

Corporate Policy and Strategy Committee

10.00am, Tuesday, 5 August 2014

Complaints: Unacceptable Actions Policy

Item number	7.7
Report number	
Executive/routine	
Wards	

Executive summary

This report asks the Committee to approve the amended Council's Unacceptable Actions Policy. This Policy updates the existing [Unacceptable Actions Policy](#) (10 June 2008) and complements the [Council's Complaints Procedure](#). The Policy update is required to ensure that our principles are consistent with those of the [Scottish Public Services Ombudsman \(SPSO\)](#).

This policy is only invoked in exceptional circumstances where a complainant is displaying unacceptable behaviour towards our staff or demands on our service, and has exhausted our complaints handling procedure. This policy does not preclude existing policies that relate to staff or elected members raising complaints.

The amended policy provides clearer guidance for staff to handle certain situations appropriately and in a customer focused way. For the customer, the guidance is more accessible from an equalities perspective and gives them an opportunity to appeal if a decision has been made to restrict contact. Any decision to restrict access does not affect the Council's legal responsibilities to customers.

Links

Coalition pledges	P27, P30 and P33
Council outcomes	CO24, CO25 and CO26
Single Outcome Agreement	SO1, SO2, SO3, SO4
Appendices	Appendix 1 – Unacceptable Actions Policy

Complaints: Unacceptable Actions Policy

Recommendations

- 1.1 It is recommended that Committee approve the amended Unacceptable Actions and Behaviour Policy.

Background

- 2.1 The Scottish Public Services Ombudsman (SPSO) is the body which manages the final stage for complaints about councils. In 2010, it established the Complaints Standards Authority (CSA) to work with public bodies to standardise and simplify complaints handling procedures and to help drive improvement. In addition, the CSA is taking forward new responsibilities provided to the SPSO by the Public Services Reform (Scotland) Act 2010, including requiring the SPSO to monitor and promote best practice in complaints handling. These responsibilities allow the SPSO to take forward recommendations made by the [Crerar Review \(2007\)](#)¹ and [Sinclair \(2008\)](#)² reports which conclude that there is a need for a quicker, more consistent, more user focused approach to handling complaints.
- 2.2 In light of these recommendations, the CSA advises that:

‘Organisations should aim to make their services as accessible as possible whilst protecting and supporting staff, and helping them to identify and manage unacceptable behaviour or actions proportionately and effectively. As part of their commitment to ensure that procedures remain user-focused, many organisations adopt an ‘unacceptable actions policy’ to manage unacceptable actions of customers.’³

¹ The Crerar Review: The Report of the Independent Review of Regulation, Audit, Inspection and Complaints Handling of Public Services in Scotland, 2007.

<http://www.scotland.gov.uk/Topics/Government/PublicServiceReform/IndependentReviewofReg/latest-news/TheCrerarReview>

² Fit-for-Purpose Complaints System Action Group (FCSAG), 2008.

<http://www.scotland.gov.uk/Resource/Doc/923/0063564.doc>

³ Unacceptable actions. <http://www.valuingcomplaints.org.uk/csa-guidance/unacceptable-actions/>

- 2.3 The revised Unacceptable Actions Policy replaces the 'Customer Access - Unacceptable Actions Policy' approved by the former Policy and Strategy Committee on 10 June 2008 and is essential to ensure that the City of Edinburgh Council's procedures are consistent with the best practice guidance provided by the CSA.
- 2.4 The Policy outlines how decisions to restrict contact are taken and the appeals and review process in place to manage these decisions.
- 2.5 In implementing the policy, the Council is working in partnership with the SPSO, adopting their toolkit for good practice. This is an opportunity for the Council to handle difficult situations in a constructive and transparent manner, driving this with the SPSO based on experience and learning.

Main report

- 3.1 This Policy explains how the Council may restrict or change access to a service when a customer's actions are deemed to be unacceptable. This is to protect staff and the services provided to other customers.
- 3.2 Unacceptable actions are grouped under four headings:
 - aggressive or abusive behaviour;
 - unreasonable demands;
 - unreasonable levels of contact; and
 - unreasonable use of the complaints process.
- 3.3 There are situations where a member of staff might find difficult to respond to but which is not unacceptable. Examples of this would include:
 - persistence - where a customer is forceful or determined; or
 - behaviour which an individual staff member find personally difficult.
- 3.4 Some disabilities are hidden and a small number of customers may require more time to resolve complaints to their satisfaction. The Council has an obligation to make reasonable adjustments to services to allow customers to make complaints and to respond appropriately to customers with genuine access needs.
- 3.5 This Policy does not seek to manage any perceived unacceptable actions arising from complaints between Elected Members and Council Officers. It does not replace the [Member/Officer Relations Protocol](#) which establishes the roles, responsibilities and standards of behaviour expected of elected members and Council officers when carrying out their respective duties.
- 3.6 The Policy is not intended to manage any perceived unacceptable actions arising from complaints between members of staff. The [Policy on Fair Treatment](#)

[at Work](#) addresses this situation for all non teaching staff and the [Grievance Procedure for Teaching Staff](#) applies for all teaching staff.

Measures of success

- 4.1 Increased protection for staff and service users where an individual's actions result in unreasonable demands on services or unreasonable behaviour towards staff.
- 4.2 Supporting customers and wider, effective complaints resolution by addressing the limited number of cases where the unreasonable actions of complainants have a negative impact on service provision. The Policy will ensure that resources are targeted towards the areas where they are most needed, supporting efficient and effective complaint resolution for all customers.
- 4.3 The Unacceptable Actions Policy is consistent with the best practice guidance provided by the CSA.

Financial impact

- 5.1 The Policy supports the Council in making best use of the resources available to support all service users.

Risk, policy, compliance and governance impact

- 6.1 This update to the existing policy is essential to ensure that our principles are consistent with those principles set out in the SPSO's Unacceptable Actions Policy and to make sure that the language used to describe unacceptable actions reflects current usage by the Ombudsman. This is required for transparency as the SPSO is the body which manages the final stage of the complaints process for complaints relating to councils and their services.

