



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

# **North Ayrshire Council Managing Unacceptable Contact Policy**

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## Version Control

Version	Action	Date
1	Policy created and approved by Cabinet.	November 2013
2	Policy reviewed. Additional information added on vexatious Freedom of Information and Environmental Information Regulations requests; clearer guidance added around the processes to follow at the end of a restriction period; more information added around the appeals process; Executive Director and Head of Service references replaced with term 'Chief Officer'.	November 2016
3	Section 5.1 updated on where employees can seek further guidance on unacceptable behaviour and/or application of the policy. <b>Next review 2027.</b>	November 2022

## **1. Introduction**

- 1.1 This Policy sets out North Ayrshire Council's approach to managing the few customers whose actions or behaviours are considered to be unacceptable. The term 'customer' includes anyone acting on behalf of another person or who contacts our offices in connection with any aspect of the Council's services. The principles set out in this Policy apply to the Council's dealings with its customers in all circumstances.

## **2. Policy Aims**

- 2.1 To provide a service that is accessible to all customers, however, where the Council considers a customer's actions to be unacceptable, the Council retains the right to restrict or change access to our services.
- 2.2 To make it clear to all customers, both at initial contact and throughout 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.
- 2.3 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.
- 2.4 To ensure that other customers, Council employees and Elected Members are not disadvantaged by the acts of customers who behave in an unacceptable manner.

## **3. Defining unacceptable contact**

- 3.1 In times of trouble or distress, it is not unusual for people to act out of character. There may have been upsetting or distressing circumstances leading up to a person formally contacting the Council. The Council does not view behaviour as unacceptable just because an individual is forceful or determined.
- 3.2 The actions of customers who are angry, demanding or persistent may result in unreasonable demands on the Council or unacceptable behaviour towards Council employees or Elected Members. The Council considers these actions to be unacceptable and aims to manage them under the terms of this Policy. These actions can be grouped under three broad headings:

### **Aggressive or Abusive Behaviour**

- 3.3 Aggressive or abusive 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 staff to feel offended, afraid, threatened or abused.

#### 3.4 Examples of aggressive / abusive behaviours:

- threats
- physical violence
- personal verbal abuse
- derogatory remarks
- rudeness
- inflammatory statements
- unsubstantiated allegations
- defamatory or slanderous statements

3.5 The Council expects its employees and its Elected Members to be treated courteously and with respect and unacceptable behaviour should be reported whenever apparent. The Council should not respond to correspondence (in any format) that contains statements that are abusive to staff or contains allegations that lack substantive evidence. Where we can, we should return the correspondence, advising that we consider the language used to be offensive, unnecessary and/or unhelpful and ask the sender to resubmit the correspondence without using such language.

#### **Unreasonable Demands or Levels of Contact**

3.6 Customers may make what we consider unreasonable demands on Council services through the amount 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.

#### 3.7 Examples of unreasonable demands or levels of contact:

- repeatedly demanding responses within an unreasonable timescale
- insisting on seeing or speaking to a particular employee or Elected Member when that is not possible
- repeated phone calls, letters or emails
- repeatedly changing the substance of a complaint or repeatedly raising unrelated concerns
- repeated failure to identify the precise issues they wish to be investigated despite reasonable efforts by the Council to help them
- repeatedly raising the same or similar issue which has already been responded to in terms of the customer complaints procedure
- Vexatious or repeated FOI requests (refer to Section 14 of the Freedom of Information (Scotland) Act 2002).

3.8 As the term 'repeated' is subjective, the number of interactions deemed repeated should be agreed by a senior manager within the Service.

3.9 The Council consider these demands to be unacceptable and unreasonable if they impact on our ability to deliver services, such as taking up an excessive amount of employee or Elected Member's time to the disadvantage of other customers, service users or functions.

### **Unreasonable Persistence**

3.10 Some customers will not or cannot accept that the Council is unable to assist them further or provide a level of service other than that already provided. Unreasonable persistence is defined as continued, incessant or unrelenting conduct that has a disproportionate or unreasonable impact on the Council's employees, Elected Members, services, time and/or resources.

3.11 Examples of unreasonable persistence:

- an unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with
- a refusal to follow established procedures for dealing with complaints
- an unwillingness or inability to accept explanations relating to what the Council can or cannot do
- continuing to pursue an issue without presenting any new information.

