
Report To:	Policy & Resources Committee	Date:	22 September 2015
Report By:	Head of Legal & Property Services	Report No:	LP/129/15
Contact Officer:	Gerard Malone	Contact No:	01475 712710
Subject:	Unacceptable Actions Policy		

1.0 PURPOSE

- 1.1 The purpose of this report is to present a proposed policy for consideration on the Council's approach to dealing with unacceptable actions from customers, in line with guidance from the Scottish Public Services Ombudsman (SPSO).

2.0 SUMMARY

- 2.1 Inverclyde Council works closely with the SPSO to ensure that it manages complaints from customers effectively and in line with guidance. However, the SPSO recognises that, on some occasions, the behaviour or actions of customers can be unacceptable, and has adopted an unacceptable actions policy to manage such behaviour.
- 2.2 In order to protect employees and Elected Members, the Council also seeks to adopt an Unacceptable Actions Policy, based largely on SPSO policy and guidance. A copy of the proposed policy is attached at Appendix 1 to this report.

3.0 RECOMMENDATION

- 3.1 It is recommended that the Policy & Resources Committee approves the Unacceptable Actions Policy.

Gerard Malone
Legal & Property Services

4.0 BACKGROUND

- 4.1 Inverclyde Council is committed to providing its customers with professional services to a high standard, and seeks to do so in a polite and courteous manner.
- 4.2 However, when things go wrong, customers have a right to be heard, understood and respected. Having a robust, accessible and transparent complaints process is vital in ensuring that complaints are dealt with appropriately, effectively and with a view to improving our services. The Council's procedure for dealing with the majority of complaints and complainants is set out in the Complaints Handling Procedure and supporting guidance.
- 4.3 There are a very small number of customers however whose behaviour makes it difficult for employees and Elected Members to be able to deal with their complaint or enquiry. In some cases the customer's actions become unacceptable because they involve abuse of employees, Elected Members or Council processes.
- 4.4 The attached policy seeks to provide concise guidance to assist employees and Elected Members to deal with actions or behaviours from customers and others engaging with the Council that are considered unacceptable, whether directed at them verbally, in writing or by social media and the internet.

5.0 MANAGING UNACCEPTABLE ACTIONS BY CUSTOMERS

- 5.1 There are relatively few customers whose actions the Council considers unacceptable. The nature and extent of these actions will determine how the Council will manage them. The key aim of the Unacceptable Actions Policy is to manage the behaviour or actions of customers who are making it difficult for employees or Elected Members to be able to deal with their complaint or enquiry effectively. These actions can include:
 - aggressive or abusive behaviour
 - unreasonable demands
 - unreasonable levels of contact
 - unreasonable use of the complaints process
- 5.3 The key provisions of the Unacceptable Actions Policy include:
 - defining unacceptable actions
 - managing unacceptable actions
 - deciding on restricting access and the process of appeal
 - reviewing the decision to restrict contact
- 5.4 The proposed policy also reflects the increase in use of social media and internet communication.
- 5.5 The policy is intended to increase protection for employees and customers where an individual's actions result in unreasonable demands on services or unreasonable behaviour towards employees and Elected Members.
- 5.6 The policy is consistent with the best practice guidance provided by the SPSO. It should also be noted that the SPSO has produced a Complaints Handling Practice Guide: Dealing with Problem Behaviour, which contains useful guidance to supplement the policy.

6.0 IMPLICATIONS

Finance

- 6.1 There are no specific financial implications arising from this report.

One Off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/(Savings)

Cost Centre	Budget Heading	With Effect From	Annual Net Impact	Virement From (if Applicable)	Other Comments
N/A					

Legal

- 6.2 Any decision to restrict access in terms of the Unacceptable Actions Policy does not affect the Council's legal responsibilities to customers – for example in terms of the Freedom of Information (Scotland) Act 2002 and the Data Protection Act 1998.

Human Resources

- 6.3 There are no HR implications arising from this report.

Equalities

- 6.4 An Equalities Impact Assessment has been completed.

Repopulation

- 6.5 There are no repopulation implications arising from this report.

7.0 CONSULTATIONS

- 7.1 The Corporate Management Team, all Heads of Service, Corporate Communications and Health & Safety were invited to provide comments on the proposed policy.

8.0 CONCLUSIONS

- 8.1 The Council has established procedures and guidance in place in respect of complaints handling. The proposed Unacceptable Actions Policy is essential to ensure that the Council's principles in dealing with those who act in an unacceptable manner are consistent with those principles set out in the SPSO's Unacceptable Actions Policy. The policy is also in keeping with the Council's commitment to the safety of its employees and Elected Members in seeking to ensure that they do not suffer any disadvantage from those who act in an unacceptable manner.