Equalities impact

- 7.1 The Policy balances the rights of the individual to express complaints, with the freedom of staff and other service users to work or access services without discrimination, harassment or victimisation.
- 7.2 An Equalities and Rights Impact Assessment has been completed.

Sustainability impact

- 8.1 No significant environmental impact is anticipated as a result of this policy revision. A Pre Screening Report has been submitted to the SEA Gateway.

Consultation and engagement

- 9.1 The Policy has been developed in consultation with the Corporate Management Complaints Group, Corporate Policy and Strategy team and Legal, Risk and Compliance Division.

Background reading/external references

[Unacceptable Actions Policy](#), Scottish Public Services Ombudsman, 2013

Alastair Maclean

Director of Corporate Governance

Contact: Davina Fereday, Corporate Manager (Business Intelligence)

E-mail: Davina.Fereday@edinburgh.gov.uk | Tel: 0131 529 7040

Coalition pledges

P27 Seek to work in full partnership with Council staff and their representatives
P30 Continue to maintain a sound financial position including long-term financial planning
P33 Strengthen Neighbourhood Partnerships and further involve local people in decisions on how Council resources are used

Council outcomes

CO24 The Council communicates effectively internally and externally and has an excellent reputation for customer care
CO25 The Council has efficient and effective services that deliver on objectives
CO26 The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives

Single Outcome Agreement

SO1 Edinburgh's Economy Delivers increased investment, jobs and opportunities for all
SO2 Edinburgh's citizens experience improved health and wellbeing, with reduced inequalities in health
SO3 Edinburgh's children and young people enjoy their childhood and fulfil their potential
SO4 Edinburgh's communities are safer and have improved physical and social fabric

Appendices

Appendix 1 – Unacceptable Actions Policy

Unacceptable Actions and Behaviours Policy

Implementation date: 1 September 2014

Control schedule

Approved by	Corporate Policy and Strategy Committee
Approval date	5 August 2014
Senior Responsible Officer	Alastair Maclean, Director of Corporate Governance
Author	Davina Fereday, Corporate Manager, Business Intelligence
Scheduled for review	July 2015

Version control

Version	Date	Author	Comment
0.1		Davina Fereday	
0.2	07/07/2014	Kirsty-Louise Campbell	
0.3	17/07/2014	Davina Fereday	

Committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
------	-----------	----------------	----------------

Unacceptable Actions and Behaviours Policy

Policy statement

- 1.1 We aim to deal fairly, honestly, consistently and appropriately with all our customers, including those whose actions we consider unacceptable. We believe that all customers have a right to be heard, understood and respected. We aim to provide a service that is accessible to all and will make all reasonable adjustments to accommodate complainants.
- 1.2 The behaviour or actions of individuals using our service can, in exceptional circumstances, make it difficult for us to deal with their complaint. This policy explains how we manage actions that result in unreasonable demands on our services or unreasonable behaviour towards our staff.
- 1.3 The policy is required to address a limited number of cases where actions become unacceptable as they involve abuse of our staff, stop us doing our work or providing a service to others.

Scope

- 2.1 This policy affects all customers, staff and elected members. It explains how we may restrict or change access to a service when we consider a customer's actions to be unacceptable. This is to ensure we can protect our staff and the services we provide to our customers.

Definitions

- 3.1 Complaint: an expression of dissatisfaction by one or more members of the public about the organisation's action or lack of action, or about the standard of service provided by or on behalf of the organisation.
- 3.2 Customer: a customer is anyone the Council works with, provides a service to, or supports. This includes residents, businesses, visitors, or someone acting on behalf of a customer e.g. a Councillor, MSP or relative.
- 3.3 SPSO: the Scottish Public Services Ombudsman (SPSO) is the body which manages the final stage for complaints about councils, the National Health Service, housing associations, colleges and universities, prisons, most water

and sewerage providers, the Scottish Government and its agencies and departments and most Scottish authorities.

- 3.4 Unacceptable actions: people may act in ways which are out of character when they are in trouble or distressed. There may have been upsetting circumstances in the lead up to a complaint coming to us. We do not view behaviour as unacceptable just because a complainant is forceful or determined.
- 3.5 Review Panel: the Panel is responsible for considering any appeal over a decision to restrict contact. The Panel will be chaired by a senior member of staff (at grade 10 or above) and will comprise members of the Corporate Complaints Management Group, drawing on their expertise in complaints and customer service. The panel members will only be selected from services that are not involved in the initial decision to restrict contact with the complainant.
- 3.6 On occasion, behaviour is difficult for an individual member of staff to deal with because it doesn't conform to the standards they expect or the values they hold. An action is not necessarily unacceptable because a member of staff finds it personally difficult.
- 3.7 Unacceptable actions are grouped under the four headings with details below:
 - aggressive or abusive behaviour: anger which escalates into aggression, threatening behaviour or verbal abuse, or unsubstantiated allegations;
 - unreasonable demands: a demand is unreasonable when complying with it would impact substantially on our work or on the services provided to other customers;
 - unreasonable levels of contact: when the amount of time spent dealing with a complaint impacts on our ability to deal with it or with other people's complaints; this is not the same as persistence which can be a positive advantage when pursuing a complaint; and
 - unreasonable use of the complaints process: when the effect of the repeated complaints is to harass, or to prevent us from pursuing a legitimate aim or from implementing a legitimate decision.

Policy content

- 4.1 Managing aggressive or abusive behaviour:
 - 4.1.1 We understand that many complainants are angry about the issues they have raised in their complaint. If that anger escalates into aggression towards Council staff, we consider that an unacceptable action and operate a zero tolerance approach to such behaviour. Any violence or abuse towards staff will not be accepted.