3.12 Sending multiple emails to many employees or Elected Members is also considered to be unacceptable. In the first instance, an individual who sends multiple emails should be advised of a nominated contact within the Council. This will be a designated officer who is best placed to deal with the subject the individual wishes to pursue. Where the individual fails to adhere to these arrangements, the actions set out in sections 4 and 5 below may be invoked.

3.13 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. The actions of serial complainants who raise a range of issues with the Council will be monitored and the actions set out in sections 4 and 5 below may be invoked.

## 4. Managing unacceptable contact

4.1 How the Council manages unacceptable contact will depend on their nature and extent:

If it adversely affects our ability to do our job and provide a service to others, the Council may need to restrict an individual's contact with our offices in order to manage the unacceptable action. The Council will aim to do this in a way that allows the issue to be resolved, or for the matter that is the subject of the complaint or enquiry to be provided through the Council's normal processes for the services:

- The Council may restrict or cease contact in person, by telephone, textphone, fax, letter or email or by any other means or any combination of these. The Council will try to maintain at least one form of contact but will reserve the right in extreme cases to withdraw all contact
- In extreme cases, the Council will advise the individual in writing (or where applicable their chosen form of communication) that contact with the Council has been restricted and should include the provision(s) of the Policy that are relevant and the specific restriction(s) being applied.

4.2 With the exception of aggressive or abusive behaviour, customer complaints should be addressed through the Council's Two Stage Complaint Handling Procedure. This will ensure customers have the right to seek review from the Scottish Public Services Ombudsman should a complaint progress through Stages One and Two. If the exact nature of a complaint is unclear, the Council should contact the customer seeking clarification. Employees can advise a customer as to the areas of complaint they propose to address, inviting the customer to respond if our understanding is not correct.

4.3 The threat or use of physical violence, verbal abuse or harassment towards any North Ayrshire Council employee or Elected Member is likely to result in the termination of all direct contact with the individual concerned. Incidents in which physical violence is used or threatened will be reported to the Police.

4.4 The Council will not respond to correspondence that is abusive to employees or Elected Members or which contains allegations lacking substantive evidence. In these circumstances the Council will advise the individual that the Council considers their language to be offensive, unnecessary and unhelpful. The Council will ask them to refrain from using such language and advise that the Council will not respond to their correspondence unless they do.

4.5 Employees and Elected Members will terminate telephone calls if the caller is considered aggressive, abusive or offensive. The employee or Elected Member taking the call should tell the caller that the behaviour is unacceptable and if the behaviour does not stop after two warnings, the call will be terminated.

- 4.6 Where an individual repeatedly phones, visits our offices, sends irrelevant documents or raises the same issues, the Council may decide to:
- Only accept telephone calls from the individual at set times/days or arrange for only one employee to respond to calls or correspondence from that individual
  - Ask the individual to make an appointment to see a named employee or Elected Member before visiting our offices or request that the individual contacts the Council in writing only, or where written English is not their first language of communication, their agreed form of communication
  - Return the correspondence to the individual or, in extreme cases, advise them that further correspondence will be destroyed without being actioned
  - Take other action that the Council considers appropriate, which may include legal action in extreme cases, however, the Council will always let the individual know what action is being taken and why.
- 4.7 Where an individual continues to correspond on a wide range of issues which are considered excessive, the Council will advise them that only a certain number of issues will be considered in any given period and ask them to limit or focus their requests accordingly.
- 4.8 An individual with a complaint about Council services may be considered unreasonably persistent if, after all internal review mechanisms and all statutory routes of appeal have been exhausted, the individual persists in disputing the decision relating to their complaint. In such circumstances, the complainant will be advised that future phone calls will not be accepted, nor interviews granted, in relation to the complaint. Any future contact by the complainant relating to the matter must be in writing or in a form that suits that individual's needs. Future communications will be read and filed but will only be acknowledged or responded to if the complainant provides significant new information relating to the complaint.
- 4.9 Where a permanent contact restriction is being applied, the individual should be informed the reason(s) why, together with the specific nature of the contact being restricted.