9.0 BACKGROUND PAPERS

- 9.1
- Inverclyde Council Complaints Handling Procedure
 - Equalities Impact Assessment

Unacceptable Actions Policy

Version 1.0

Produced by:
Head of Legal & Property Services
Inverclyde Council
Municipal Buildings
GREENOCK
PA15 1LX

August 2015



INVERCLYDE COUNCIL IS AN EQUAL OPPORTUNITIES EMPLOYER

**THIS POLICY BOOKLET IS AVAILABLE ON REQUEST, IN LARGE PRINT, BRAILLE, ON
AUDIOTAPE, OR COMPUTER DISC.**

DOCUMENT CONTROL

Document Responsibility		
Name	Title	Service
Corporate Director, Environment, Regeneration & Resources	Unacceptable Actions Policy	Legal & Property Services

Change History		
Version	Date	Comments
1.0	August 2015	Created

Distribution		
Name/ Title	Date	Comments

Distribution may be made to others on request

Policy Review		
Review Date	Person Responsible	Service

Copyright

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying or otherwise without the prior permission of Inverclyde Council.

<u>Contents</u>	<u>Page</u>
1.0 INTRODUCTION	4
2.0 POLICY AIMS AND OBJECTIVES	4
3.0 DEFINING UNACCEPTABLE ACTIONS	5
4.0 MANAGING UNACCEPTABLE ACTIONS	7
5.0 DECIDING TO RESTRICT CUSTOMER CONTACT	8
6.0 HOW WE LET CUSTOMERS KNOW WE HAVE MADE THE DECISION TO RESTRICT CONTACT	9
7.0 RECORDING AND REVIEWING THE DECISION TO RESTRICT CUSTOMER CONTACT	10
8.0 RELATED POLICIES AND PROCEDURES	10
9.0 POLICY AVAILABILITY AND REVIEW	10

1.0 INTRODUCTION

The Council's procedure for dealing with the majority of complaints and complainants is set out in the Complaints Handling Procedure and supporting guidance. It is intended that the following procedures will only be implemented in exceptional circumstances.

This policy details Inverclyde Council's approach for dealing with the very small minority of customers whose actions or behaviours are considered to be unacceptable.

The term 'customer' includes any person who engages with any aspect of the Council's services or anyone acting on behalf of such a person. The principles set out in this Policy apply to the Council's dealings with its customers in all circumstances. The policy is based on the Scottish Public Services Ombudsman approach for dealing with such customers.

It is important to emphasise from the outset that the Council is committed to providing high standards of customer care, and it is only in exceptional circumstances that the terms of this policy will apply. A key determinant of how responsive we are as a Council is ensuring that we have a positive approach to dealing effectively with our residents' and service users' complaints and using management information derived from such complaints to monitor performance and improve our services.

2.0 POLICY AIMS AND OBJECTIVES

The objectives of the policy are:

- 2.1 To deal fairly, honestly, consistently and appropriately with all customers, including those whose actions the Council considers unacceptable. The Council believes that all customers have the right to be heard, understood and respected. The Council also considers that our employees and elected members have the same rights.
- 2.2 To ensure that Council employees, elected members and other customers are not disadvantaged by the actions or behaviours of customers who behave in an unacceptable manner.
- 2.3 To make it clear to all customers and others engaging with the Council at all stages of their dealings with the Council, the types of actions and behaviours the Council considers to be inappropriate and to set out how the Council might manage such actions.
- 2.4 To provide services that are accessible to all customers and others engaging with the Council. However, where the Council considers a customer's actions to be unacceptable, the Council retains the right to restrict or change access to our employees and/or services.
- 2.5 To support employees and elected members in dealing with actions or behaviour from customers and others engaging with the Council that is considered to be unacceptable whether directed at them verbally, in writing or by social media and the internet.

- 2.6 To support Health and Safety arrangements in particular dealing with violence towards employees and elected members in the workplace.

3.0 DEFINING UNACCEPTABLE ACTIONS

People may act out of character in times of trouble or stress. There may have been upsetting or disturbing circumstances leading up to a person formally contacting the Council. We do not view behaviour as unacceptable just because an individual is being forceful or determined. However, the actions of individuals who are angry, demanding, offensive or persistent may result in unreasonable demands on the Council or unacceptable behaviour towards Council employees, elected members and others representatives acting on behalf of the Council. It is these actions that we consider unacceptable and aim to manage under this policy. The Scottish Public Services Ombudsman has defined various aspects of unacceptable behaviour under four broad categories as detailed below.

As previously indicated, unacceptable actions may take the form of written correspondence including letters, texts and emails; verbal communication either in person or by phone and inappropriate comment on and use of social media and content on the internet.

