

REPORT TO THE BUSINESS SERVICES COMMITTEE – 18 APRIL 2019

UNACCEPTABLE ACTIONS POLICY (UAP)

1 Recommendations

The Business Services Committee is recommended to:-

1.1 Agree the refreshed Unacceptable Actions Policy (UAP).

2 Background / Discussion

- 2.1 The Unacceptable Actions Policy (UAP) was initially created in 2006 based on guidance from the Scottish Public Services Ombudsman, essentially to cover circumstances in which Council officers may look to restrict the contact with, or from, certain customers. Following the adoption of the Policy Framework in line with Part 4B of the Scheme of Governance, the Unacceptable Actions Policy was identified as being out of date and required to be reviewed to determine if the policy was still required.
- 2.2 A review of this policy has been completed, and findings highlight that the information and advice are still relevant to the organisation. An engagement programme with officers enabled feedback to be provided on the refreshed version of the policy and also ensured the policy reflected the needs of all Services.

3 Policy Refresh Detail

- 3.1 Essentially, the information within the policy largely remains unchanged from 2006. Rather than representing a major change in content, the revised UAP's changes relate to the inclusion of section 3.2 within appendix A, which explicitly sets out the type of measures that officers may wish to consider when restricting customer contact.
- 3.2 The layout of all existing content has also improved, providing detailed examples as bullet points, which allows Council officers to refer to this guidance and clearly identify/note specific unacceptable behaviours being displayed, acting almost as a checklist. Also, as a copy of this material (policy and guidance) are sent to customers displaying problematic behaviour as part of the "Change of Behaviour" procedure, this clearly sets out to customers what may be considered unacceptable and what we expect from them.
- 3.3 Lastly, the refreshed policy also features a flow chart which illustrates, both to customers and Council officers, how the UAP may work in practice.
- 3.4 Engagement with Service Management Teams around the policy refresh has been extremely positive, with the attached policy content endorsed. Some additional pieces of work will be taken forward to assist Services to implement this policy, including:

- Completion of a flow chart for Head Teachers and Quality Improvement Officers, to ensure consistency around triggers in actioning UAPs;
- Consideration of implications of sharing information with Services, around those customers who have UAPs implemented; and
- Updating Zero Tolerance postcard template to include that Aberdeenshire Council has a policy in place around unacceptable behaviour and contact.

3.5 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and have no comments to make. They are satisfied that the report complies with the Scheme of Governance and relevant legislation.

4 Scheme of Governance

4.1 The Committee is able to consider (and take a decision on) this item in terms of Section C6.1 of the List of Committee Powers in Part 2A of the Scheme of Governance, to scrutinise and review the effectiveness of Council policy implementation and Council service delivery in respect of any function within its remit.

4.2 Referring to Part 4B, section 3.3.1 of the Scheme of Governance, this is a simple administrative revision which did not require to go to area committees.

5 Implications and Risk

5.1 There will be minimal staffing implications directly arising from the content of the report, as the Feedback Team already provides advice to Services around implementing UAPs based on customer behaviours, or where a complaint is triggering the requirement of this policy. Additionally, more complex and/or sensitive complaints can result in the Feedback Team seeking legal advice prior to implementing the UAP to ensure parameters of contact are legally admissible.

5.2 An equality impact assessment is not required at this time because this report is currently looking for endorsement of the refreshed UAP and to approach the Business Services Committee with a view to approving the updated policy.

Ritchie Johnson
Director of Business Services

Report prepared by Morag Esson, Service Manager (Customer Services) 7 March, 2019

Appendix A – New Unacceptable Actions Policy Guidance
Appendix B – New Unacceptable Actions Policy

Managing Unacceptable Actions by Complainants

Summary Table

Policy Status (circle as appropriate)	<i>Approved and finalised</i>
	<i>Subject to consultation</i>
	Draft
Responsible Officer	Senior Feedback Officer, Customer Services
Policy Sponsor	Service Manager (Customer Services)
Authorised by	Business Services Committee
Approval Date	Date policy approved at committee
Review Date	Final date (month/year) by when review must be undertaken

1. Policy Statement

Aberdeenshire Council (including the Aberdeenshire Health & Social Care Partnership) retain the right to restrict the contact that certain customers have with Aberdeenshire Council and its staff, should these customers display behaviours that we consider unacceptable in pursuing either formal or informal complaints with the authority.