- 4.1.2 Violence or abuse is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language, verbal or in writing, that may cause staff to feel afraid, threatened or abused. This includes threats, personal verbal abuse, derogatory remarks and rudeness.
- 4.1.3 We also consider inflammatory statements and unsubstantiated allegations to be abusive behaviour.
- 4.2 Unreasonable demands:
- 4.2.1 A demand becomes unacceptable when it starts to, or would if complied with impact substantially on our work and provision of services. For example, if the demand takes up an excessive amount of staff time and leads to other customers being disadvantaged.
- 4.2.1 Examples of actions grouped under this heading include:
- repeatedly demanding responses within an unreasonable timescale
 - insisting on seeing or speaking to a particular member of staff when that is not possible
 - repeatedly changing the substance of a complaint or raising unrelated concerns.
- 4.3 Unreasonable levels of contact:
- 4.3.1 The volume and duration of contact made to us by an individual can cause problems. This can occur over a short period, such as a number of calls in one day, or it may occur over the lifespan of the complaint. This could include the complainant making long telephone calls to us or inundating us with copies of information which have been sent to us already or which are irrelevant to the complaint.
- 4.3.2 We consider that contact has become unacceptable when the amount of time spent dealing with it impacts on our ability to deal with that complaint or impacts on service provision more broadly. Contact time may involve time spent talking to a complainant on the phone; responding to, reviewing and filing emails; or written correspondence.
- 4.4 Unreasonable use of the complaints process:
- 4.4.1 Customers have the right to complain about our services through a range of means. They also have the right to complain more than once about an organisation with which they have a continuing relationship, if subsequent incidents occur.
- 4.1.2 This contact becomes unreasonable when the effect of the repeated complaints is to harass, or to prevent us from pursuing a legitimate aim or from implementing a legitimate decision.

4.5 Restricting access to the complaints system

- 4.5.1 We consider access to a complaints system to be as a critical element of our service arrangements and it will only be in exceptional circumstances that we would consider such repeated use as unacceptable. We reserve the right to restrict access in those rare occasions.
- 4.5.2 The threat or use of physical violence, verbal abuse or harassment towards our staff is likely to result in a termination of all direct contact with the complainant. Incidents may be reported to the police. This will always be the case if physical violence is used or threatened.
- 4.5.3 We will not accept any correspondence that is abusive to staff. We will tell the complainant that we consider their language offensive, unnecessary and unhelpful and ask them to stop using such language. We will state that we will not respond to their correspondence if the action or behaviour continues.
- 4.5.4 Our staff will end phone calls if they consider the caller aggressive, abusive or offensive. Our staff have the right to make this decision, to tell the caller that their behaviour is unacceptable and to end the call if the behaviour persists.
- 4.5.5 In extreme situations, we tell the complainant in writing that their name is on a No Personal Contact List. This means that we will limit contact with them to either written communication or to contact through a third party.

4.6 Dealing with other categories of unreasonable behaviour:

- 4.6.1 We have to take action when unreasonable behaviour impairs the functioning of our services. We aim to do this in a way that allows a complaint to progress through our process. We will try to ensure that any action we take is the minimum required to solve the problem, taking into account relevant personal circumstances including the seriousness of the complaint and the needs of the individual.
- 4.6.2 Where a complainant repeatedly phones, visits, raises the same issues, or sends large numbers of documents where their relevance isn't clear, we may decide to:
- limit contact to telephone calls from the complainant at set times on set days
 - restrict contact to a nominated member of staff who will deal with future calls or correspondence from the complainant
 - see the complainant by appointment only
 - restrict contact from the complainant to writing only
 - return any documents to the complainant or, in extreme cases, advise the complainant that further irrelevant documents will be destroyed

- take any other action that we consider appropriate.
- 4.6.3 Where we consider continued correspondence on a wide range of issues to be excessive, we may tell the complainant that only a certain number of issues will be considered in a given period and ask them to limit or focus their requests accordingly.
- 4.6.4 In exceptional cases, we reserve the right to refuse to consider a complaint or future complaints from an individual. We will take into account the impact on the individual and also where there would be a broader public interest in considering the complaint further.
- 4.6.5 We will always tell the complainant what action we are taking and why.
- 4.6.6 Except where a “Zero Tolerance” approach is required, customers will be advised that their behaviour is giving cause for concern, to provide them with the opportunity to modify their behaviour in advance of any sanction being applied. A written warning informing customers of our policy for dealing with problem behaviours will be sent and will:
- Identify the unacceptable behaviour
 - explain why it is inappropriate
 - explain the steps we have taken
 - advise the customer that, if they do this again, restrictions will be put in place
 - advise customers on how to challenge the decision.