3.1 Aggressive or abusive behaviour

Aggressive or violent behaviour is not restricted to acts that may result in physical harm. It also includes behaviour or language (whether verbal or written) that may cause employees, elected members and other representatives acting on behalf of the Council to feel afraid, threatened, humiliated or abused.

The Health and Safety definition of a violent incident is:

Any incident, in which an employee is abused, threatened or assaulted in circumstances arising out of or in connection with his or her work. This will include not only physical attacks, but threats and fear of violence, verbal abuse, racial, religious and sexual harassment, or humiliating behaviour, likely to undermine self-confidence and cause employees to suffer anxiety or stress related disorders.

Examples of behaviour grouped under this heading include threats, physical violence, personal verbal abuse, derogatory, slanderous, offensive or libellous remarks, either verbal or written, and rudeness. We also consider that inflammatory statements and unsubstantiated allegations can be abusive behaviour.

3.2 Unreasonable demands

Customers may make what we consider unreasonable demands on the Council through the amount of information they seek or the nature and scale of the service they expect. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the customer or their representative, including organisations that may contact us on behalf of their clients.

Examples of actions grouped under this heading include demanding responses within an unreasonable timescale, insisting on seeing/speaking to/corresponding with a particular member of staff, repeatedly changing the substance of the complaint, raising unrelated concerns, or raising the same matters with different officers in either the same or other departments.

The Council considers these demands unacceptable and unreasonable if they start to impact substantially on the work of the Council, such as taking up an excessive amount of staff time to the disadvantage of other customers or functions.

3.3 Unreasonable levels of contact

Some customers will not or cannot accept that the Council are unable to assist them further or provide a level of service other than that already provided. Customers may persist in disagreeing with the action or decision taken in relation to their complaint or issue.

We consider the actions of customers making persistent levels of contact to be unacceptable when the amount of time spent talking to a customer on the telephone, responding to e-mails and written correspondence, or responding to other forms of electronic communications impacts on our ability to deal with that issue or other customers' issues, and causes distress to either staff or other customers.

3.4 Unreasonable persistence

As highlighted above some customers cannot or will not accept that the Council is unable to assist them further or provide a level of service other than that already provided. This can result in unreasonable persistence. Unreasonable persistence is continued, incessant and unrelenting conduct that has a disproportionate and unreasonable impact on the Council's employees, elected members, and Services' time and / or resources.

Examples of actions grouped under this heading include:

- unreasonable use of the complaints process;
- persistent refusal to accept a decision made;
- persistent refusal to accept an explanation without presenting any new information;
- sending multiple emails to many members of staff or elected members;
- persistent, organised and targeted campaigns to deliberately disrupt the work of the Council;
- persistent use of social media or the internet to draw attention to a particular issue repeatedly

The Council considers the actions of persistent enquirers or serial complainants to be unacceptable when they take up what the Council considers to be a disproportionate amount of time and resources or have a negative impact on our employees. The actions set in sections 4 and 5 below may be invoked.

4.0 MANAGING UNACCEPTABLE ACTIONS

There are relatively few customers whose actions are unacceptable. How we aim to manage these actions depends on their nature and extent. If it adversely affects our ability to do our work and provide a service to others, we may need to restrict the individual or group's contact with the Council in order to manage the unacceptable action. We aim to do this in a way that wherever possible allows the issue to be resolved, or for the service to be provided through the Council's normal processes for the matter that is the subject of the complaint or enquiry.

Written Correspondence

We do not deal with correspondence that is abusive to employees or elected members or that contains allegations that lack substantive evidence. When this happens we will tell the customer that we consider their language offensive, unnecessary and unhelpful. We will ask them to stop using such language and advise that we will not respond to their correspondence if the action or behaviour continues. In certain cases we may block email addresses and emails.

These actions will also be used in situations where social media is used to direct abuse or offensive messages to an individual or group of employees and elected members.

Telephone communication

Council employees and elected members will end telephone calls if the caller is considered to be aggressive, abusive or offensive. If they suspect calls are being recorded without permission then these telephone calls may also be terminated. The employee or elected member taking the call have the right to make this decision, tell the caller that the behaviour is unacceptable and end the call if the behaviour does not stop.

Meetings

In the event that Council employees and elected members have to meet with customers in the terms of this policy, appropriate steps will be taken, prior to the meeting, to ensure staff safety.

