

UNACCEPTABLE ACTIONS POLICY

1. Introduction

1.1 The aim of this policy is to identify behaviours or actions by members of the public that Dumfries and Galloway Council (the Council) deem to be unacceptable or 'vexatious' in nature; their pattern of contact with the Dumfries and Galloway Council (the Council) might be considered to be termed as 'vexatious' or unacceptable in nature; to outline the Council's procedures for responding to such actions or behaviours, and where possible, the policy will be used to help seek a resolution which is in the best interest of the Council, the individual and the wider community.

1.2 This Policy applies to anyone who comes into contact with staff, Elected Members and /or third parties providing services on behalf of the Council. The Policy also applies to 'complainants'. The term 'complainant' includes anyone who contacts the Council to make a complaint in their own right or to make a complaint on someone else's behalf.

1.3 The Policy should be only be used when all other reasonable measures have been taken, to try and resolve a specific issue.

1.4 The Policy will only be implemented following careful consideration by, and with the authorisation, of the Council's Monitoring Officer, or in their absence, the Director Corporate Services, in consultation with the respective Director of the service concerned. In cases involving a complainant, the Information Management and Complaints Unit will need to be consulted. In matters relating to child care, child protection and the protection of vulnerable adults, it will be appropriate to consult the views of the Chief Social Work Officer, who hold specific statutory responsibilities in this respect.

1.5 This policy does not under-mind the Council's commitment to providing its customers with professional services to a high standard, and staff will therefore be expected to always treat customers in a polite and courteous manner. The key aim of this policy is to manage the behaviour or actions of customers who make it difficult for Members or staff to be able to deal with them effectively.

2. Policy Aims

2.1 The main aim of this policy requires staff and everyone performing work on behalf of the Council to deal fairly, sensitively, consistently and appropriately with all Customers, including those whose actions the Council may consider as unacceptable. The Council believes that customers have the right to be heard, understood and respected, and likewise, staff have the same rights.

2.2 The policy provides however, that the Council retains the right, where it is considered that an individual's actions are unacceptable, to restrict or change access to its service, in order to ensure the protection of staff, Elected Members and others in their conduct of Council business. Any proposed decision or action, which is likely to have an adverse effect on an individual and his/her needs, rights and protected characteristics, must be subject to an impact assessment being undertaken in compliance with equality and health and safety legislation.

2.3 The policy also aims to ensure that other service users and Council staff do not suffer any disadvantage from individuals who decide to act in an unacceptable manner.

3. Defining Unacceptable Actions/Behaviours

3.1 It is understood that people may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to contact being made. The Council does not view a specific behaviour as unacceptable, just because an individual is forceful or determined. It is accepted that being persistent can sometime be a positive advantage when trying to resolve an issue, and staff should resist making any swift value judgements about individuals in such situations.

3.2 The actions, however, of individuals who are angry, demanding or persistent, may often result in unreasonable demands on Council staff and resources. It will be mostly these actions that the Council consider as unacceptable and in need of effective and sensitive management. Behaviours and actions may sometime be deemed vexatious where previous or current contacts with the individual show that they meet one or more of the following criteria: -

Aggressive or Abusive Behaviour

- Aggression is not restricted to acts 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. Staff being followed or stalked are likely to feel intimidated and their privacy intruded upon.
- Examples of behaviours grouped under this heading include threats; physical violence; personal verbal abuse; derogatory remarks and rudeness; or causing persistent offence to a member of staff or a member of the Council or a member of the public, by referring to their gender, race, disability, age or sexual orientation. The Council also considers that inflammatory statements and unsubstantiated allegations can be considered as abusive behaviour.
- Council staff should be treated courteously and with respect. Violence or abuse towards staff is unacceptable.

Unreasonable Demands

- Individuals may make what the Council considers unreasonable demands on its services through the amount of information they seek; the nature and scale of service they expect; insisting on full responses to be made more urgently than the response time set in the relevant complaint procedure, and persistently demanding to speak to the Chief Executive or other senior members of staff. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the complainant.
- Examples of actions grouped under this heading, include demanding responses within an unreasonable time-scale; insisting on seeing or speaking to a particular member of staff; continual phone calls, e-mails or letters; repeatedly changing the substance of the issues or continually raising new issues to prolong contact whilst the original matters are still being addressed. In respect of these criteria care must always be taken not to ignore any new issues, which may be significantly different from the original complaint. These should be noted and recorded as separate points of complaint.

