

Agenda Item	21
Report No	FHR/165/13

Finance Housing and Resources Committee – 27 November 2013

Unacceptable Actions Policy

Report by Assistant Chief Executive

Summary

This report seeks approval for a policy to manage contact arrangements for those customers whose behaviour or actions are considered to be unacceptable, in line with guidance from the Scottish Public Services Ombudsman (SPSO).

1. Introduction

1.1 The Highland 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 (UAP) to manage such behaviours. In order to protect members and staff, the Council also seeks to adopt a UAP, based largely on SPSO policy. A copy of the proposed policy is attached at Appendix 1 to this report.

2. Background

2.1 The Highland 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.

2.2 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. To this end, the Council adopted a new two stage corporate complaints process in November 2012, based on the SPSO's model complaints handling procedure.

2.3 However, there are a very small number of customers, whose behaviour makes it difficult for members and staff to be able to deal with their complaint or enquiry. In some cases the customer's actions become unacceptable because they involve abuse of members, staff or Council processes.

3. Managing Unacceptable Actions by Customers

- 3.1
- The key aim of this policy is to manage the behaviour or actions of customers who are making it difficult for Members or staff 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

3.2 In the first instance, if a customer's actions are considered to be unacceptable, they will be advised to moderate their behaviour in any future contact with the Council, otherwise it may be necessary to restrict their contact with Council.

3.3 If the unacceptable actions continue, it may then be necessary to restrict contact in person, by telephone, fax, letter or electronically or by any combination of these. However, we will never restrict a customer's contact entirely, and will always seek to maintain at least one form of contact.

4. Decision Making Process

4.1 If a Director is satisfied that there is a case to restrict a customer's contact, they will prepare a report for the Depute Chief Executive with a recommendation as to what restrictions should be put in place.

4.2 The customer will then be advised of the reason for, the nature and duration of any restriction and also their right to appeal this decision to the Chief Executive. In the event of an appeal, the Chief Executive will consider the appeal (both the circumstances and decision to restrict contact) and will advise the customer in writing that either the restricted contact arrangements still apply or a different course of action has been agreed.

4.3 All customers, whose contact has been restricted, will have their case reviewed on a quarterly basis by the Senior Management Team.

5. Resource Implications

5.1 As this is a corporate policy it potentially affects all staff who deal with customers, however as the Council already has an established complaints procedure no additional resources are required.

6. Risks/Equality/Legal/Climate Change Implications

There are no implications in these areas arising from this report. An Equalities Impact Assessment screening has been undertaken. The screening did not highlight any issues.

<h4>7. Recommendations</h4>

<p>7.1 Members are asked to approve the Unacceptable Actions Policy.</p>
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Designation: Assistant Chief Executive

Date: 12 November, 2013

Authors: Keith Masson, Tina Page

Appendix 1

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The Highland Council

Customer Contact - Unacceptable Actions Policy

1. Introduction

- 1.1 The Highland 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.
- 1.2 However, when things go wrong, customers have a right to be heard, understood and respected. We seek to be open and accessible in ensuring that complaints are dealt with appropriately, effectively and with a view to improving the services it provides. We operate a two-stage complaints procedure, which is based largely on the Scottish Public Services Ombudsman's model complaints handling procedure.
- 1.3 On some occasions, the behaviour or actions of customers makes it difficult for us to deal with their complaint. In a small number of cases, their actions become unacceptable because they involve abuse of our staff or processes.
- 1.4 When this happens, we will take action to protect our staff, and will consider the impact of the behaviour on our ability to carry out our duties and provide services to others.
- 1.5 This Policy explains how we will approach these situations and will define under which circumstances a customer's actions can be classed as unacceptable.
- 1.6 This Policy should be read in conjunction with the Violence at Work and Social Media policies. It is based on the Scottish Public Services Ombudsman's Unacceptable Actions Policy.