Further actions

Where an individual repeatedly phones, visits the office, sends emails, sends irrelevant documents, raises the same issues or uses social media inappropriately, we may decide to:

- only take telephone calls from the individual at set times on set days or put an arrangement in place for only one member of staff to deal with calls or correspondence from the individual in future;
- ask the individual to make an appointment to see a named member of staff before visiting the office or that the individual contacts the office in writing only;
- return the documents to the complainant or in extreme cases advise the complainant that further irrelevant documents will be destroyed;
- take other action that we consider appropriate, which may include directing emails to a separate, monitored mailbox, blocking emails or in extreme cases, raising legal action;

- in cases where social media is repeatedly used to abuse, threaten, etc. in public forums, despite Council requests for such abuse to stop or comments to be removed, the Council will support the employee or elected member in their rights in Law to take action against the perpetrators. Relevant managers will contact Corporate Communications and/or Legal Services for further advice on the appropriate course of action. This may result in contacting the administrator of social media sites and asking them to remove any abusive or defamatory comments.
- The Council shares information, images and video with the public through external social media websites. Social media offers opportunities for open discussion and debate and should be encouraged. Comments made by the public to these sites are reviewed and, while comments will not be edited by Council employees, a comment may be deleted if it is offensive, abusive or threatening to employees or elected members. In addition, offensive or unacceptable actions, language or trolling may also result in the perpetrator being blocked and/or reported to the social media site administrator.

We will, however, always tell the customer what action we are taking and why.

Where the customer continues to correspond via any method on a wide range of issues that is considered to be excessive, the customer would be told that only a certain number of issues will be considered in a given period and to limit or focus their requests accordingly.

An individual with a complaint about Council services may be considered unreasonably persistent if all stages of the Council's Complaints Handling Procedure have been exhausted and the complainant continues to dispute the Council's decision relating to the complaint. In this instance, the complainant will be told that no future phone calls will be accepted, interviews granted or correspondence responded to concerning this complaint. They will be told if there is a further review procedure outwith the Council they could invoke (e.g. SPSO). Any future contact by the complainant would be read and filed, but only acknowledged or responded to if the complainant provides significant new information relating to the complaint.

5.0 DECIDING TO RESTRICT CUSTOMER CONTACT

Council employees and elected members who directly experience aggressive or abusive behaviour from customers have the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this policy. This may include in exceptional circumstances reporting incidents to the police, when appropriate.

Employees should report the incident to their supervisor/Line Manager and to the Council's Health and Safety Section using the Internal Reporting Form on ICON.

Elected members should notify the Head of Legal & Property Services who will make arrangements to record the incident.

If the concerning behaviour is not acceptable but is not considered to be serious enough to be recorded on the system, a warning letter to the individual may be issued. This letter will state the nature of the unreasonable behaviour and will tell the individual that it should not continue.

With the exception of such immediate decisions taken at the time of an incident, customers will be made aware of the policy and given the opportunity to change their behaviour or action before it is applied. Decisions to restrict contact with Council employees and elected members are only taken after careful consideration by the relevant Head of Service in consultation with the Head of Legal and Property Services.

6.0 HOW WE LET CUSTOMERS KNOW WE HAVE MADE THE DECISION TO RESTRICT CONTACT

We will always tell the customer or group what action we are taking and why. When a staff member makes an immediate decision in response to aggressive or abusive behaviour, the customer is advised at the time of the incident.

When a decision has been made by a Head of Service to restrict contact the customer will be told in writing why the decision has been made and, if relevant, the length of time the arrangements will be in place. If appropriate, the customer will also be advised who this information will be shared with and recorded on our Customer Relations Management System.

A customer can appeal a decision to restrict contact. If they do this, we will only consider arguments that relate to the restriction and not to either the complaint made or our decision to close a complaint.

An appeal could include, for example, a complainant arguing that their actions were wrongly identified as unacceptable, the restrictions were disproportionate or that they will adversely impact on the customer because of personal circumstances.

Appeals will be considered in terms of employees, by a senior manager who was not involved in the original decision and in respect of elected members, by their respective groups with appropriate officer support. The customer will be advised of the outcome in writing that either the restricted contact arrangements still apply or a different course of action has been agreed.

7.0 RECORDING AND REVIEWING THE DECISION TO RESTRICT CONTACT

The Council will record all incidents of unacceptable actions by customers. Where contact has been restricted, this is noted in the relevant file and appropriate computer records.

The status of all customers with restricted contact arrangements will be reviewed through the Council's Complaints Steering Group on a regular basis. A decision to restrict a customer's contact will be reconsidered if the customer demonstrates a more acceptable approach.

8.0 RELATED POLICIES AND PROCEDURES

This policy should be read in conjunction with the following supporting documents:

- Managing Occupational Violence and Aggression in the Workplace Policy
- Health and Safety Guidance on Managing Aggression at Work (available on ICON)
- Media and Social Media Protocol
- Complaints Handling Procedure

9.0 POLICY AVAILABILITY AND REVIEW

We will review this policy on a regular basis to ensure that the aims are being achieved.

This policy will be made available in other languages and formats (such as large print or Braille) as required.