Aberdeenshire Council ensures that the Complaint Handling Procedure is available and accessible for all customers and seek to work with customers to achieve a resolution to all complaints and concerns. In exceptional circumstances, the authority will take action to reduce or restrict contact from customers who: display aggressive or abusive behaviour towards staff; correspond with unreasonable persistence; or who place unreasonable demands on Aberdeenshire Council staff.

2. Scope

This policy applies to all individuals who submit formal or informal complaints to Aberdeenshire Council, either on behalf of themselves or others.

All council officers should be aware of this policy if they handle either formal or informal complaints from customers, and that this policy can be implemented by contacting Aberdeenshire Council's Feedback Team.

Reasonable allowances will be made for customers in line with Aberdeenshire Council's diversity and equality policy.

3. Principles

Aberdeenshire Council ensures that customers can easily access the authority's Complaints Handling Procedure, and that the process is as transparent and accessible as possible within the relevant data protection legislation.

Aberdeenshire Council work with customers to: understand complaints that are raised; achieve a reasonable resolution where possible; and to inform customers of this resolution and their right to progress to the Scottish Public Services Ombudsman (SPSO) on completion of the Complaints Handling Procedure.

However, Aberdeenshire Council will not tolerate, accept or process correspondence that threatens, intimidates or abuses members of staff. The authority will also not consider acts of aggression, unsubstantiated allegations against employees, or correspondence that unduly pressurises our staff or occupies disproportionate resources.

We believe complainants have the right to be heard, understood and respected, and that our employees have the same rights.

We will never unfairly restrict contact and will explain our decisions to customers in line with our own guidance and that provided by the SPSO.

Restricting contact does not prevent customers from accessing council services, corresponding with the authority around day to day matters, or raising new issues of concern, but does prevent customers from corresponding with council staff in an unacceptable manner in the pursuit of either formal or informal complaints.

4. Related Links

Aberdeenshire Council's Complaints Handling Procedure
<http://publications.aberdeenshire.gov.uk/dataset/complaints-procedure>

Unacceptable Actions Policy Guidance Document
(To be included upon completion)

Scottish Public Services Ombudsman Act (2002)
<https://www.legislation.gov.uk/asp/2002/11/contents>

SPSO Unacceptable Actions Policy
<https://www.spsso.org.uk/unacceptable-actions-policy>

5. Index of Documents

a) Policy

Version control, including the date of approval, any revisions to the policy and a summary of those changes.

<u>Revision Date</u>	<u>Previous Revision Date</u>	<u>Summary of Changes</u>

b) Distribution

State where the approved versions will be circulated. A disclaimer should be added to state that documents seen out with those settings are not considered valid.

<u>Name</u>	<u>Title</u>	<u>Date</u>

Aberdeenshire Council

Unacceptable Actions Policy Guidance

1. Introduction

Aberdeenshire Council's publicly accessible Complaints Handling Procedure sets out the process by which Aberdeenshire Council (including the Aberdeenshire Health and Social Care Partnership) manage and process complaints that they receive. This guidance document applies to the Complaints Handling Procedure, and the limited instances where customers display actions or behaviour that we consider unacceptable while pursuing either formal or informal complaints to the council. In such instances, council staff may wish to take measures in line with the Managing Unacceptable Actions by Complainants Policy.

This guidance document explains to both staff and customers, the limited circumstances in which council staff may look to restrict the contact that certain customers can have with the council regarding their complaints and concerns. This document also outlines the procedure that is followed in these rare cases.

We appreciate that customers may act out of character in times of distress, and that complaints to the council can be personal, emotive and deeply important to the customer. As such, we do not deem behaviour to be unacceptable just because a customer is determined in pursuit of their complaint.

Should customers display any of the challenging behaviours outlined below, services may consider invoking the Unacceptable Actions Policy (UAP) as a means of managing this correspondence. Examples of actions that the authority can implement regarding the contact of customers are also included below.

2. Defining Unacceptable Actions by Complainants

2.1 Aggressive or Abusive Behaviour

While we understand that some customers feel particularly strongly about their complaints, the anger felt by customers can become unacceptable when it escalates into aggression directed towards employees.

We will not accept language (either verbal, written, digital or physical), or behaviour, that may cause staff to feel offended, afraid, abused or threatened. Equally we will not tolerate, accept or process correspondence or behaviour that threatens, intimidates or abuses members of staff.