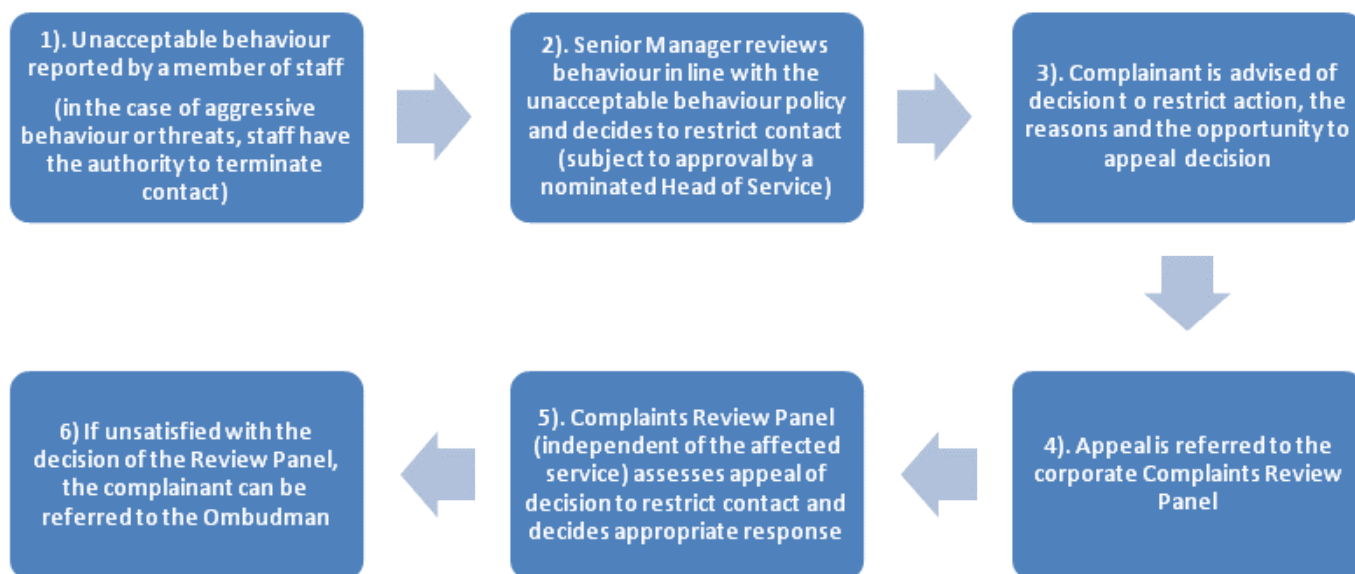
Implementation

- 5.1 How we make decisions about unreasonable behaviour:
- 5.1.1 Any member of our staff who directly experiences aggressive or abusive behaviour from a complainant has the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this policy.
- 5.1.2 With the exception of such immediate decisions taken at the time of the incident, decisions to restrict contact with the Council are only taken after careful consideration of the situation by a senior member of staff. Wherever possible, we will give the complainant the opportunity to change their behaviour or action before a decision is taken.
- 5.2 Appealing a decision to restrict contact:
- 5.2.1 A complainant has 20 working days to 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 to us or our decision to close the complaint.

5.2.2 Grounds for an appeal could include, for example, a complainant telling us that:

- their actions were wrongly identified as unacceptable
- restrictions were disproportionate
- restrictions will adversely impact on the individual because of personal circumstances.

5.3 A Review Panel will consider the appeal. The Panel is responsible for considering any appeal over a decision to restrict contact. The Panel will be chaired by a senior member of staff (at grade 10 or above) and will comprise members of the Corporate Complaints Management Group, drawing on their expertise in complaints and customer service. The panel members will be independent of the service(s) involved in the initial decision to restrict contact with the complainant. The Panel will have the discretion to quash or vary the restriction on the basis of what they think is fair and reasonable, and will be open and transparent with decisions made. If the complainant remains unhappy with the decision made by the Panel they will be signposted to the SPSO.



Roles and responsibilities

6.1 When a Council employee makes an immediate decision in response to aggressive or abusive behaviour, the complainant is advised at the time of the incident. When a decision had been made by a senior member of staff, we will

always tell a complainant in writing. We will explain why the decision has been made to restrict future contact, the restricted contact arrangements and, if relevant, the length of time that these restrictions will be in place. This ensures that the complainant has a record of the decision. The decision in writing can be supplemented by another form of communication if written communication is not the most appropriate medium for the complainant.

- 6.2 Where it is decided to restrict complainant contact, an entry noting this will be made in the relevant file and appropriate computer records. A decision to restrict complainant contact may be reconsidered by the Review Panel. This panel reviews the status of all complainants with restricted contact arrangements on a quarterly basis. We record all incidents of unacceptable actions by complainants. A Review Panel of individuals not involved in the original decision will consider the appeal. They will advise the complainant in writing that the restricted contact arrangements still apply or that a different course of action has been agreed. Again, the decision in writing can be supplemented by another form of communication if written communication is not the most appropriate medium for the complainant.

Related documents

- 7.1 How we deal with complaints: <http://www.edinburgh.gov.uk/complaints>
- 7.2 The City of Edinburgh Council's customer care standards: http://www.edinburgh.gov.uk/info/20036/performance_and_statistics/962/customer_care_standards
- 7.3 SPSO Unacceptable Actions Policy: http://www.spsso.org.uk/sites/spsso/files/communications_material/leaflets_public/general/2013_10_18_Unacceptable_actions_policy.pdf

Equalities impact

- 8.1 We aim to provide a service that is accessible to all and will make all reasonable adjustments to accommodate complainants. For example, any decision in writing can be supplemented by another form of communication if written communication is not the most appropriate medium for the complainant.
- 8.2 A full Equalities and Rights Impact Assessment has been carried out on the policy in consultation with the Equalities Team.

Sustainability impact

- 9.1 No significant environmental impact is anticipated as a result of this policy revision. A Pre Screening Report has been submitted to the SEA Gateway.

Risk assessment

- 10.1 This policy replaces the Customer Access - Unacceptable Actions Policy approved by the Policy and Strategy Committee on 10 June 2008. The revised policy is essential to ensure that our principles are consistent with those set out in the SPSO's Unacceptable Actions Policy and to make sure that the language we use to describe unacceptable actions reflects current usage by the Ombudsman. This is required for transparency as the SPSO is the body which manages the final stage of the complaints process for complaints relating to councils and their services.

Review

- 11.1 The policy will be reviewed in July 2015 for consideration by the Corporate Policy and Strategy Committee.



City of Edinburgh Council Record of Equality and Rights Impact Assessment

Part 1: Background and Information

(a) Background Details - Please list ERIA background details:

ERIA Title and Summary Description	Unacceptable Actions Policy – revision to existing policy (10/06/08) to reflect amendments to the Scottish Public Services Ombudsman’s Unacceptable Actions Policy		
Service Area	Division	Head of Service	Service Area Reference No.
Governance	Corporate Governance	Alastair Maclean	

(b) What is being impact assessed? Describe the different policies or services (i.e. decisions, projects, programmes, policies, services, reviews, plans, functions or practices that relate to the Corporate ERIA Title):

Policies and Services	Date ERIA commenced
1. Unacceptable Actions Policy (update to existing Unacceptable Actions Policy)	3/6/14

(c) ERIA Team - Please list all ERIA Team Members:

Name	Organisation / Service Area
1. Davina Fereday	Business Intelligence, Governance, Corporate Governance (on behalf of the Corporate Management Complaints Group)
2. Angela McInnes	Business Intelligence, Governance, Corporate Governance (on behalf of the Corporate Management Complaints Group)
3. Julie Houston	Corporate Policy & Strategy: Equalities, Organisational Development, Corporate Governance

Part 2: Evidence and Impact Assessment

(a) Evidence Base – Please record the evidence used to support the ERIA. Any identified evidence gaps can be recorded at part 3(i). Please allocate an abbreviation for each piece of evidence.