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

Unreasonable Persistence

- The Council recognises that some individuals will not or cannot accept that the Council is unable to assist them further or provide a level of service other than that provided already. An individual may persist in disagreeing with the action or decision taken in relation to their concerns/complaint or contact the office excessively about the same issue. Complainants may also attempt to override or circumvent the Council's Complaints Handling Procedure by involving, for example, the Ombudsman at an early or premature stage of every complaint.
- Examples of actions grouped under this heading include excessively persistent refusal to accept a decision made in relation to a matter; persistent refusal to accept explanations relating to what the Council can or cannot do; continuing to pursue a matter without presenting any new information; or persisting in pursuing a matter where it has been fully investigated and full action has already been taken in accordance with the relevant Council's procedure but the individual will not acknowledge that fact.
- The way in which these individuals approach the Council may be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.
- The Council considers the persistent contact to be unacceptable when it takes up what the Council regards as being a disproportionate amount of time and resources.

3.3 There are relatively few individuals whose actions the Council would consider unacceptable. How the Council aims to manage these actions depends on their nature and extent. If it adversely affects the ability of staff to conduct their duties and provide a service to others, the Council may need to restrict contact with services in order to manage the unacceptable action. The Council may restrict contact in person, by telephone, fax, letter or electronically or by any combination of these. The Council will aim to maintain at least one form of contact. In extreme situations, the Council will advise the complainant in writing that their name is on a '*no personal contact*' list. This means that they must restrict contact with Council's services to either written communication or through a third party, such as an independent advocate.

3.4 The threat or use of physical violence, verbal abuse or harassment towards Council staff is likely to result in the ending of all direct contact with the individual. Incidents may be reported to the police, where appropriate. This will always be the case, if physical violence is used or threatened.

3.5 The Council will not deal with correspondence (letter, fax or email) that is abusive to staff or contains allegations that lack substantive evidence. When this happens, the individual is advised that the Council considers their language offensive, unnecessary and unhelpful. A request will be made to stop using such language and the complainant advised that the Council will not respond to their correspondence if they do not stop. The Council may require future contact to be through a third party.

3.6 Council staff will end telephone calls if the caller is considered aggressive, abusive or offensive. The staff member taking the call has the right to make this decision, but must first, tell the caller that the behaviour is unacceptable and then end the call if the behaviour does not stop.

3.7 Where a customer repeatedly phones, visits Council offices, sends irrelevant documents or raises the same issues, the Council may decide to:

- only take telephone calls from the individual at set times on set days or put an arrangement in place for only one member of staff to deal with calls or correspondence from the individual in the future.
- require the individual to make an appointment to see a named member of staff before visiting the office or that the complainant contacts the Council in writing only.
- return the documents to the individual or, in extreme cases, advise the individual that further irrelevant documents will be destroyed or not commented upon.
- take other action that the Council considers appropriate such as blocking e-mails and requiring the individual to write in to the Council. The Council will, however, always tell the individual what action is being taken and why.

3.8 Where an individual continues to correspond on a wide range of issues, and this action is considered excessive, then they may be told that only a certain number of issues will be considered in a given period and asked to limit or focus their requests accordingly, otherwise no responses can be expected.

3.9 The action of a complainant may be considered unreasonably persistent, if all internal review mechanisms have been exhausted, and the complainant continues to dispute any decision relating to their complaint. The complainant will be told that no future phone calls will be accepted or interviews granted concerning this complaint, and they should be reminded of information already provided to them regarding access to the SPSO (Scottish Public Services Ombudsman) if they should still remain dissatisfied with the Council's response to their complaint. Any future contact by the complainant on this issue must be by invitation and in writing. Future correspondence, however, must be read and filed, and only acknowledged or responded to, if the complainant provides significant new information relating to the complaint.

4. What is expected of managers and staff

4.1 Council staff who directly experience aggressive or abusive behaviour from a member of the public have the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this policy. Any action must be recorded and reported to their Line Manager. For any advice, staff can contact the Information Management and Complaints Unit.

4.2 With the exception of such immediate decisions taken at the time of an incident, decisions and actions to restrict contact with the Council must only be taken, after careful consideration of the situation and the assessment of the risk involved, by a more senior member of staff. Wherever possible, Council staff should always give customers the opportunity to modify their behaviour or action before a decision is taken. Individuals will be told 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 be in place.

5. Appealing a Decision to Restrict Contact

5.1 An individual can appeal a decision to restrict contact. A senior member of staff who was not involved in the original decision will consider the appeal. They will advise the individual in writing that either the restricted contact arrangements still apply or a different course of action has been agreed. Under the policy, such a decision must only be made and communicated to the individual, with the support and prior consultation of Chief Officers, as explained at 1.4 above, in this policy. The Information Management and Complaints Unit will co-ordinate the procedural arrangements to have any requests for an appeal considered.