Behaviour that Aberdeenshire Council may consider aggressive or abusive includes, but is not limited to:

- Foul language or language designed to upset, degrade or insult
- Threats, either physical or verbal
- Shouting, screaming, significant raising of the voice, or rudeness

- Inflammatory statements
- Any sexist, racist or homophobic slurs, comments or remarks
- Unsubstantiated allegations against staff members, implying or accusing without evidence of criminal behaviour, corruption, or maladministration with deliberate intent
- Any other language or behaviour which attacks individuals on basis of protected characteristics.

Any physical violence (either threatened or actual) to staff or third parties in the building, will be reported to the Police.

Instances of aggressive or abusive behaviour from customers in the pursuit of either formal or informal complaints to the local authority, will be documented by council staff and the Feedback Team informed. Additionally, staff may look to restrict the contact that customers can have with the organisation in relation to their complaints, when they are displaying aggressive or abusive behaviour.

2.2 Unreasonable Persistence

While we recognise that displaying persistence in pursuing complaints can be positive, there are limited circumstances where the volume, frequency and duration of contact from customers can cause problems for staff.

What constitutes unreasonable persistence will vary from case to case and instances can occur over either a short period, or over a life span of a complaint. The way in which these customers approach the council may be entirely reasonable, but it is their persistent behaviour and the effect of this on the organisation that is not.

We consider persistent contact to become unreasonable where it occupies a disproportionate amount of time and resource, or where managing such correspondence impacts on the ability of the authority to provide services to other customers.

Behaviour that Aberdeenshire Council may consider to be unreasonable persistence includes, but is not limited to:

- Excessive contact, such as repeated phone calls or multiple emails over either a short or long period of time which proves difficult to manage or administer
- Supplying voluminous correspondence with information that is either: irrelevant to the complaint, or that has been received previously
- Repeatedly refusing to accept a decision made in relation to a complaint
- Persistent refusal to accept explanations relating to what the council can or cannot do regarding a complaint
- Continuing to pursue a complaint without presenting any new information
- Contacting a wide number of recipients and opening multiple communication channels when it is unhelpful to do so
- Attempting to bring forward the same issue several times through a range of third parties without a material change in circumstances

Instances of unreasonable persistence from customers in the pursuit of either formal or informal complaints to the local authority should be documented by council officers, and the Feedback Team informed.

Council officers may look to restrict the contact that specific customers can have with the organisation in relation to their complaints, should they display unreasonable persistence.

2.3 Unreasonable Demands

A demand becomes unacceptable when the demand is either unrealistic or would impact excessively on the work of council staff. Demands are considered unreasonable when the matter is occupying a disproportionate amount of resource, and when this in turn compromises the ability of the council to provide an expected level of service to other customers or service users.

What constitutes unreasonable demands will always depend on the circumstances surrounding the behaviour being displayed and the seriousness of the issues that the customer has raised.

Behaviour that Aberdeenshire Council may consider to be unreasonable demands includes, but is not limited to:

- Demanding responses or contact within an unreasonable timescale (e.g. not respecting the timescales outlined in the Complaint Handling Procedure)
- Sending excessive correspondence or complaint documentation (e.g. overly long or unnecessarily complex complaints, or irrelevant supporting information)
- Repeatedly requesting contact from particular employees (e.g. not respecting Complaints Handling Procedure or scheme of delegation)
- Demanding the council diverge from standard policies in considering their complaint
- Demanding complaints are handled in a certain way (e.g. investigated by particular staff or requiring multiple complaints to be not grouped together, even when each complaint is the same issue)
- Failing to follow advice given by the council regarding it's remit and procedures (e.g. such as to contact SPSO, external bodies or other third parties where appropriate)
- Placing unnecessary, unworkable, or unreasonable restrictions on how the council communicates regarding a complaint (e.g. requesting all correspondence to be sent via recorded delivery)
- Pursuing a disproportionate or unreasonable resolution (e.g. demanding certain employees are sacked, or departments shut down)

Instances of unreasonable demands from customers in the pursuit of either formal or informal complaints to the local authority should be documented by council officers, and the Feedback Team informed.

Council officers may look to restrict the contact that specific customers can have with the local authority in relation to their complaints should they display unreasonable persistence.

2.4 Unreasonable Refusal to Cooperate

When investigating a complaint, we will often ask customers to work with us in order to process their complaints. This is to ensure we handle complaints in line with the relevant internal mechanisms (Aberdeenshire Council's Complaints Handling Procedure) and the best practice guidelines of the Scottish Public Services Ombudsman.