Evidence	Abbreviation
1. SPSO Unacceptable Actions Policy - update to policy so that it aligns to SPSO guidance	SPSO
2. Minutes of Corporate Management Complaints Group and feedback on policy received	Complaints
3. Meeting with Julie Houston on 9/6/14 to receive guidance on the policy from the Council's Equalities Team. Emails received from the Equalities Team providing feedback on draft policy	Equalities
4. Meeting on 5/6/14 with Matthew Clarke to receive input from the Council's Legal Team	Legal

(b) Rights Impact Assessment – Summary - Please describe all the identified enhancements and infringements of rights against the following ten areas of rights. Please also consider issues of poverty and health inequality within each area of rights:

Life	Health	Physical Security	Legal Security	Education and Learning	Standard of Living	Productive and Valued Activities	Individual, Family and Social Life	Identity, Expression and Respect	Participation, Influence and Voice
	X	X		X	X			X	X

Please indicate alongside each identified enhancement or infringement the relevant policy or service (see Section 1b) and relevant evidence (see Section 2a).

Summary of Enhancements of Rights

The policy balances the rights of the individual to express complaints, with the freedom of staff and other service users to work or access services without discrimination, harassment or victimisation.

The tone of the updated policy uses softer, more tolerant language, while enhancing protection for staff and other service users.

A zero tolerance approach to aggressive or abusive behaviour will have a positive impact on the physical security of staff and other service users.

If contact is restricted to allow staff to make more equitable use of existing resources, it can be argued that, for the majority of service users, this will have a positive effect on the services provided relating to health, education and learning and standard of living. Rights to identity, expression and self-respect and rights to participation, influence and voice will also improve for most users, in these circumstances.

Summary of Infringement of Rights. Can these infringements be justified? Are they proportional?

The revision to the policy introduces no new infringements to rights, of which we are aware.

To ensure all decisions are proportional, a process is in place to appeal any decision to restrict contact. To safeguard neutrality, the decision will be reviewed by a panel who were not involved in the original decision. Any decision will be communicated in writing but can also be supplied in an alternative format, where written communication is not the most appropriate medium for the complainant. In addition, any decision to restrict contact will be reviewed on a regular basis.

(c) Equality Impact Assessment – Summary - Please consider all the protected characteristics when answering questions 1, 2 and 3 below. Please also consider the issues of poverty and health inequality within each protected characteristic:

Age	Disability	Gender Identity	Marriage / Civil partnership	Pregnancy Maternity	Race	Religion/ Belief	Sex	Sexual Orientation
	X				X			

1. Please describe all the positive and negative impacts on the duty to eliminate unlawful discrimination, harassment or victimisation. Please indicate alongside each identified impact the relevant policy or service (see Section 1b) and relevant evidence (see Section 2a).

Positive Impacts

The policy builds in safeguards to eliminate unlawful discrimination, harassment or victimisation for those groups who may find communication challenging and potentially frustrating. These groups include adults at risk, people with mental health problems, people with learning disabilities, those with lower literacy levels and those who speak English as an additional language.

Negative Impacts

The revision to the policy has no negative impacts on the duty to eliminate unlawful discrimination, harassment or victimisation, of which we are aware.

2. Please describe all the positive and negative impacts on the duty to advance equality of opportunity (i.e. by removing or minimising disadvantage, meeting the needs of particular groups that are different from the needs of others and encouraging participation in public life)? Please indicate alongside each identified impact the relevant policy or service (see Section 1 b) and relevant evidence (see Section 2 a).

Positive Impacts

Safeguards to remove or minimise disadvantage include the opportunity to choose the method of communication most appropriate for the person concerned and an appeals process to review decisions to restrict contact.

The updated policy is written in simpler language and is easier to understand.

The policy will be made available in other formats on request.

Negative Impacts

The revision to the policy has no negative impacts on the duty to advance equality of opportunity, of which we are aware.

3. Please describe all the positive and negative impacts on the duty to foster good relations (i.e. by tackling prejudice and promoting understanding)? Please indicate alongside each identified impact the relevant policy or service (see Section 1 b) and relevant evidence (see Section 2 a).

Positive Impacts

The policy promotes understanding by acknowledging that people may act in ways which are out of character when they are in trouble or distressed. A degree of empathy is especially important in relation to provision in areas such as homelessness or care services which affect fundamental wellbeing. This guidance supports the rights of those living in poverty and health inequality by acknowledging the potential frustration of those seeking to meet these most basic needs.

The policy tackles prejudice by stating that “an action is not necessarily unacceptable because a member of staff finds it personally difficult.” This respects the dignity, rights and identity of individual complainants in respect of gender identity, sexual orientation and faith or beliefs, eliminating unintentional or hidden bias.

Negative Impacts

The revision to the policy has no negative impacts on the duty to foster good relations, of which we are aware.

Part 3: Evidence Gaps, Recommendations, Justifications and Sign Off

(i) Evidence Gaps - Please list all relevant evidence gaps and action to address identified gaps.

Evidence Gaps	Action to address gaps
1. There is no centrally managed No Personal Contact List at the moment so it is not possible to review current decisions to ensure that they do not target any individual unfairly	Create No Personal Contact List and manage this list corporately
2. There is no equalities monitoring in place for those whose access is restricted. This means that it is not possible to review decisions to ensure that they do not target any group unfairly	Implement equalities monitoring of those on the No Personal Contact List

(ii) Recommendations - Please record SMART recommendations to (i) eliminate unlawful practice or infringements of absolute rights, (ii) justify identified infringements of rights or (iii) mitigate identified negative equality impacts.