## **5. Who can decide to restrict customer contact?**

- 5.1 Employees and Elected Members who directly experience unacceptable behaviour from an individual have the authority to manage that behaviour immediately in a manner they consider appropriate to the situation and in line with this Policy. Employees/Members in this situation should note and record the incident and pass it to the Council's Complaint Manager who will engage with the relevant Chief Officer if necessary.

If employees are uncertain how to proceed where unacceptable behaviour is evident or require further guidance in terms of application of the policy, they should consult the Council's Complaint Manager in the first instance.

- 5.2 With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact with the Council will only be taken after careful consideration of the situation. In respect of unacceptable actions directed towards an employee, the relevant Chief Officer will make this consideration. In respect of Elected Members, this consideration will be made by their respective Group Leader in consultation with the Chief Executive. In both instances, the Council's Legal Services will also be involved. Wherever possible, the individual will be given an opportunity to modify their behaviour or actions before a final decision is taken. Individuals will be advised in writing why a decision has been made to restrict future contact, the restricted contact arrangements and, if relevant, the length of time that these restrictions will remain in place.



## **6. Appealing A Decision To Restrict Contact**

- 6.1 Decisions to restrict contact can be appealed against and will be reviewed by a Chief Officer not involved in the original decision. In respect of Elected Members, the review will be carried out by their respective groups with appropriate officer support. The individual will be advised of the outcome in writing (or their agreed form of communication where written English is not their first language) that either the restricted contact arrangements remain in place or a different course of action has been agreed.
- 6.2 Individuals have 28 calendar days to contest a restriction decision and should clearly state the grounds on which they wish to appeal.

## **7. Recording A Decision To Restrict Contact**

- 7.1 The Council will record all incidents of unacceptable actions by customers. Where contact has been restricted, this will be noted in the relevant file and/or on appropriate computer systems.
- 7.2 A decision to restrict contact may be reconsidered if the individual demonstrates a more acceptable approach. The relevant Chief Officer will review the status of all individuals with restricted contact arrangements periodically through respective Service Management Teams and must conduct a full review of the restriction before the end of the restriction period. In respect of Elected Members, these arrangements should be made through their respective groups.

## **8. Reviewing A Decision To Restrict Contact**

- 8.1 If a full review confirms the individual has moderated or altered their behaviour, restrictions may be relaxed or removed, however, these may be reinstated if subsequent contact is again deemed unacceptable or relates to matters which resulted in the contact restrictions first being applied.
- 8.2 Where restrictions are being relaxed or lifted after review, individuals should be informed of this by letter.
- 8.3 When reviewing a restriction, the total extent of the individual's demands on the Council during the restriction period should be taken into account, including any FOI and/or Subject Access requests.
- 8.4 If a contact restriction has been placed on an individual on a permanent basis there is no requirement to inform the individual of this upon each anniversary as long as the individual was informed the restriction was permanent when first applied.

## **9. Related Matters**

9.1 Under section 2(2) of the Scottish Public Services Ombudsman Act 2002, in certain circumstances, an authority within the Ombudsman's jurisdiction can ask the Ombudsman to investigate a complaint about itself. The SPSO's guidance states that such a request would only be made in the following circumstances:

- The authority has done all it believes it can reasonably do to resolve the complaint, including telling the complainant of their right to complain to the SPSO.
- The complainant appears to have chosen not to bring the matter to the SPSO.
- A public statement has been made alleging hardship/injustice to a member or members of the public as a result of the alleged maladministration or service failure by the authority.

9.2 When deciding to restrict contact, we will not attempt to restrict the rights of an individual to raise requests under information legislation, such as the right to request information under the Freedom of Information (Scotland) Act 2002, the Environmental Information Regulations (Scotland) 2004, the Data Protection Act 1998 or a Subject Access Request. Any such requests received will be considered under the normal terms of those access regimes – although of course such a request, if couched in terms that are harassing, unreasonable or excessive, may be deemed vexatious under the FOISA or manifestly unreasonable under EIR(S). If an FOI request is answered, it should solely result in the release of pre-existing documentation or information. Care should be taken not to undermine any decision to restrict contact through the creation of new information, such as the answering of questions relating to the issue which gave rise to the restriction decision applied under this policy.

## **10. Policy review**

10.1 This Policy will be reviewed on a five-year basis to ensure its aims are being achieved.

## **End of Policy**