In order to manage a complaint effectively, and to the best of our ability, we may ask customers to provide us with additional information. In some cases, we may be unable to progress the complaint without this information and the repeated failure to provide this on request may become unreasonable. Examples of behaviour that may be considered as an unreasonable refusal to cooperate includes, but is not limited to:

- Repeated failure to confirm their specific points of complaint e.g. expressing dissatisfaction with "the council" but not elaborating or cooperating further
- Persistent failure to provide any additional information or evidence to substantiate the allegations or complaints
- Not providing vital information to enable an investigation to take place e.g. failing to provide a location or time/date of an event
- Repeated failure to provide additional comments or detail if requested e.g. refusing to outline the desired resolution to their complaint
- Failure to cooperate or engage with the council officer investigating the complaint e.g. not allowing access to property or not responding to correspondence/requests

Should a customer refuse to cooperate with the council then it may not be possible for the authority to consider their complaint in line with the Complaints Handling Procedure. It may also not be possible for the authority to deliver what the customer is looking for from the pursuit of their complaint.

Council officers may look to restrict contact from specific customers in relation to their complaints, should they refuse to cooperate with the organisation.

3. Restricting Contact from Complainants

3.1 Process for Restricting Contact

When individual customers have displayed any of the unacceptable behaviours or actions outlined above, a council service may take the decision to restrict the contact that these customers can have with the council.

This process involves writing to the customer to explain the unacceptable actions being exhibited and the difficulties that this is causing the council in resolving their

complaint. A “Change of Behaviour Letter” will ask customers to refrain from contacting us in an unacceptable manner and will outline that further instances of unacceptable behaviour will result in the UAP being invoked. A copy of the UAP and Guidance Document will also be provided to the customer to clarify the grounds on which this decision may be taken, and the process for the restriction of contact.

Should the customer change their correspondence behaviour in light of this letter and correspond productively with the council, then officers will take no further action and the customer will be free to communicate without restriction.

If a customer continues to correspond or behave in a way in which the council deems unacceptable, then a second letter will be sent advising the UAP is being invoked. This letter will explain (with reference to this guidance) the unacceptable behaviours being displayed and the difficulties that this has caused. This letter, which will be signed by a senior officer from the relevant service, will explain the measures being taken to restrict contact, the length of time that these restrictions will be in place and the relevant appeals process for this decision. See Appendix 1 for further information.

3.2 Measures for Restricting Contact

As outlined above, the instances where the authority looks to restrict the contact that customers can have with the council is rare. As each of these cases are different, there are several measures that services may wish to consider when asking customers to modify their correspondence behaviour following the display of any of the unacceptable actions or behaviour above.

The range of measures that services can consider includes, but are is not limited to:

- Requesting that all future contact should be sent to a specific single point of contact
- Advising customers to restrict their correspondence to a single method of communication (e.g. that all concerns should be expressed in writing or via email)
- Advising that only a certain number of contacts with the council will be considered within a set period (e.g. allowing the submission of one complaint a month regarding a particular service or asking for multiples complaints to be grouped together)
- Asking customers to restrict the volume of their correspondence (e.g. complaint should be no longer than a single A4 page of size 12 font)
- Asking customers to refrain from contacting the council, during an investigation into an open complaint that they have raised
- Advising that correspondence on issues that have been addressed previously, will not be responded to and may go unacknowledged
- Requesting all contact be directed through a third party
- Restricting access of customers to certain council facilities and frontline staff
- Any other measures deemed appropriate

These measures are only to be considered in instances where a specific customer has been asked to change their behaviour in light of unacceptable actions.

3.3 Appealing a Decision

A customer can appeal a decision to restrict their contact with the authority. Upon receipt of written correspondence from a customer appealing a decision, and supplying grounds for appeal, a senior officer who was not involved in the original decision will consider both the appeal and the evidence provided, by the customer and the council.

This review will be concluded within 20 working days and the relevant senior officer will advise the customer in writing that either the restricted contact arrangements remain in place, or whether an alternative course of action has been agreed.

3.4 Recording and Reviewing a Decision

The council shall record all instances where the decision has been taken to progress in line with the Unacceptable Actions Policy. The Feedback Team will retain records of all occasions and cases where the UAP is invoked by council officers. This will include: the dates of the restriction; the reasons this decision was taken; any breaches of the restrictions; and the date for the annual review.

The Feedback Team will then correspond with the relevant council service regarding the review timescales relating to their service.

Appendix 1 - Process for Restricting Customer Contact – Flowchart