Recommendation	Responsibility of (name required)	Timescale
1. Create centrally managed No Personal Contact List and review annually to ensure that the policy does not inadvertently discriminate against any individual	Davina Fereday	July 2015
2. Equalities monitoring of 10% of people on No Personal Contact List to ensure that there is no unintentional bias towards a specific group	Davina Fereday	July 2015
3. Publish link to policy on Council website and ensure that there is mention of making the policy available in other formats if required	Angela McInnes	August 2014
4. Once new CRM is in place, review policy to ensure that the No Personal Contact List is only accessible to staff with a legitimate need to view it. Review to ensure that steps are in place so that the List is not being used to unfairly stigmatise individuals.	Davina Fereday	July 2015

(iii) Sign Off - I, the undersigned, am content that: (i) the ERIA record represents a thorough and proportionate ERIA analysis based on a sound evidence base, (ii) the ERIA analysis gives no indication of unlawful practice or violation of absolute rights, (iii) the ERIA recommendations are proportionate and will be delivered, (iv) the results of the ERIA process have informed officer or member decision making, (v) that the record of ERIA has been published on the Council's website / intranet or (vi) that the ERIA record has been reviewed and re-published.

Date	Sign Off (print name and position)	Reason for Sign Off (please indicate which reason/s from list (i) to (vi) above)



**Strategic Environmental Assessment (SEA) Pre Screening Report
The City of Edinburgh Council
Unacceptable Actions Policy**

SEA PRE SCREENING REPORT

PART 1

To: SEA.gateway@scotland.gsi.gov.uk
or
SEA Gateway
Scottish Executive
Area 1 H (Bridge)
Victoria Quay
Edinburgh EH6 6QQ

PART 2

An SEA Pre Screening Report is attached for the plan, programme or strategy (PPS) entitled:

Unacceptable Actions Policy

The Responsible Authority is:

The City of Edinburgh Council

COMPLETE PART 3 or 4 or 5

PART 3

Screening is required by the Environmental Assessment (Scotland) Act 2005. Our view is that:

- an SEA is required** because the PPS falls under the scope of Section 5(3) of the Act and is likely to have significant environmental effects ***or***
- an SEA is required** because the PPS falls under the scope of Section 5(4) of the Act and is likely to have significant environmental effects ***or***
- an SEA is not required** because the PPS is unlikely to have significant environmental effects

PART 4

- The PPS does not require an SEA under the Act. However, we wish to carry out an SEA on a voluntary basis. We accept that, because this SEA is voluntary, the statutory 28 day timescale for views from the Consultation Authorities cannot be guaranteed.

PART 5

- None of the above apply. We have prepared this screening report because:
.....
.....
.....

SEA PRE SCREENING REPORT (COVER NOTE)

PART 6

Contact name

Angela McInnes

Job Title

Business Intelligence Officer

Contact address

Governance
Corporate Governance
City of Edinburgh Council
Waverley Court Level 2:2
4 East Market Street
Edinburgh
EH8 8BG

Contact tel no

0131 529 4934

Contact email

angela.mcinnnes@edinburgh.gov.uk

PART 7

Signature

(electronic
signature
is acceptable)

Angela McInnes

Date

5 June 2014

SEA PRE SCREENING REPORT - KEY FACTS

Responsible Authority

The City of Edinburgh Council

Title of PPS

Unacceptable Actions Policy

Purpose of PPS

The Unacceptable Actions Policy is an update to an existing policy (10/06/08). The policy explains how the Council may restrict or change access to a service, if it consider a complainant's actions to be unacceptable. This is to protect staff and the services provided to other customers. The policy complements the Council's Complaints Procedure.

What prompted the PPS

The Unacceptable Actions and Behaviours has been amended to reflect changes to the Scottish Public Services Ombudsman's Unacceptable Actions Policy.

Subject

Complaints

Period covered by PPS

July 2014 – Jun 2015

Frequency of updates

Annual review

Area covered by PPS

The City of Edinburgh Council local authority boundary (see attached map – Appendix A).

**Summary of nature/
content of PPS**

Sometimes, the behaviour or actions of individuals using our service make it difficult for us to deal with their complaint.

This policy explains how we manage actions that result in unreasonable demands on our offices or unreasonable behaviour towards our staff. It is required to address the small number of cases where actions become unacceptable as they involve abuse of our staff or stop us doing our work or providing a service to others.

**Are there any proposed
PPS objectives?**

YES

NO

Copy of objectives attached

YES

NO

Draft Unacceptable Actions Policy is attached as Appendix B

Date

9 June 2014

SEA PRE SCREENING REPORT

Our determinations regarding the likely significance of effects on the environment of Unacceptable Actions Policy is set out in Table 1.

TABLE 1 – LIKELY SIGNIFICANCE OF EFFECTS ON THE ENVIRONMENT

TITLE OF PPS		
Unacceptable Actions Policy		
RESPONSIBLE AUTHORITY		
The City of Edinburgh Council		
Criteria for determining the likely significance of effects on the environment (1(a), 1(b) etc. refer to paragraphs in Schedule 2 of the Environmental Assessment (Scotland) Act 2005)	Likely to have significant environmental effects? YES/NO	Summary of significant environmental effects (negative and positive)
1(a) the degree to which the PPS sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources	No	It is not anticipated that the Policy will have any significant environmental impact.
1(b) the degree to which the PPS influences other PPS including those in a hierarchy	No	It is not anticipated that the Policy will have any significant environmental impact.
1(c) the relevance of the PPS for the integration of environmental considerations in particular with a view to promoting sustainable development	No	It is not anticipated that the Policy will have any significant environmental impact.

Criteria for determining the likely significance of effects on the environment (1(d) etc. refer to paragraphs in Schedule 2 of the Environmental Assessment (Scotland) Act 2005)	Likely to have significant environmental effects? YES/NO	Summary of significant environment effects (negative and positive)
1(d) environmental problems relevant to the PPS	No	It is not anticipated that the Policy will have any significant environmental impact.
1(e) the relevance of the PPS for the implementation of Community legislation on the environment (for example, PPS linked to waste management or water protection)	No	It is not anticipated that the Policy will have any significant environmental impact.
2 (a) the probability, duration, frequency and reversibility of the effects	No	It is not anticipated that the Policy will have any significant environmental impact.
2 (b) the cumulative nature of the effects	No	It is not anticipated that the Policy will have any significant environmental impact.
2 (c) trans-boundary nature of the effects (i.e. environmental effects on other EU Member States)	No	It is not anticipated that the Policy will have any significant environmental impact.
2 (d) the risks to human health or the environment (for example, due to accidents)	No	It is not anticipated that the Policy will have any significant environmental impact.

