inappropriate or escalating behaviour (see Appendix 1). The final decision should only be made following discussion between the worker/staff member and their line manager; the final decision will be the responsibility of the appropriate Team Manager.

5.2 The decision to invoke a communications protocol should be based on a culmination of issues/concerns that have resulted in the need to specify the route by which an individual should make contact with the Council (see Appendix 2). The final decision and issuing of a communications protocol can only be taken by a senior manager (see 7.2).

5.3 If it is anticipated that the impact of being informed of the warning, flag or hazard may cause an individual to escalate their contact and/or involve outside agencies such as the Press, the Manager must ensure that both the appropriate Senior Manager and the Public Relations & Engagement Manager are suitably briefed.

6. Applying a warning, flag or hazard

6.1 Once this decision has been reached, the appropriate Manager must write to the individual in question advising them that a warning, flag, or hazard has been recorded on their record. This should include:

    The reason for the warning, flag or hazard
    Who this information will be shared with, including any partner agencies, commissioned providers, etc.
    When the warning will be reviewed
    Details of the Council complaints procedure for individuals who wish to challenge the decision
6.2 There may be extreme situations where informing an individual of the decision to add a warning, flag or hazard to their file may in itself create a potentially violent reaction or lead to risk of harm to another person. If this is the case, and it is deemed inappropriate to inform the individual, this should be recorded on their file, with a clear indication of how and why this decision was reached.

6.3 Once the decision has been taken to add a warning, flag or hazard to an individual’s record, details of this must be added to the relevant electronic records system (e.g. ERIC, Liquidlogic, Capita ONE, Alto Chorus) within 3 working days.

7. Invoking a Communications Protocol

7.1 Where appropriate, the invoking of a communications protocol can be a 2 stage process:

- At stage 1 a warning will be issued to the individual and a flag added to their record. An improvement notice should be issued clearly stating why their behaviour is unacceptable and asking them to change it in line with the Service Users responsibilities as outlined in the Council’s Safer Working Practice guidance. Direct work will continue with the individual, and the ongoing relationship will be monitored for any improvement.

- If the relationship with the individual does not improve after an agreed period of time or deteriorates further, stage 2 of the process will be enacted. A communications protocol will then be drawn up and issued to the individual, clearly stating the agreed method by which they are able to make contact with the Council (see Appendix 2), and the point at which the protocol will be reviewed.

7.2 The decision to issue a communications protocol can only be taken by one of the following senior managers:

Caldicott Guardian
Monitoring or Deputy Monitoring Officer
Member of the Chief Officers’ Management Team (COMT)

7.3 When a communications protocol has been invoked, the individual must be informed in writing, clearly stating the agreed method by which they are able to make contact with the Council, and the point at which the protocol will be reviewed.

7.4 A copy of the communications protocol and the covering letter, including the review date, must be added to the individual’s record within 3 working days.
8. Reviewing the warning/flag/hazard or communications protocol

8.1 The warning, flag, hazard or communications protocol should be reviewed at regular intervals/in line with the relevant service area’s agreed procedures.

8.2 If, following review, the decision is reached to change or remove a warning, flag, hazard or communications protocol, both the individual and any other partner organisations who have previously been sent this information must again be informed. Therefore, clear up-to-date records must be kept of who the information has been shared with.

9. Recording of perceived threats and professional opinions

9.1 If a decision is made to record a perceived threat, care must be taken to record that it is just perceived and give reasons for that perception; staff must not imply that it has been substantiated if it has not. Similarly, if it is felt appropriate to record information from a third party that is unsubstantiated, staff must not imply that it is factual.

9.2 All managers must ensure that their staff are aware of how to record professional opinions appropriately. Guidance issued by the Information Commissioner’s Office states:

When an opinion is recorded it is good practice to do the following

*Make it clear that it is an opinion. The record should show who gave the opinion and when.*

*If possible, provide contact details.*

*Structure the record so that if someone objects to its accuracy, their view or challenge can be included in such a way that it is given proper weight.*

*Make sure that when an opinion is disclosed it is not presented as fact.*

Where an opinion is likely to be controversial or very sensitive, or when it will have a significant impact when used or disclosed, it is even more important to explain the circumstances, or evidence on which the opinion is based.
10. Information exchange with other agencies

10.1 With regard to potentially violent or abusive individuals, there should be no ethical objection to recording factual information about the need for particular precautions in their records and other information systems. It is essential that information of this nature is transmitted effectively and efficiently between organisations, following the principles set out in this policy.

10.2 Both Adult and Children’s Social Care staff are covered by the Information Sharing Agreements between Gloucestershire County Council and Gloucestershire Care Services NHS Trust, which allow the sharing of person-identifiable information between the two agencies for a number of purposes, including the delivery of personal care and treatment, safeguarding and crime and disorder.

11. Complaints

Individuals who wish to appeal about any warning, flag or hazard added to their record, or the invoking of a communications protocol, should follow the relevant Council complaints procedure.

12. Definitions

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<th>Definition</th>
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<td>Communications protocol</td>
<td>The agreed procedure/process by which an individual can make contact with the Council when it is deemed inappropriate or unsafe for them to have contact with staff in general across the Council</td>
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<td>Warning, Flag or Hazard</td>
<td>An indicator on an individual’s record relating to a specific incident or identifiable concern</td>
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13. References

This policy and other related information management and security policies, standards and procedures can be found at http://www.gloucestershire.gov.uk/council-and-democracy/strategies-plans-policies/information-management-and-security-policies/

Questions regarding the content or application of this policy should be directed to foi@gloucestershire.gov.uk
14. Policy Compliance

All users must comply with this policy. If you do not understand the implications of this policy or how it applies to you, you can seek advice from the Information Management Service on 01452 324000 or foi@gloucestershire.gov.uk

Breach of this policy may be dealt with under the Council's Disciplinary Procedure which can be found at https://staffnet.gloucestershire.gov.uk/employee-information-and-support/hr-and-employment-handbook/disciplinary-and-dismissals/ and in serious cases, may be treated as gross misconduct leading to summary dismissal.

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Version History

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The Information Management Service
foi@gloucestershire.gov.uk
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Appendix 1

Examples of Unacceptable Behaviour:

- Using obscene, racist, offensive or threatening language in written communications, on the telephone or face to face

- Seeking to coerce or intimidate staff, or abusing or distressing them by the language and tone of telephone conversations

- Threatening, abusive, aggressive or violent behaviour towards staff

- Persistence in sending letters, emails or faxes which demand responses, or making telephone calls or seeking interviews with staff, long after the Local Authority has closed any investigation into a complaint/issue and all rights of review and appeal have been exhausted.

- Making defamatory comments about staff to the media.

- Seeking to prevent or disrupt the provision of care to a service user
Appendix 2

The following is a list of options for managing an individual's involvement with the Council when their behaviour is deemed to be unacceptable or their persistence unreasonable. Following discussion between the team manager involved and the relevant senior manager, it will be decided which staff need to be informed in order to implement and monitor any protocol invoked. This may include the Contact Centre, Emergency Duty Team, specific admin and operational/delivery teams, as appropriate on a case by case basis.

One or more options may be chosen and applied:

- Placing time limits on telephone conversations and personal contacts;
- Restricting telephone calls to specified days and times;
- Limiting the individual to one form of contact (telephone, letter, e-mail etc);
- Requiring contact to take place with a named member of staff and on a specific telephone number;
- Asking the individual to enter into a written agreement about their future conduct if their issue is to be progressed;
- Requiring that any personal contacts take place in the presence of a witness (including telephone calls);
- Closing any complaint investigation;
- Refusing to register and process any further issues/complaints but providing the individual with acknowledgements only of the Council’s receipt of further letters, faxes or e-mails received;
• In cases where the Council believes the complainant has committed a criminal offence, for example an assault on staff or criminal damage, or where assault is threatened, or where the individual refuses repeated requests to leave the Council’s premises, then an immediate police response will be requested. Staff who wish to take legal action against an individual who abuses, assaults or threatens them will be supported by the Council.

• Banning an individual from some or all of the Council’s premises;

• The threat or commencement of civil proceedings in the courts;

• Placing a warning, flag or hazard on the individual’s electronic record to classify them as being unreasonably persistent and/or demonstrating unacceptable behaviour.

• In extreme circumstances where the Council deems that the repeated actions/behaviour of an individual is detrimental to the wellbeing of a service user, a Safeguarding alert will be raised and the appropriate actions will be taken to ensure the safety of the service user.