6. Recording and Reviewing a Decision to Restrict Contact

6.1 All incidents of unacceptable actions by complainants and other individuals will be recorded at a local level and reported corporately to the Information Management and Complaints Unit. Where it is decided to restrict complainant contact, an entry noting this will be made in the relevant file and on the appropriate electronic system.

6.2 A decision to restrict contact may be reconsidered or reviewed, if the individual demonstrates a more acceptable approach. Directors/Heads of Services will review the status of all complainants and other individuals who have been subject to restricted contact arrangements on a regular basis. The Information Management and Complaints Unit will support arrangements to monitor and provide information to senior managers tasked to review the status of any decisions involving restrictions on specific individuals.

7. A brief outline of our approach to manage unreasonable behaviour

7.1 A very small number of individuals will fall into a 'vexatious' or repeat complainant category, and these individuals can be in contact with a number of different services at the same time. Within each service a nominated officer will be identified to deal with those individuals deemed as being vexatious in their behaviour. Before any referral is made, all the facts and evidence relating to the case must be reviewed at the department level, and if it is felt appropriate, the referral should then be forwarded to the Council's Monitoring Officer to triage the appropriate manner in which the Council can apply the proposed sanction. In the extreme situations highlighted in paragraphs 3 above and where the Director proposes any of the following: withdraw a service, to terminate contact, to severely restrict contact or require future contact to be through a third party, then the Council's Monitoring Officer will convene a Member led UAP Panel. For proposed restrictions with lesser sanctions the Council's Monitoring Officer will determine if a Head of Service led UAP would be appropriate.

7.2 Where individuals have been identified as acting in a vexatious manner, and consistent with the above criteria, the Council's Monitoring Officer, or in their absence, the Director Corporate Services, in consultation with the respective Director of the service concerned and/or Chief Social Work Officer, and the Information Management and Complaints Manager, will determine what action should be taken on that matter, taking into account the outcome of an impact assessment which must be carried out prior to any proposed decision or action.

7.4 If the sanction involves the individual only being allowed to contact the Council through written correspondence, then all front line service areas and affected staff will be notified. A corporate record will be kept of the reasons why the actions and behaviours have been deemed vexatious under the criteria and will be noted on the relevant file.

7.5 The Director Corporate Services in conjunction with the respective Director and/ or Chief Social Work Officer and the Information Management and Complaints Manager, may decide to deal with the matter in one or more of the following ways:

- Try to resolve matters before invoking this procedure by drawing up a signed agreement with the individual which sets out a Code of Acceptable Behaviour on the part of the Council and the individual in order for the Council to continue to investigate the issues raised;
- Specify how future contact will be maintained between the Council and the individual;
- Notify the individual that the Council has fully responded to all issues and that continuing contact on the same matter will serve no purpose as all matters have now been thoroughly investigated, and that they had a right to pursue any dissatisfaction with the Ombudsman. The individual will also be notified that any further correspondence will be acknowledged but not answered unless any significant new matters are raised in writing;
- The individual will be notified in writing that they have been considered as 'vexatious under the Unacceptable Actions Policy, and this sanction has been invoked as a last resort in order to bring a resolution to the matter raised. The notification should include information on the right of appeal. Any action that is taken must be fully notified to the individual in writing specifying the period in which this decision will be reviewed.

7.6 Once an individual has been determined as vexatious, there needs to be a mechanism for withdrawing this status. If the individual subsequently demonstrates a more reasonable approach, withdrawal should be considered as appropriate by the Council's Monitoring Officer, or in their absence, the Director Corporate Services, in consultation with the respective Director of the service concerned.

8. Policy Availability and Review

8.1 A copy of this Policy is to be made available on request and free of charge from Council Offices and it will also be accessible on the Council's website.

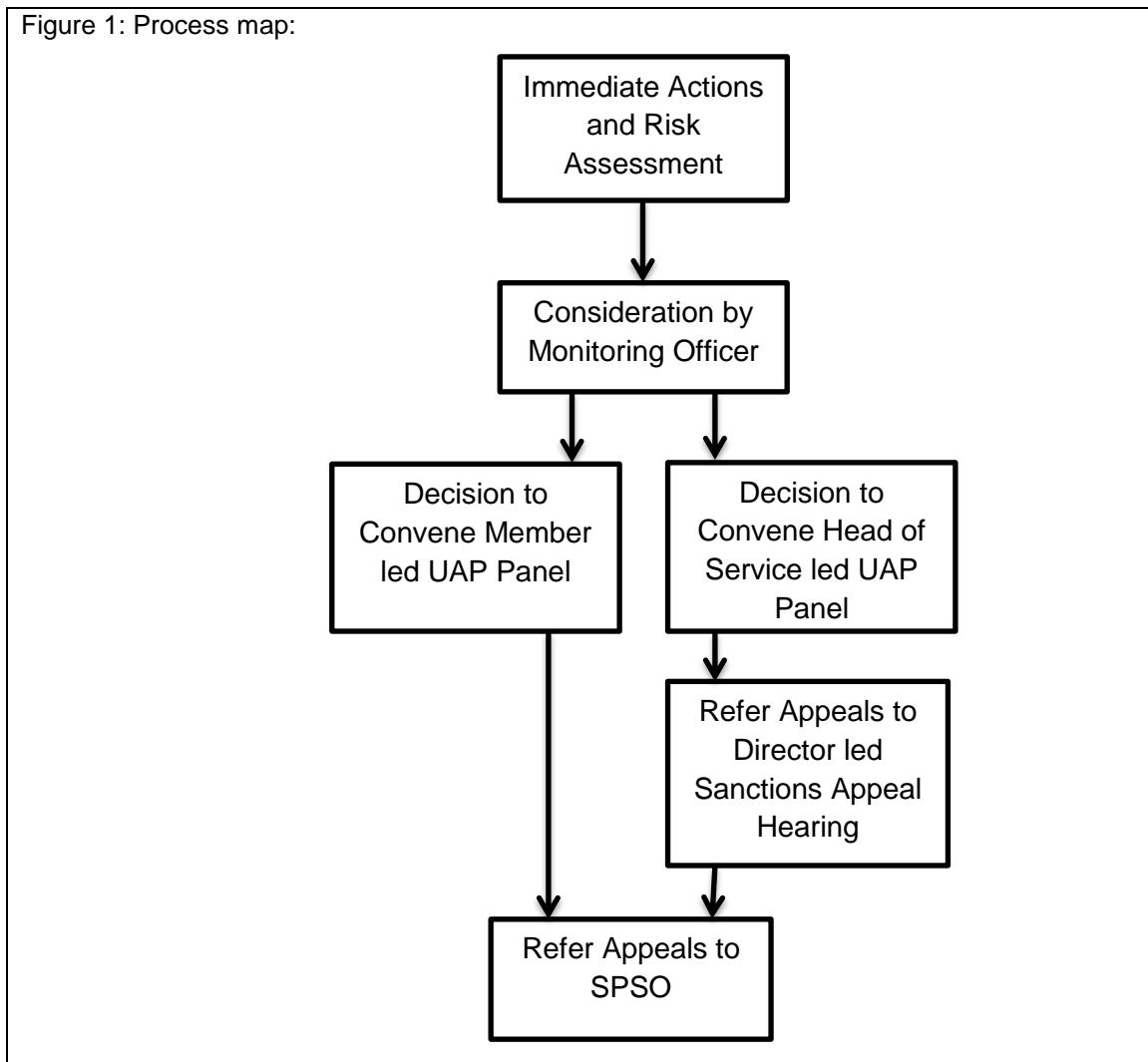
8.2 The Monitoring Officer will review the Policy on a regular basis and at least annually to make sure that its agreed aims are being achieved, and that any significant changes are reported initially to the Policy and Resources Committee.

Agreed by Policy and Resources Committee on 23 June 2015
REF: Unacceptable Actions Policy

Annex A	Operational Procedures
Annex B	Model Warning Letter – Unacceptable Behaviour
Annex C	Model Acceptable Behaviour Agreement– Unacceptable Actions Policy
Annex D	Model Acceptable Behaviour Agreement Letter
Annex E	Sanctions Review Panel Procedure

Operational Procedures

Figure 1: Process map:



Triggers and immediate actions

1. As outlined in the Policy, services recognise that the trigger may be a single event or be the cumulative effect of contact over an extended period or across multiple services or with many staff. The Policy defines what is deemed unacceptable actions or behaviour, this may include one or more of the following criteria:
 - Aggressive or abusive behaviour
 - Unreasonable demands
 - Unreasonable persistence
2. If appropriate an immediate assessment of an occurrence and the risk may be required and local decisions will be taken within the service context. Actions may for example include; reporting the individual to the Police, issuing a verbal ban on entering a Council Building or diverting call from vexatious complainants to a nominated trained member of staff. The service will take appropriate action to keep other service users and staff safe as well as confirm in writing any immediate sanctions to the individual (template letters are available to Managers from the Information Management and Complaints Unit).

Risk Assessment

3. At the earliest appropriate point the line manager for the member of staff raising the concern, has a duty to complete a risk assessment (this form is available to all managers via the Corporate Health and Safety Manual on CONNECT). Ideally the line manager should try to resolve the situation and may determine it is worth trying to get the individual to enter into an Acceptable Behaviour Agreement (model letters and model agreements are available from the Information Management and Complaints Unit).

Support and assistance

4. Assistance can be given to individuals who have any particular requirements e.g. interpretation or translation; physical or communication access. Advocacy support could also be arranged if the individual wishes this.

Unacceptable Actions Policy (UAP) Panel

5. Following an unsuccessful attempt to moderate the individual's behaviour or if deemed appropriate, the line manager will consult with their Head of Service and the Information Management and Complaints Manager to convene an Officer led UAP Panel.
6. There will be times however when the actions and behaviours of an individual will have been so extreme that Council staff or Members need protected. In these circumstances the Monitoring Officer will determine it will be appropriate to convene a Member led UAP Panel. The following (not an exhaustive list) will be considered as extreme actions and behaviours which may include: violence, unreasonable demands on staff or Member time and resources which prevent the Council from going about its business, abuse, slander and/or vexatious contact.
7. In these extreme situation where the Director proposes any of the following: withdraw a service, to terminate contact, to severely restrict contact or require future contact to be through a third party, then the Council's Monitoring Officer will determine if it will be appropriate to accelerate and refer the case to Members. The Panel will consist of 5 Members (with a quorum of 3) called on an Exempt item basis from the Policy and Resources Committee and as set out the Scheme of Delegation.
8. This process allows the Panel to meet as soon as possible but not earlier than 3 clear days from being called. Interim emergency protective sanctions may be applied at the discretion of the Monitoring Officer and Director of the appropriate Directorate. Following a Committee decision the individual will be informed of that decision and signposted to the SPSO.
9. For proposed restrictions with lesser sanctions the Council's Monitoring Officer will determine if a Head of Service led UAP would be appropriate.
10. In either case UAP Panels (whether Member led or Officer led) will be presented with the evidence, an Impact Assessment (considering the effect on the individual of the possible sanctions) and the Risk Assessment. Whenever practical the UAP Panel, whether Member of Officer led, should be convened within 20 working days of the need being identified. In the case of an Officer led Panel the panel will be chaired by the appropriate Head of Service. Good practice guidance for the Chair is available from the Information Management and Complaints Unit. The Panel's role is

to firstly review the application of any interim emergency protective sanction is appropriate and proportionate. The Manager who completed the risk assessment will present the case, which may include a statement (written or in person) from the employee raising the concern. The potential sanctions will have been Impact Assessed to identify any potential impacts on the individual and mitigating action required.

11. UAP Panel may also draw on advice from the Information Management and Complaints Manager, the Senior Corporate Complaints Officer, a Legal advisor and/or a Health & Safety advisor. As per the Policy any restriction of contact or sanction should be communicated to the individual and if appropriate the recommended protective measures should be communicated to other Services or agencies (such as no home visits, two person visits or record/witness all phone calls).
12. When it has been decided that a violent warning marker should be applied to the individual's record, the individual will be informed of the decision and the period the marker will be applied and reviewed. Other interested parties may need to be informed. In most cases the restriction of contact or sanction will expire at the end of the tariff period, however in some cases, the Chair may require the positive consideration of a Sanctions Review Panel.

Sanctions Appeal Hearing

13. The individual will be given the right to appeal. In cases decided by the Member led UAP Panel appeal will be directed to the SPSO. In cases decided by the Officer led UAP Panel the appellant will be given right to a Sanction Appeal hearing. Normally this will be required within 28-calendar days from the date of the sanction letter. If appealed the appropriate Director should Chair a Sanctions Appeal Hearing. Whenever possible the time and place should be agreed in consultation with the individual. The individual has the right to attend with an advocate or representative and to present their case to the Chair. Again specialist advisors and the line manager may be called to present the case for the application for a particular Sanction (good practice is available from the Information Management and Complaints Unit). The decision will be communicated with the individual whenever possible within 14-days of the Hearing. The individual will be signposted and referred to the Scottish Public Sector Ombudsman if they remain dissatisfied with the process.

Sanctions Review Process

14. This process will be led by the Information Management and Complaints Unit. In most cases sanctions will expire at the end of the tariff period and the individual can re-engage with the service. However in some cases the sanction applied may require the positive consideration in which case a Head of Service led UAP Panel will be convened no later than 1-month ahead of the end of the tariff period. The individual will be informed of the UAP Panel decision and, as before, they have a right to appeal.

MODEL WARNING LETTER – UNACCEPTABLE BEHAVIOUR

Dear (insert person's name)

Warning letter – Unacceptable behaviour

I am (insert your name) and I am the (insert role/position in the Council) for the (insert name of organisation). One of my roles is to protect Council staff from abusive and violent behaviour and Council's resources from misuse, and it is in connection with this that I am writing to you.

I have received a report (or a number of reports) where it is alleged that on (insert date(s) of incident(s) and a brief description of the behaviour).

As you are aware (insert details of any previous action taken, if appropriate). Behaviour such as this is unacceptable and will not be tolerated in line with the Council's Unacceptable Actions Policy.

The Council is firmly of the view that all those who work in or provide services to the public have the right to do so without fear of violence or abuse. Such behaviour also (insert details of the impact of the behaviour on e.g. staff time/Council's resources/ other service users or customers, having to wait longer for a service).

Should there be any repetition of this type of behaviour, consideration will be given to taking action against you. Such action may include the following:

- Excluding you from Council premises
- Seeking an Acceptable Behaviour Agreement
- Providing Council services at a different location
- Reporting to the Police where your behaviour constitutes a criminal offence and fully supporting any prosecution they may pursue
- Consideration of a private criminal prosecution or civil legal action involving Council staff (Amend above as appropriate)

If any legal action is necessary any costs incurred will be sought from you and these may be considerable.

A copy of this letter has been sent to (say who will be informed or copied in).

A copy will also be placed on your records/ A note of this incident will be placed on your records/A marker will be placed on your records (Amend as per the Council's Policy on the Use of Warning Markers)

This warning will be reviewed in (insert length of time, e.g. 6 or 12 months). You will be advised in writing of the outcome of this review and if any reference or marker will be removed from your records.

If you do not agree with what has been set out in this letter or have any comments to make, please (provide information on how decision may be challenged/appealed and details of complaints procedure).

Should you need any assistance in understanding this action, or need the information in another format or language, please let us know.

Yours sincerely

MODEL ACCEPTABLE BEHAVIOUR AGREEMENT– UNACCEPTABLE ACTIONS POLICY

(Ensure that the Agreement is on a separate sheet of paper)

Acceptable Behaviour Agreement

This agreement is between:

(Dumfries and Galloway Council)

And

(Insert the name and date of birth or unique identifying details of the other person)

I agree to the following in respect of my future behaviour – (Insert appropriate conditions, those below are examples which may be appropriate in many cases)

- I will.....
- I will.....
- I will treat all people with courtesy and respect while on Council’s premises or when in contact with Council’s staff, on the telephone or in person
- I will not use violence, or foul or abusive language or threatening behaviour towards any person while on Council’s premises or anywhere when in contact with Council’s staff
- I will not.....
- I will not

Declaration

I,, confirm that I have read and understood the attached letter and this agreement and that I accept the conditions set out above and agree to abide by them.

Signed:

Print name:

Dated:

Dumfries and Galloway Council

Signed:

Print name:

Position:

Dated:

MODEL ACCEPTABLE BEHAVIOUR AGREEMENT LETTER

Dear (insert person's name)

Unacceptable Behaviour- proposed Acceptable Behaviour Agreement

I am (insert your name) and I am the (insert your role/position in the Council) for Dumfries and Galloway Council. One of my roles is to protect Council staff from abusive and violent behaviour and Council's resources from misuse, and it is in connection with this that I am writing to you.

I have received a report (or a number of reports) where it is alleged that on (insert date(s) of incident(s) and a brief description of the behaviour). As you are aware (insert details of any previous action taken, if appropriate). Behaviour such as this is unacceptable and will not be tolerated.

The Council is firmly of the view that all those who work in or provide services to the public have the right to do so without fear of violence or abuse. Such behaviour also (insert details of the impact of the behaviour on e.g. staff/Council's resources/and other service users or customers, having to wait longer for a service).

Just as the Council has a responsibility to you, so you have a responsibility to use its resources and treat its staff in an appropriate manner.

We would urge you to consider your behaviour when attending Council's premises or meeting with staff in the future and to accept the following conditions:

- You will.....
- You will.....
- You will not.....
- You will not.....

Enclosed are copies of an Acceptable Behaviour Agreement for your attention. I would be grateful if you could sign both of these and return one in the envelope provided. In the event that no reply is received within the next 14 days, consideration will be given to taking further action against you.

If after signing and returning the agreement, you decide not to abide by the conditions or should there be any further incidents of unacceptable behaviour, consideration will be given to taking further action against you.

Such action may include the following:

- Excluding you from Council's premises
- Providing Council's services at a different location
- Reporting to the Police where your behaviour constitutes a criminal offence and fully supporting any prosecution they may pursue
- Consideration of a private criminal prosecution or civil legal action involving Council staff
- Seeking a court order to restrict your behaviour

(Amend above, as appropriate)

If any legal action is necessary any costs incurred will be sought from you and these may be considerable.

Should you sign the Agreement, a copy will be sent to (say who will be informed or copied in).

Even if you refuse to sign the Agreement, a copy of this letter may be sent to (say who will be informed or copied in).

A copy will also be placed on your records/A note of this incident will be placed on your records/A marker will be placed on your records (Amend as per the Council's Policy on the Use of Warning Markers).

IF you sign this Agreement, it will be reviewed in (insert length of time, e.g. 6 or 12 months). You will be advised in writing of the outcome of this review and if any reference or marker will be removed from your records.

If you do not agree with what has been set out in this letter or have any comments to make, please (provide information on how decision may be challenged/appealed and details of the Council's Complaints Handling Procedure).

Should you need any assistance in understanding this action, or need the information in another format or language, please let us know.

Yours sincerely

Sanctions Review Panel Procedure

1 Introduction

Dumfries and Galloway Council is committed to transparent decision making processes and to providing access to a fair and objective procedure for the internal review of decisions.

Grievances may arise as a result of dissatisfaction with a decision about a policy, procedure, service or fee. Quite often, all attempts are made to resolve grievances quickly and efficiently, without the need for formal applications for review to be lodged. Sometimes this cannot be achieved. This procedure provides guidance for dealing with formal requests for internal review of decisions of Council, its employees, and other people acting on behalf of Council.

A formal application or request for review of a decision will therefore initiate the procedure process. The person who lodges a formal request for internal review is referred to as the “applicant”.

It is considered inappropriate to use the Council’s procedure when an alternative statutory process for review exists in Local Government or other legislation. It is therefore suggested that the Internal Review of Council Decisions Procedure will **not** be used when alternative review processes are available to the applicant.

2 Who can lodge a request for a review of a decision?

Any person, who is affected by the decisions made by Council, may lodge a request for Internal Review of a Council decision. For example, residents, ratepayers, members of a community group, users of Council’s facilities, and visitors to the area all have the right to lodge an application for review.

3 How can a request for a review of a decision be lodged?

Formal requests for the review of Council decisions are to be made in writing to the Chief Executive Officer, providing full details about the review request.

The Council undertakes to maintain confidentiality as far as is possible, and only relevant parties will be involved. Applicants will be encouraged to observe confidentiality also, as this is likely to achieve the fairest result for all concerned.

4 How will a request for internal review of a Council decision be dealt with?

Principles of natural justice will be observed in dealing with all matters. All parties will have the opportunity to express their point of view, provide relevant information, and respond to issues raised.

The Council has nominated the Information Management and Complaints Manager as a Contact Officer within the Chief Executive Service, who is responsible for dealing with the request for review of a Council decision in the first instance. In his/her absence, an appropriate officer will take on that responsibility.

The Contact Officer will assess the request, determine the appropriate action, and arrange for an independent review if necessary.

5 Decision Required

It will be necessary for the Council to determine those matters that must be referred to the Council, in accordance with the legislative requirements. Examples of matters may refer to:

- Decisions made by resolution of Council
- Council endorsed objectives and policies.
- Budgetary matters or evaluation of service delivery matters.
- Civic and ceremonial matters.
- The Internal Review of Council Decisions Procedure, or the process applied.
- Issues that are likely to be of interest to the wider community.
- Matters which may involve litigation
- Decision to impose a ban on access to Council's facilities
- Recommendations to refuse to review a decision raised by an applicant on the grounds that it is frivolous or vexatious, or where the applicant does not have a sufficient interest in the matter
- Matters where legal procedures have not been followed, for example, relating to leases and licences, and tenders.
- Recommendations for mediation or neutral evaluation.
- Any other matters at the discretion of the Contact Officer/s or Chief Executive Officer.

6 How long will it take for the request for review of a Council's decisions to be assessed?

A request for review of a Council decision will be formally acknowledged within 5 days of receipt, including advice to applicants about the expected timeframe for dealing with the matter. In most cases applications for review will be considered within 21 days, although in some circumstances it may take longer. However, in all cases, applicants will be kept informed about the progress of the review, and advised in writing of the outcome of the review procedure and process.

7 Deciding on options for proceeding with the internal review of a Council decision, which could include:

- Refer to Council (as identified)
- Allocation to Contact Officer/s or another senior officer within Council, independent of original decision
- Refer to internal Review Officer
- Refer to Independent Review Panel
- Seek legal advice before proceeding
- Refer to external Review Officer

As far as is possible, the appointment of a Reviewing Officer to undertake a review on his/her own, must not include any person who has:

- a personal relationship with the applicant
- a personal interest in the outcome of the matter
- previously been involved in the decision which is the subject of the review

7 Options to demonstrate objectivity and independence include:

- an Internal Review Panel
- inviting a representative from other Council(s), although this has resource implications for Councils involved.

NB: Contact and Review Officers will need to be suitably trained and experienced in dealing with disputes and conflict resolution.

8 Contact Officer and Review Officer – Skills, Knowledge, and Issues for Consideration

Contact Officer will need:

- Overall knowledge of the Council organisation, including administrative processes and requirements
- Knowledge of Local Government Acts and other relevant legislation
- Effective communication skills
- Analytical and Problem solving skills
- Conflict Resolution skills

Reviewing Officer will need:

- Both a corporate and customer perspective
- To be objective, fair, reasonable, and credible, and independent from original decision, as far as is possible, and clear about the parameters of the review
- Access to all of the relevant information
- Overall knowledge of the Council organisation, including administrative processes and requirements
- Knowledge of Local Government and other relevant legislation
- Effective communication skills
- Investigation skills
- Analytical and Problem solving skills
- Conflict Resolution skills

Note: The Review Officer may not require delegated, discretionary, or decision making powers. Review by an Internal Review Committee, or an external reviewer, may be also be options for Councils to consider.

9 Training and Development

Identify and address relevant training needs of all staff involved in the application of the Internal Review Procedure.

Principles to Observe in applying the Internal Review of Council Decisions Procedure.

10 Principles of Natural Justice

- Provide all parties involved access to relevant information, and adequate opportunities to provide further information and to respond where relevant.
- Be objective, fair and reasonable throughout the review process.

11 Objectivity and Independence

The Reviewing Officer should not be a person, as far as is possible, who

- was involved in the original decision which is the subject of the request for review
- has a personal interest in the outcome of the review
- has a personal relationship with the applicant or other party relevant to the review.

12 Effective Communication

- Deal with the matter objectively, and with empathy and understanding.
- Conduct interviews in a private area, without interruptions, and observe confidentiality as far as is possible.
- Provide assistance to overcome any physical access or language barriers. Offer and use the services of an interpreter if required.
- Avoid using jargon and acronyms, and be mindful of body language
- Explain the review process carefully, what will happen, and when.
- Ensure all parties are kept informed of the progress of the review within the agreed policy timeframe.

13 Observe Protocols

Observe protocols relating to advice to parties, correspondence, referral to Council, recommendations arising from the review, and informing applicant of the outcome of the review.

14 Keeping Records

Keep clear and accurate records of interviews and review actions, focussing on factual information. Make sure records are safe and secure, and only relevant parties with a genuine interest have access to the records.

15 Providing Advice about Next Steps

Inform the applicant of the rationale/reasons for the outcome of the Review. If the matter is not resolved to the applicant's satisfaction, advise the applicant about options for external Review.

Checklist : Prior to the Internal Review Meeting, check that:

- All attendees have been informed in writing and know the location of the venue for the review, the date and start time for the review
- The papers containing all documents submitted to the Contact Officer have been circulated to everyone attending the review – a spare set to be available
- Ensure that any special access needs or requirements have been addressed
- An Attendance Sheet is prepared with any apologies in advance of the review recorded
- Hospitality and equipment facilities have been booked, as necessary

INTERNAL REVIEW PROCEDURE – ON THE DAY

On arrival the Contact Officer and Reviewing Officer greet and welcome the applicant and all attendees into the meeting room.

Seating arrangements

The Reviewing Officer sits facing the applicant, his/her authorised representative and other attendees. The Contact and Administrative Officer and other officers (including Legal Services) sit alongside the Reviewing Officer.

16 Important Notices

The Contact Officer runs through house-keeping and fire safety arrangements.

17 Conduct of meeting

The Reviewing Officer invites attendees to commence the review and explains the purpose of the review, the conduct of business and his/her role as well as other Officers' roles. The Reviewing Officer explains that:

- both parties represented will respect each other's right to speak and will not use any inappropriate language during the course of the review
- representatives of both parties will direct their case and any questions through him/her,
- any questions for one side or the other will be responded to either at the time or when they present their case
- he/she will ask for clarifications at any time during the proceedings

The Reviewing Officer will then invite the Manager representing the Department involved to start first by outlining their case. Unless there are any questions from the applicant/authorised rep or the Reviewing Officer, the Reviewing Officer will then invite the applicant/authorised representative to present their case next.

18 Closing the Review

Once all parties have had an opportunity to ask any questions or seek clarifications on any specific points, the Reviewing Officer will ask both sides to sum up their case at the end and confirm whether they feel that have had a fair hearing, before being asked to leave so that the Reviewing Officer can begin his/her deliberations. The Reviewing Officer will inform all attendees that the decision will be communicated to them in writing as soon as possible but no later than 21 days from the Review meeting date. All parties will then withdraw and the Review is brought to a close.