Criteria for determining the likely significance of effects on the environment (2(e), 2(f) etc refer to paragraphs in Schedule 2 of the Environmental Assessment (Scotland) Act 2005)	Likely to have significant environmental effects? YES/NO	Summary of significant environmental effects (negative and positive)
2 (e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)	No	It is not anticipated that the Policy will have any significant environmental impact.
2 (f) the value and vulnerability of the area likely to be affected due to- (i) special natural characteristics or cultural heritage; (ii) exceeded environmental quality standards or limit values; or (iii) intensive land-use.	No	It is not anticipated that the Policy will have any significant environmental impact.
2 (g) the effects on areas or landscapes which have a recognised national, Community or international protection status	No	It is not anticipated that the Policy will have any significant environmental impact.

SEA PRE SCREENING REPORT

A summary of our considerations of the significant environmental effects of the Unacceptable Actions Policy is given below.

TABLE 2 – SUMMARY OF ENVIRONMENTAL EFFECTS

This policy explains how we manage complainants' actions that result in unreasonable demands on our offices or unreasonable behaviour towards our staff.

It is not anticipated that the changes to the Unacceptable Actions Policy will have any significant environmental impact.

Appendix A – The City of Edinburgh Local Authority Boundary



Appendix B – Unacceptable Actions Policy (Draft)

Policy statement

Sometimes, the behaviour or actions of individuals using our service make it difficult for us to deal with their complaint. This policy explains how we manage actions that result in unreasonable demands on our offices or unreasonable behaviour towards our staff. It is required to address the small number of cases where actions become unacceptable as they involve abuse of our staff or stop us doing our work or providing a service to others.

Scope

This policy affects all customers, staff and elected members. It explains how we may restrict or change access to a service when we consider a customer's actions to be unacceptable. This is so that we can protect our staff and the services we provide to our other customers.

Definitions

Complaint: the Scottish Public Sector Ombudsman defines a [complaint](#) as:

an expression of dissatisfaction by one or more members of the public about the organisation's action or lack of action, or about the standard of service provided by or on behalf of the organisation.

Customer: a customer is anyone the Council works with, provides a service to, or supports. This includes residents, businesses, visitors, or someone acting on behalf of a customer e.g. a Councillor, MSP or relative.

SPSO: the [Scottish Public Services Ombudsman \(SPSO\)](#) is the body which manages the final stage for complaints about councils, the National Health Service, housing associations, colleges and universities, prisons, most water and sewerage providers, the Scottish Government and its agencies and departments and most Scottish authorities.

Unacceptable actions: people may act in ways which are out of character when they are in trouble or distressed. There may have been upsetting circumstances in the lead up to a complaint coming to us. We do not view behaviour as unacceptable just because a complainant is forceful or determined.

Sometimes behaviour is difficult for an individual member of staff to deal with because it doesn't conform to the standards they expect or the values they hold. An action is not necessarily unacceptable because a member of staff finds it personally difficult.

We have grouped unacceptable actions under four headings:

- aggressive or abusive behaviour (anger which escalates into aggression, threatening behaviour or verbal abuse, or unsubstantiated allegations)
- unreasonable demands (a demand is unreasonable when complying with it would impact substantially on our work)
- unreasonable levels of contact (when the amount of time spent dealing with a complaint impacts on our ability to deal with it or with other people's complaints; this is not the same as persistence which can be a positive advantage when pursuing a complaint)
- unreasonable use of the complaints process (when the effect of the repeated complaints is to harass, or to prevent us from pursuing a legitimate aim or from implementing a legitimate decision).

Policy content

Managing aggressive or abusive behaviour

We understand that many complainants are angry about the issues they have raised in their complaint. If that anger escalates into aggression towards Council staff, we consider that an unacceptable action and operate a zero tolerance approach to such behaviour. Any violence or abuse towards staff will not be accepted.

Violence or abuse is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language, verbal or in writing, that may cause staff to feel afraid, threatened or abused. This includes threats, personal verbal abuse, derogatory remarks and rudeness.

We also consider inflammatory statements and unsubstantiated allegations to be abusive behaviour.

Unreasonable demands

A demand becomes unacceptable when it starts to impact substantially on our work. A demand would also be unacceptable if complying with it would impact substantially on our work. For example, if the demand takes up an excessive amount of staff time and leads to other customers being disadvantaged.

Examples of actions grouped under this heading include:

- repeatedly demanding responses within an unreasonable timescale
- insisting on seeing or speaking to a particular member of staff when that is not possible
- repeatedly changing the substance of a complaint or raising unrelated concerns.

Unreasonable levels of contact

The volume and duration of contact made to us by an individual can cause problems. This can occur over a short period, such as a number of calls in one day, or it may occur over the lifespan of the complaint. This could include the complainant making long telephone calls to us or inundating us with copies of information which have been sent to us already or which are irrelevant to the complaint.

We consider that contact has become unacceptable when the amount of time spent dealing with it impacts on our ability to deal with that complaint or with other people's complaints. Contact time may involve time spent talking to a complainant on the phone, or responding to, reviewing and filing emails or written correspondence.

Unreasonable use of the complaints process

Customers have the right to complain about our services through a range of means. They also have the right to complain more than once about an organisation with which they have a continuing relationship, if subsequent incidents occur.

This contact becomes unreasonable when the effect of the repeated complaints is to harass, or to prevent us from pursuing a legitimate aim or from implementing a legitimate decision.

Restricting access to the complaints system

We consider access to a complaints system to be important and it will only be in exceptional circumstances that we would consider such repeated use as unacceptable. We reserve the right to restrict access in those rare occasions.

The threat or use of physical violence, verbal abuse or harassment towards our staff is likely to result in a termination of all direct contact with the complainant. Incidents may be reported to the police. This will always be the case if physical violence is used or threatened.