2. The Actions We Aim To Manage

- 2.1 People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complaint being made to us. We do not view behaviour as unacceptable just because a customer is forceful or determined. Indeed, it has often been the case that persistence can be a positive advantage when pursuing a complaint. However, the actions of customers who are angry, demanding or excessively persistent may result in unreasonable demands being placed on us or unacceptable behaviour towards our staff. It is these actions that are considered unacceptable and which we will seek to manage under this Policy.
- 2.2 These actions have been grouped under four broad headings:

2.2.1 Aggressive or Abusive Behaviour

- a. Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether oral or written) that may cause staff to feel afraid, threatened or abused.
- b. Examples of behaviours grouped under this heading include threats, physical violence, personal verbal abuse, derogatory, slanderous or libellous remarks, either verbal or written, and rudeness. We will also consider inflammatory statements and unsubstantiated allegations to be abusive behaviour.
- c. We expect our staff to be treated courteously and with respect. Violence or abuse towards staff is unacceptable. It is important that staff are trained to understand the difference between aggression and anger. The anger felt by many customers is often linked to the subject matter of their complaint. However, it is not acceptable when anger escalates into aggression or abuse directed towards our staff.

2.2.2 Unreasonable Demands

- a. Customers may make what are considered unreasonable demands on us through the volume of information they seek, the nature and scale of service they expect or the number of approaches they make. 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.
- b. Examples of actions grouped under this heading include demanding responses within an unreasonable time-scale, insisting on meeting with or speaking to a particular member of staff, continual phone calls or letters, repeatedly changing the substance of the complaint or raising unrelated concerns.
- c. We will consider these demands as unacceptable and unreasonable if they start to impact substantially on our work, such as taking up an excessive amount of staff time to the disadvantage of service delivery to other customers.

2.2.3 Unreasonable Levels of Contact

- a. It is acknowledged that some customers will not or cannot accept that we are unable to assist them further or provide a level of service other than that provided already. Customers may persist in disagreeing with the action or decision taken in relation to their complaint or contact the office persistently about the same issue.
- b. Examples of actions grouped under this heading include persistent refusal to accept a decision, persistent refusal to accept explanations relating to what we can or cannot do and continuing to pursue a complaint without presenting any new information. The way in which these customers approach us may be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.

- c. We consider the actions of customers making persistent complaints to be unacceptable when the amount of time spent talking to a customer on the telephone, or responding to e-mails and written correspondence impacts on our ability to deal with that complaint or other customer's complaints, and causes distress to either staff or other customers.

2.2.4 Unreasonable Use of the Complaints Procedure

- a. Customers with complaints have a right to pursue their concerns, and also have the right to complain more than once about the same issue, in line with our two-stage Complaints Procedure. They can also raise further complaints should further incidents occur.
- b. However, this contact becomes unreasonable when the effect of the repeated complaints is to harass, or to prevent us from pursuing our legitimate aims or implementing a legitimate decision.
- c. We consider access to our complaints procedure to be important, and it will only be in exceptional circumstances that we would consider such repeated use to be unacceptable.

3. Managing Unacceptable Actions by Customers

- 3.1 For those customers whose actions we would consider to be unacceptable, the way in which we will seek to manage those actions will depend on their nature and extent.
- 3.2 We will advise a customer if their behaviour is considered to be unacceptable, and the possible consequences that will occur if they do not moderate their behaviour in future. We will attempt to do so in a way which is likely to defuse the situation, and aim to bring the tone of communication back to a more reasonable level.
- 3.3 If a customer's actions are such that they adversely affect our ability to carry out our work and provide services to others, it may be necessary to restrict a customer's contact with us.
- 3.4 We will aim to do this, wherever possible, in a way that allows a customer to progress their complaint to completion through our Complaints Procedure. It may be necessary to restrict contact in person, by telephone, fax, letter or electronically or by any combination of these. However we will seek to maintain at least one form of contact.
- 3.5 The threat or use of physical violence, verbal abuse or harassment towards our staff is likely to result in the ending of all direct contact with the customer. Incidents may be reported to the police and will always be reported where physical violence is used or threatened.
- 3.6 We will not deal with correspondence (letter, fax or electronic mail) that is abusive to staff or contains allegations that lack substantive evidence. When this happens the customer will be advised that we consider their language offensive, unnecessary and unhelpful and be asked to stop using such language. They will also be advised that we will not respond to their correspondence if they persist in using offensive language.

- 3.7 Our staff will end telephone calls if the caller is considered aggressive, abusive or offensive. The staff member taking the call has the right to politely inform the caller that the behaviour is unacceptable and end the call if the behaviour persists.
- 3.8 In extreme situations, a customer may be advised in writing that their name is on a 'no personal contact' list. This means that they must restrict contact with us to either written communication or via a third party
- 3.9 Where a customer repeatedly phones, visits the office, sends irrelevant documents or raises the same issues, we may decide to:
- advise the customer that we will not engage in any further communication on this specific matter
 - only take telephone calls from the customer 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 customer in the future.
 - require the customer to make an appointment to see a named member of staff before visiting the office or that the customer contacts the office in writing only.
 - return the documents to the customer or, in extreme cases, advise the customer that further irrelevant documents will be destroyed.
 - take other action that is considered appropriate in the circumstances. We must always tell the customer what action is being taken and why.
- 3.10 A customer's actions may be considered unreasonably persistent if all internal and external review mechanisms have been exhausted, and the customer continues to dispute our decision relating to their complaint. The customer will be advised that no future phone calls will be accepted or interviews granted concerning this specific complaint. Any future contact by the customer on this particular issue must be in writing. Future correspondence will be acknowledged, read and filed, but only substantively responded to if the customer provides significant new information relating to the complaint.

4. The Process We Will Follow to Make Decisions about Unreasonable Behaviour

- 4.1 Any member of our staff who experiences aggressive or abusive behaviour from a customer should refer the matter to their line manager who, in conjunction with their Service Director, will consider what appropriate action to take in line with the Violence at Work Policy. This in no way prevents a member of staff from terminating a conversation and/or meeting should they experience aggressive or abusive behaviour which they consider unacceptable.
- 4.2 It will be the responsibility of Line Managers to ensure that their staff are properly supported when raising concerns relating to non-violent unacceptable actions by customers, in line with supplementary guidance. Line Managers will also be responsible for updating relevant staff as to the outcome of any investigation. Staff are responsible for reporting all suspected unacceptable actions and for complying with measures put in place to ensure their health, safety and well-being at work.

- 4.3 Wherever possible, a customer will be given the opportunity to modify their behaviour or action before a decision is taken to restrict their contact.
- 4.4 With the exception of such immediate decisions taken at the time of an incident, a decision to restrict contact of a customer with us is only taken after careful consideration of the situation by a Director and the Depute Chief Executive. Customers will be informed in writing why a decision has been made to restrict future contact, the restricted contact arrangements and the length of time that these restrictions will be in place.

5. Appealing a Decision to Restrict the Method of Contact

- 5.1 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 to our decision to close a complaint.
- 5.2. 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.
- 5.3 The Chief Executive will consider the appeal (both the circumstances and decision to restrict contact) and will advise the customer in writing that either the restricted contact arrangements still apply or a different course of action has been agreed.

6. Recording and Reviewing a Decision to Restrict Contact

- 6.1 We will record all incidents of unacceptable actions by customers through our Customer Relationship Management system.
- 6.2 The Senior Management Team will review the status of all customers with restricted contact arrangements on a regular basis. A decision to restrict a customer's contact will be reconsidered if the customer demonstrates a more acceptable approach.

7. Review and Availability

- 7.1 This policy will be reviewed on a regular basis to make sure that its aims are being achieved.
- 7.2 This policy will be made available in other languages and formats (such as large print or Braille) as required.

Tina Page
Customer Service Manager
Version 7
6 November, 2013