We will not accept any correspondence that is abusive to staff or contains allegations that lack substantive evidence. We will tell the complainant that we consider their language offensive,

unnecessary and unhelpful and ask them to stop using such language. We will state that we will not respond to their correspondence if the action or behaviour continues.

Our staff will end phone calls if they consider the caller aggressive, abusive or offensive. Our staff have the right to make this decision, to tell the caller that their behaviour is unacceptable and to end the call if the behaviour persists.

In extreme situations, we tell the complainant in writing that their name is on a No Personal Contact List. This means that we will limit contact with them to either written communication or to contact through a third party.

Dealing with other categories of unreasonable behaviour

We have to take action when unreasonable behaviour impairs the functioning of our services. We aim to do this in a way that allows a complaint to progress through our process. We will try to ensure that any action we take is the minimum required to solve the problem, taking into account relevant personal circumstances including the seriousness of the complaint and the needs of the individual.

Where a complainant repeatedly phones, visits, raises the same issues, or sends large numbers of documents where their relevance isn't clear, we may decide to:

- limit contact to telephone calls from the complainant at set times on set days
- restrict contact to a nominated member of staff who will deal with future calls or correspondence from the complainant
- see the complainant by appointment only
- restrict contact from the complainant to writing only
- return any documents to the complainant or, in extreme cases, advise the complainant that further irrelevant documents will be destroyed
- take any other action that we consider appropriate.

Where we consider continued correspondence on a wide range of issues to be excessive, we may tell the complainant that only a certain number of issues will be considered in a given period and ask them to limit or focus their requests accordingly.

In exceptional cases, we reserve the right to refuse to consider a complaint or future complaints from an individual. We will take into account the impact on the individual and also where there would be a broader public interest in considering the complaint further.

We will always tell the complainant what action we are taking and why.

Implementation

How we make decisions about unreasonable behaviour

Any member of our staff who directly experiences aggressive or abusive behaviour from a complainant has the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this policy.

With the exception of such immediate decisions taken at the time of the incident, decisions to restrict contact with the Council are only taken after careful consideration of the situation by a senior member of staff. Wherever possible, we will give the complainant the opportunity to change their behaviour or action before a decision is taken.

Appealing a decision to restrict contact

A complainant 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 to us or our decision to close the complaint.

Grounds for an appeal could include, for example, a complainant telling us that:

- their actions were wrongly identified as unacceptable

- restrictions were disproportionate
- restrictions will adversely impact on the individual because of personal circumstances.

A Review Panel of individuals not involved in the original decision will consider the appeal. They have the discretion to quash or vary the restriction as they think best. They will make the decision based on the information available to them.

Roles and Responsibilities

When a Council employee makes an immediate decision in response to aggressive or abusive behaviour, the complainant is advised at the time of the incident. When a decision had been made by a senior member of staff, we will always tell a complainant in writing. We will explain why the decision has been made to restrict future contact, the restricted contact arrangements and, if relevant, the length of time that these restrictions will be in place. This ensures that the complainant has a record of the decision. The decision in writing can be supplemented by another form of communication if written communication is not the most appropriate medium for the complainant.

Where it is decided to restrict complainant contact, an entry noting this will be made in the relevant file and appropriate computer records. A decision to restrict complainant contact may be reconsidered by the Review Panel. This panel reviews the status of all complainants with restricted contact arrangements on a six monthly basis. We record all incidents of unacceptable actions by complainants.

A Review Panel of individuals not involved in the original decision will consider the appeal. They will advise the complainant in writing that the restricted contact arrangements still apply or that a different course of action has been agreed. Again, the decision in writing can be supplemented by another form of communication if written communication is not the most appropriate medium for the complainant.

Related documents

SPSO Unacceptable Actions Policy:

http://www.spsos.org.uk/sites/spsos/files/communications_material/leaflets_public/general/2013_10_18_Unacceptable_actions_policy.pdf

The City of Edinburgh Council's customer care standards:

http://www.edinburgh.gov.uk/info/20036/performance_and_statistics/962/customer_care_standards

How we deal with complaints: <http://www.edinburgh.gov.uk/complaints>

Equalities and impact assessment

We aim to deal fairly, honestly, consistently and appropriately with all our customers, including those whose actions we consider unacceptable. We believe that all customers have a right to be heard, understood and respected. We aim to provide a service that is accessible to all and will make all reasonable adjustments to accommodate complainants. For example, any decision in writing can be supplemented by another form of communication if written communication is not the most appropriate medium for the complainant.

A full Equalities and Rights Impact Assessment has been carried out on the policy in consultation with the Equalities Team.

Strategic environmental assessment

No significant environmental impact is anticipated as a result of this policy revision. A Pre Screening Report has been submitted to the SEA Gateway.

Risk assessment

This policy replaces the Customer Access - Unacceptable Actions Policy approved by the Policy And Strategy Committee on 10 June 2008. This update to the existing policy is essential to ensure that our principles are consistent with those principles set out in the SPSO's Unacceptable Actions Policy and to make sure that the language we use to describe unacceptable actions reflects current usage by the Ombudsman. This is required for transparency as the SPSO is the body which manages the final stage of the complaints process for complaints relating to councils and their services.

Review

The policy will be reviewed in July 2015 for approval by the Corporate Policy and Strategy Committee.

**The Environmental Assessment (Scotland) Act 2005
Screening Determination under Section 8(1)**

Section 8(1) of the Environmental Assessment (Scotland) Act 2005 requires Local Authorities to determine if a plan is likely to have significant environmental effects.

The City of Edinburgh Council has determined that its Unacceptable Actions Policy is not likely to have significant environmental effects and therefore does not require a Strategic Environmental Assessment.

The reasons for this conclusion are in the Pre Screening Report which can be viewed by contacting Business Intelligence on 0131 529 4934 or business.intelligence@edinburgh.gov.uk.

Dated: 9 June 2014

**Alastair Maclean
Director of Corporate Governance
The City of Edinburgh Council
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG**