

West Lothian Council
Unacceptable Actions Guide

Dealing with problem behaviour

Date: September 2023

Contents

1.	Overview.....	3
1.1	What is meant by Unacceptable Actions?.....	3
1.2	The categories of Unacceptable Actions used in this guide	3
2.	Background	3
2.1	The basic requirements	3
2.2	Recording and monitoring	3
2.3	Reasonable adjustments	4
2.4	Freedom of Information and Data Protection	4
3.	Difficult situations for staff	4
4.	Unreasonable Behaviour	5
4.4	Identifying behaviour	5
4.5	Pre-emptive action	5
4.6	Unreasonable Persistence	6
4.7	Clarity in the decision	6
4.8	What to do if staff are dealing with someone who is being persistent	7
4.9	Make sure the service has identified the correct problem	7
4.10	The enquiry that is really a complaint	7
4.11	Identify what would be unreasonable persistence.....	7
4.12	Act early	7
4.13	Putting it in writing	8
4.14	Escalating the process	8
4.15	Making Unreasonable Demands	9
4.16	Putting it in writing	9
4.17	Refusal to cooperate	9
4.18	Unreasonable use of the complaints procedure.....	10
5.	Aggressive and abusive behaviour	10
5.2	Identifying aggressive and abusive behaviour	10
5.3	Physical violence.....	11
5.4	Threats.....	11
5.5	Dealing with physical violence	11
5.6	Dealing with threats.....	11
5.7	Direct threats.....	12
5.8	Staff are in the same location/ room	12
5.9	Staff receive a direct threat on the telephone	12
5.10	A threat is made in written correspondence.....	12
5.11	Abusive, degrading and insulting language on the phone or in person	12
5.12	Abusive, degrading and insulting language is used in written correspondence	12
5.13	After contact with a customer who has been aggressive or abusive	12
5.14	Additional steps the service should consider:	12
5.15	Ensure staff are supported	13

Appendix 1 Guidance: Identifying the customer issue(s).....	14
Appendix 2 Guidance: Dealing with unreasonable behaviour examples.....	15
Appendix 3 Guidance- Unreasonable demand examples.....	17
Appendix 4 Unreasonable demands service letter	17
Appendix 5 Guidance- A refusal to cooperate example.....	17
Appendix 6 Unreasonable use of the complaints process by customers- sample letters	18

1. Overview

1.1 *What is meant by Unacceptable Actions?*

- 1.1.1 This is a broad term; it simply means behaviour that staff find problematic. The guide has segmented unacceptable actions into 3 distinct categories to help staff identify problem behaviour and some different strategies that staff could use in specific situations.
- 1.1.2 All services are aware of the Unacceptable Actions Policy and this guide supplements that policy but deals with a much broader range of behaviour.

1.2 *The categories of Unacceptable Actions used in this guide*

- 1.2.1 This guide has identified 3 categories, below, to help structure the advice and support for staff. Please note that unacceptable actions may include other customer responses not covered in this guide. Staff should evaluate each customer situation on a case by case basis.
- 1.2.2 **Difficult situation for staff**
This is behaviour which a staff member may find difficult. In many situations, it would be reasonable to expect a well-trained, customer focused member of staff to be able to deal with this type of behaviour.
- 1.2.3 **Unreasonable Behaviour**
This is behaviour which is affecting the ability of staff or the service to carry out their job. This can be identified by considering the impact that the behaviour has on the resources of the individual or service. When the impact of the behaviour on resources means an unfair or disproportionate amount of resource is being used, the behaviour may be unacceptable and will need to be addressed.
- 1.2.4 **Aggressive and abusive behaviour**
This category is not restricted to acts of aggression that may result in physical harm: it also includes behaviour or language (whether verbal or written) that may cause staff to feel afraid, threatened or abused; and it may include threats, personal verbal abuse, derogatory remarks and rudeness.

2. Background

2.1 *The basic requirements*

- 2.1.1 As part of the Model Complaints Handling Procedures (CHP) published by the Scottish Public Service Ombudsman (SPSO), there is a requirement that the council has a policy to deal with unacceptable actions.
- 2.1.2 As part of the Unacceptable Actions Policy, the council will ensure:
- that a policy is in place and is available to staff;
 - there is a procedure in place for logging incidents and communicating decisions to customers which fall under that policy;
 - customers are notified of a right of appeal;
 - there is regular management review of the use of the policy; and
 - when required, reasonable adjustments are being made to the policy.

2.2 *Recording and monitoring*

- 2.2.1 All unacceptable action decisions should be based on accurate, reliable and appropriate information. Staff should be aware that a customer may challenge

any decision. If service decision are challenged or further information is requested, detailed and meticulous record keeping is essential.

2.2.2 Staff should record all engagement with the customer where unacceptable behaviour has been carried out by the customer. All discussion should be recorded and where possible, using the exact customer words. The record of the problem behaviour should always be factual and unemotional. Staff should be aware that accurate recording of unacceptable actions by a member of the public is essential to ensure effective and appropriate implementation of the Unacceptable Actions Policy.

2.3 *Reasonable adjustments*

2.3.1 All members of our community have the right to equal access to the complaints handling procedure. It is important, therefore, to be clear that any Unacceptable Actions Policy does not preclude the need to ensure that any service provided is accessible to all on an equal basis. There is a requirement to consider whether staff need to make reasonable adjustments to the service to allow a customer to make a complaint.

2.3.2 The council has a responsibility to the individual to provide access to services but also ensure staff safety in the workplace.

2.4 *Freedom of Information and Data Protection*

2.4.1 A member of the public who is restricted from contacting the council about a complaint is still entitled to make Freedom of Information or Subject Access requests. It is important that staff understand this and are able to identify when other legal obligations need to be considered when responding to a complaint.

3. Difficult situations for staff

3.1 There are many reasons why staff may find customer behaviour difficult. Staff may be unsure how to respond to behaviour which appears to be confusing, odd or disproportionate. Staff may find behaviour difficult when it does not conform with the council internal standards or values.

3.2 Staff should be aware that certain responses should not be used which may make the situation worse. In some cases, staff may be required to end the customer contact and seek support even if the behaviour is one staff would normally expect to manage.

3.3 The types of behaviour staff may encounter and with the correct training, deal with appropriately may include:

- anger
- distress and upset
- confused or illogical or difficult to understand communication
- someone raising concerns they may be a harm to themselves
- repetitive and circular communication
- unpleasant language which is below the level of abusive

3.4 Staff should deal with these situations in a professional and courteous manner but should ensure that they are not in a threatening or dangerous situation. Threatening or dangerous situations may be required to be escalated through the Unacceptable Actions Policy. If at any point the situation becomes threatening or dangerous, staff should end the contact with the customer.

3.5 After the customer contact has ended, the staff member should ALWAYS

- note and record the contact
- discuss with supervisor and/ or manager if the situation escalated

4. Unreasonable Behaviour

4.1 Unreasonable Behaviour can be identified by considering the impact that the behaviour has on the resources of staff or the council.

4.2 This category is not viewed as unacceptable because a customer is forceful or determined. However, the actions of complainants who are excessively demanding may result in unreasonable resource allocation on services or place unreasonable demands towards employees.

4.3 When the impact of the behaviour on resources means there is an unfair or disproportionate amount of resource being used, the behaviour will need to be addressed and may become unacceptable.

4.4 Identifying behaviour

4.4.1 Unreasonable Behaviour which is having a negative impact on staff or the council's resources can be difficult to identify. It can be one-off interaction or may be the result of a build-up of communication over time.

4.4.2 This behaviour can be broken into 3 broad sub-categories:

- Unreasonable Persistence
- Unreasonable Demands
- Unreasonable Use of the Complaints Procedure

4.4.3 The level of resource that should be used for an individual complaint will vary from one service to another depending on the complexity of the service being delivered.

4.4.4 Staff and managers should take into account the service size, capacity and role when assessing the impact of customer behaviour. In some cases, a customer may need more time to discuss a complaint or raise a service request. As referred to in section 2.3 of this guidance, the council must always take into account their commitment and responsibility to equality.

4.4.5 The service should also consider how to pre-empt or prevent customer related complaints.

4.5 Pre-emptive action

4.5.1 The key to pre-emptive action is ensuring the public receive timely and good information about what they can expect from the council and specific services. This can reduce the number and complexity of customer contacts to the council requesting service information or raising a complaint.

4.5.2 Services can help reduce some customer complaints and problems by providing the following information in the correct format:

- the timescales the service works to
- the behaviour the service expects from its customers
- what the service can and cannot do

4.5.3 Making it easy for the customer to access the council's services can help reduce frustration and anxiety. Simple forms can be used to help customers to clarify or set out their problems and what they would like to happen. Difficult processes or defensive responses can help drive customer frustration which for some individuals may be the trigger that leads to inappropriate behaviour that the service needs to manage.

4.6 Unreasonable Persistence

- 4.6.1 Persistence may be a virtue for a customer who has been let down by the council. In some instances, unreasonable persistence by a customer can be extreme and have a negative impact on service delivery.
- 4.6.2 Some examples of unreasonable persistence may include the following:
- continual correspondence on the same point
 - repeatedly try to raise the same issue using new arguments or claims they have new information and is supplying copious documents
 - pursue completed complaints by approaching elected representatives
 - use more than one route to raise the same issue
- 4.6.3 To help identify and deal with unreasonable persistence the following actions could be used by services:
- identify what level of customer interaction the service would normally expect
 - identify the level of interaction the service is experiencing
 - be clear to the customer why this is a problem
 - act early before behaviour becomes an established pattern
 - ensure the service has considered whether there are additional needs which mean additional support is reasonable
- 4.6.4 Identify what the service would normally expect and what would be a problem. The first step is to identify clearly what level of interaction the service would normally expect. The level of contact staff have with a customer will depend on the service being provided.
- 4.6.5 Understanding the level of engagement a customer has with a service helps inform whether a particular situation is problematic. The service must differentiate between unreasonable persistence and dealing with complex service requests and complaints. For example:
- some individuals will exceed the average interaction time with the service without this being a problem. If it is a service complaint, it may be more complicated and extra customer service contact may be required.
 - some people will have specific communication needs which staff have to take into account and that may take more time
 - some complaints are more sensitive
 - some people find the process very difficult and may need more contact
- 4.6.6 Staff handling a *complaint* may feel that the additional resource being used is not unreasonable due to the complexity of the investigation. The additional activities should be recorded on the CRM system or the appropriate service system when dealing with the complaint. This will allow the service to be fully informed before any decision is made to limit the level of contact the customer has with the service.

4.7 Clarity in the decision

- 4.7.1 The service should provide a clear, direct and personalised response to the customer which clearly states the outcome of their complaint/ issue. This may include letting customers know what the evidence has been used to inform the decision and what the service has done to investigate their complaint. This may allow the customer to disagree with your decision while accepting the process was fair. This is particularly important if the service needs to have an on-going relationship with the individual.

- 4.8 *What to do if staff are dealing with someone who is being persistent in relation to a complaint*
- 4.8.1 If a customer disagrees with the final decision relating to their service complaint, the service can choose to discontinue interaction with the customer. The customer should be directed towards the SPSO if they wish to challenge the council decision. The SPSO will review complaints from people who remain dissatisfied at the conclusion of the council's complaints procedure.
- 4.8.2 It is appropriate for the service to provide additional explanations to the customer but the service must ensure that the customer is seeking clarification. If clarification is sought more than once, the service should consider whether it is actually an attempt to reopen the complaint process.
- 4.9 *Make sure the service has identified the correct problem*
- 4.9.1 It is important for staff to identify the specific activity that is causing the persistent behaviour.
- 4.9.1 **Appendix 1** provides guidance to help identify the customer's issue.
- 4.10 *The enquiry that is really a complaint*
- 4.10.1 If a customer chooses not to complain but clearly has a complaint in line with the definition of a complaint contained in the council's complaint handling procedure and is seeking to avoid the complaints process, the service should direct the customer to the complaints process.
- 4.10.2 Customers can genuinely be concerned about the personal impact of complaining. The service should provide reassurances to the customer that there will be no negative impact if they choose to implement the council's complaint handling procedure.
- 4.10.3 If the individual does not wish to engage with the complaints process and the service has provided advice and information, the service will need to consider what additional benefit there may be from continuing to correspond. They should take into account the need to ensure fair and proportionate use of their own resources when they do so.
- 4.10.4 In some cases, it may be appropriate to refuse to deal with the issue if the service has already attempted to deal with it as an enquiry and this has not resolved the matter. The council needs to inform customers that they may be losing certain rights if they do not engage with the complaints process. Complaints can normally only be escalated to the SPSO within certain timescales. The complaints handling procedure sets a time limit of six months from when the customer first knew of the problem, within which time they may ask the council to consider the complaint, unless there are special circumstances for considering complaints beyond this time.
- 4.11 *Identify what would be unreasonable persistence*
- 4.11.1 The service should understand the level of engagement a customer would have when accessing or complaints about the council. Generally, while the service would not have particular difficulties with someone whose contact is a level above what would normally be expected, staff should be able to identify what would be excessive. The key point for services is to consider what behaviour adversely affects staff time and council resources.
- 4.12 *Act early*
- 4.12.1 It is important that excessive service contact by the customer does not become established.

- 4.12.2 The service should contact the customer early in the process if the level of contact with staff is problematic. This excessive contact includes face-to-face, email, written and telephone. The process may include:
- identify the behaviour
 - explain why this is causing the service problems
 - ask the customer to change their behaviour
 - explain what may happen if the customer does not change their behaviour
- 4.12.3 The service should allow the customer to explain the behaviour. This may reveal an underlying cause and the service may be able to put in place a pattern of contact which meets both the customer and service requirements.
- 4.12.4 Customer communication can be delivered in various ways and can be adapted to meet the specific situation. This can include face-to-face contact, by telephone or in writing. The advantage of face-to-face contact and raising the issue early is that staff can do so in a more exploratory, neutral fashion. Staff can engage with the customer to understand the reason for the behaviour and seek a satisfactory resolution early in the process. If the service decides to progress to formal restriction, staff should ensure that any face to face or telephone conversation is followed up in writing.
- 4.12.5 It is important that staff do not deliver the message that behaviour needs to change repeatedly to the customer before action is taken.
- 4.12.6 Staff must have management agreement if the Unacceptable Actions Policy is to be implemented.
- 4.12.7 The contact with the customer will need to be personalised but there are examples of suggested approaches below. It is important to stop negative patterns of behaviour becoming established.
- 4.12.8 Guidance on how to deal with unreasonable behaviour can be found in **Appendix 2**
- 4.13 Putting it in writing**
- 4.13.1 All contact and agreements reached with the customer in relation to behavioural change should be followed up in writing. This customer communication should be logged on the appropriate service recording system e.g. Objective.
- 4.14 Escalating the process**
- 4.14.1 If the initial attempt to change the customer's problem behaviour is unsuccessful, the service may choose to move to formal restrictions. This means the service has failed to persuade the person to manage their own behaviour.
- 4.14.2 When deciding what restrictions are needed, staff should link this closely to the customer complaints/ service request. For example, if someone is contacting staff through multiple channels and that is causing issues, the service may choose to restrict customer interaction to one point of contact. If a customer is calling or emailing the service excessively, the service may restrict a method of contact. In some cases, staff may combine the above. For example: communicating to the customer that they have a designated single point of contact within the service and communication can only be in writing.
- 4.14.3 The service should always aim to put in place at least one restriction to manage customer behaviour

4.15 *Making Unreasonable Demands*

- 4.15.1 The approach to manage Unreasonable Demands on the service is similar to those outlined in dealing with Unreasonable Persistence
- 4.15.2 Generally, there are some common requests and it may be helpful for staff to know when and how the service would:
- agree to a meeting with the customer
 - agree to a site visit with the customer
 - escalate a behavioural issue to a manager or other senior staff
- 4.15.3 For example staff dealing with complaints should be able to answer:
- does the service always allow meetings on request unless there is a good reason not to?
 - would the service consider a site visit and in what circumstances?
 - would the service usually visit a customer in their home?
 - what level of flexibility do staff have to deal with customer demands?
- 4.15.4 Having clear answers to the questions above allows staff to provide clear and consistent advice to customers making requests.
- 4.15.5 It is unlikely that a specific request will always be unreasonable and there is a need for the service to consider the circumstances on a case by case basis.
- 4.15.6 Examples of unreasonable demands may include:
- unreasonable *repeated* customer requests to provide a response within a customer defined specific timeframe and is out with current service standards.
 - unreasonable *repeated* customer requests to see or speak to a particular member of staff when it has been explained why this is not possible.
- 4.15.7 At some point staff may receive a request or a demand which it is not reasonable for the service to agree too. **Appendix 3** provides guidance on various situations and possible responses
- 4.15.8 If the initial attempt to change the customer's problem behaviour is unsuccessful, the service may choose to move to formal restrictions. This means the service has failed to persuade the person to manage their own behaviour.

4.16 *Putting it in writing*

- 4.16.1 Services should follow up any customer engagement with a letter to explain the reason why the service cannot meet the customers' demands. An example of this written communication can be seen in **Appendix 4**

4.17 *Refusal to cooperate*

- 4.17.1 It may be helpful for the service to outline the customer expectations in terms of cooperation in the early stages of engagement. The service needs to consider the ability of the customer to co-operate. For example:
- if someone is capable of producing several pages of detailed analysis, it is reasonable to ask them to complete a summary or a complaint form which summarises the detailed information.
 - it would be unreasonable to insist someone with limited literacy skills puts everything in writing.
 - if a customer makes allegations and claims to have evidence of misconduct, it is reasonable to expect the service to be provided with that evidence prior to reviewing these allegations.

- it is unreasonable for a customer to say there are more issues and complaints without explaining what they are.

4.17.2 A guide on how to deal with a customer's refusal to cooperate can be seen in **Appendix 5**

4.18 Unreasonable use of the complaints procedure

4.18.1 This category should be used sparingly and requires a Head of Service to sign off any restriction to use the council's complaints handling procedure. There are some situations where the customer attempts to use the complaints process to either harass members of staff or to seeking to prevent the service from coming to a legitimate decision.

4.18.2 A service may consider implementing "unreasonable use of the complaints procedure" when:

- a customer implements the complaint procedure for every service contact and no matter how trivial
- the complaints looks new but it is an attempt to reopen a decision that has been made by either reframing or seeking to prevent the work needed to implement the decision

4.18.3 The complaints process is an important safeguard to allow customers to formally raise a complaint about council services. This is why a decision to implement the Unacceptable Action Policy to restrict customer access to the complaints handling procedure does require Head of Service sign off.

4.18.4 Before considering implementing the Unacceptable Actions Policy for an individual customer, the service should prepare a summary that itemises all their complaints received over a reasonable period including the topics and outcomes. This is to ensure the service is taking an objective view of the position. Staff should give the customer a clear opportunity to manage and modify their behaviour and inform them of the consequences of continuing to complain about certain issues. If the behaviour continues the service can choose to implement restrictions to the complaints procedure. The service is required to communicate any restriction in an appropriate way, specific to the needs of the customer, but any decision will always require confirmation in writing to ensure the person has a record.

4.18.5 The Service's Warning Flag Working Group Representative has the responsibility to update the Unacceptable Actions register and ensure that the register is reviewed on a regular basis.

4.18.6 **Appendix 6** provides sample letters on how to respond to customers who make unreasonable use of the complaints process. This includes an example where staff need to escalate unreasonable use of the complaints procedure through the Unacceptable Action Policy.

5. Aggressive and abusive behaviour

5.1 Aggressive and abusive behaviour in the workplace can generally be defined as "any incident in which a person is abused, threatened or assaulted in circumstances relating to their work". This can include verbal and written abuse or threats, aggressive behaviour or harassment that causes distress (whether in person, email or phone), as well as physical attacks.

5.2 Identifying aggressive and abusive behaviour

5.2.1 There is a wide range of language and actions which services need to consider when deciding whether behaviour has fallen into the Aggressive and Abusive Behaviour category.

5.2.2 Services should note that while all the behaviour outlined below is considered to be unacceptable, the staff response can vary and the service should decide how to respond to each specific situation.

5.3 *Physical violence*

5.3.1 This is the most obvious behaviour and will always fall under the aggressive and abusive behaviour category.

5.4 *Threats*

5.4.1 These can come in different forms:

- direct threats: A direct threat of violence is never acceptable e.g. physical violence
- indirect threats: This can range from statements which are very close to a direct threat: 'I know where you live' to much more vague suggestions and hints. These can also amount to unacceptable behaviour and may fall into the Aggressive and Abusive Behaviour category
- threatening posture or body language: In certain situations the customer's body language or posture can be seen as a form of threat
- threat to others: These are always unacceptable and will need a response. The service should consider informing the person threatened and/or the police. Customers should not make threats to others and staff should not have to listen to detailed or aggressive threats to others
- abusive or degrading language: This would include language which is personally insulting for example: allegations of criminal behaviour, or sexist, racist, homophobic, language which is directed to any member of staff. It would include abusive name-calling i.e. the person swearing directly at staff aggressively

5.4.2 It is possible for behaviour which is less direct to be no less threatening. If staff feel threatened and at risk, they should end contact with the customer and ensure their personal safety at all times.

5.4.3 Services should note that swearing in a casual context would not necessarily be regarded as abusive or degrading to the extent of being categorised as aggressive and abusive behaviour. Staff may be able to manage some situations where allegations are made about competency that is not at the level of abusive or degrading behaviour. This does not suggest this behaviour is acceptable but that, in some cases, it is possible to deal with this behaviour rather than implementing the Unacceptable Actions Policy.

5.5 *Dealing with physical violence*

5.5.1 Contact should be ended immediately. Staff and colleagues in the immediate vicinity should be made aware of the situation and vacate to a place of safety.

5.5.2 On occasion, customers can be unpredictable and staff should ensure they are familiar with all the exits from meeting rooms, that they are always closest to the exit and know the location of any panic devices. Staff should always follow service advice and guidance for home visits and customer meetings.

5.6 *Dealing with threats*

5.6.1 If staff feel at immediate risk, your primary responsibility is to your own safety and the safety of others and this may mean leaving the area without any further comment.

5.7 Direct threats

5.7.1 It is not acceptable to be threatened and this behaviour needs to be stopped immediately. When deciding how to respond, all staff should assess the vulnerability and risk of any situation.

5.8 Staff are in the same location/ room

5.8.1 Generally, staff should politely end the contact and leave the area or ask the person to leave.

5.8.2 Staff may find a customer threat is withdrawn or it is clear that this is part of a general 'rant'. Staff still need to address this and it may be appropriate to let the customer know that making threats to council employees may lead to the Unacceptable Actions Policy being implemented or, in certain circumstances, the customer being reported to the police.

5.9 Staff receive a direct threat on the telephone

5.9.1 Staff should address any threat politely but firmly. It cannot be ignored. Staff should let the caller know that the call will be ended and explain the reason. In some cases, the customer should also be made aware that the threat will be discussed with a council manager to identify if any further action is required.

5.10 A threat is made in written correspondence

5.10.1 The service should reply with a statement that this type of correspondence is not acceptable. Generally, staff should inform the customer that the threat has been recorded and, in some cases will be investigated.

5.11 Abusive, degrading and insulting language on the phone or in person

5.11.1 Where appropriate, staff need to let the customer know that the language is inappropriate and the council has a policy which does not accept this type of behaviour. Staff should, generally, end the call or contact if the abuse continues. Staff should assess the each situation on a case by case basis and consider their personal safety at all times.

5.12 Abusive, degrading and insulting language is used in written correspondence

5.12.1 The service should respond to this type of written correspondence with a statement that this is not acceptable. All correspondence should be recorded including: the date the letter arrived, what was unacceptable and a copy of the service response. It is recommended that a copy of the customer letter and service response is retained as evidence. These documents should be stored separately and securely.

5.13 After contact with a customer who has been aggressive or abusive

5.13.1 Whenever the service has to implement the Unacceptable Actions Policy, the reason should be recorded. The service should:

- clearly identify what happened and write details of the contact on the appropriate recording system e.g. Sphera.
- note details of any witnesses present.
- all both staff and manager to discuss the situation to identify any additional steps that are required.

5.14 Additional steps the service should consider:

5.14.1 Following up with a formal written warning

5.14.2 The service should consider if a written warning should be sent to the customer about their behaviour. This method of communication would normally be sent from a senior manager or Head of Service. The service does have discretion to

decide if this approach would be appropriate for the particular individual or situation. Given the standard response is to send a written warning; any decision not to do so should be noted and recorded.

5.14.3 If the service does send a written warning, it should follow the process set out for restricting behaviour and, where appropriate, include:

- identification of the behaviour clearly giving the date, time and details (the service should include additional supporting evidence if available)
- an explanation of why this was inappropriate
- an explanation of the steps the service has taken
- advice to the individual that if they do this again there will be restrictions put in place or that the incident was so serious restrictions will be in place immediately
- guidance on what they can do if they wish to challenge the service decision

5.15 Ensure staff are supported

5.15.1 It is important to ensure a proper debriefing occurs. The service should ensure that support is put in place for any staff member exposed to behaviour outlined in the Unacceptable Action Policy.

Appendix 1 Guidance: Identifying the customer issue(s)

Situation	Guidance
A person is repeatedly asking questions or for more information but is refusing to enter the complaints process	Staff can use variations on the strategy for someone who is contacting the service excessively. Staff may need to make it clear the service has done all it can and if they will not engage with the complaints process, the service will no longer respond to questions about the topic. (Customers do still have the right to make FOI/Data access requests).
The person has completed the complaints process but is unhappy and wants to raise the same issue with staff again	<p>It is appropriate to discuss the outcome of the complaint with someone or to provide some clarification. You should not normally expect to have to do so more than once or possibly twice depending on the circumstance. If the service has done this, the person should be reminded that they can contact the SPSO to review the outcome of their complaint.</p> <p>Staff may want to use variations of the following.</p> <ol style="list-style-type: none"> a. I hope this clarification on your complaint is helpful. Our consideration of your complaint is now at an end and a further review will not be carried out by the service. The service has informed you of your right to approach the SPSO and their contact details have been included. b. Thank you for your letter. Your disagreement with our decision has been noted on file. Having done so, I have to explain that the service consideration of your complaint is now at an end and this complaint will not be reviewed further. c. Thank you for your letter. I appreciate you remain disappointed with our decision. As you know, our consideration of your complaint is now at an end. We will be happy to consider any new complaints but will not consider this complaint again (in some cases it may help to detail exactly what that complaint is). In line with our normal procedures, if you write to us again on this matter, we will file your correspondence but will not acknowledge nor respond [or will simply respond with an acknowledgement]. This is because it is not helpful to let you think we will review this again.
The person insists the service needs to consider new arguments or new evidence	<p>The first time or the second time this happens, the service should review the evidence to understand if it is new and significant. It is not enough that the evidence is new; it must be detailed enough to question the integrity of the initial service decision relating to the complaint. There are strategies that can be used to deal with someone who insists they have new arguments or evidence. You can insist they present them in a way the service can process them e.g.</p> <p>'I have reviewed the points you consider to be new evidence. Thank you for agreeing to set these out in summary form, it has been very helpful. I know you will be disappointed to learn that the service does not consider the points you have made to be new, significant information which would lead us to review your complaint. As you know, you can ask the SPSO to consider your concerns and [repeat their details here]</p> <p>'You have asked me again to consider new information. The service has reached a decision on your complaint and has done so on the basis</p>

Situation	Guidance
	of the best evidence available. I have also reviewed the evidence you provided on xxx. I have explained your right to approach the SPSO and the service does not intend to consider your complaint further.
The person has asked an elected representative to make the same complaint on their behalf	The service simply restate the decision already made to the elected representative and let them know the service has informed the customer of their rights to take this further. It is appropriate for a representative to support a person in making a complaint. However, once the decision has been made and unless the representative has new evidence or information, there is no reason to change the service decision simply because someone is writing on the customers behalf.

Appendix 2 Guidance: Dealing with unreasonable behaviour examples

Situation	Guidance
Staff are receiving short but very frequent contact, there is no additional significant information in each contact	<p>Clarify why the customer is contacting the service repeatedly. There are a number of ways to do this:</p> <p>Since we last spoke what has changed? Do you have any new information? Or Can you let me know why you are contacting the service so often? ...</p> <p>Dealing with the response I appreciate you would like an early resolution. The service timescales allow us to look at complaints thoroughly and contacting the service more often will delay rather than speed this up. A member of staff will be in contact as outlined in our initial letter/ email/ discussion. Can we agree you will only contact the service before then if something significant happens?</p> <p>... [if you think there is a genuine need for additional contact you can put an agreement in place for this] I know this process is making you anxious would it help if I arranged to call you at a specific time each week while I am looking at your complaint? You can also commit to a time limit.</p>
The person is sending you lots of detailed but irrelevant information	<p>I am calling about the documents you sent me today. I am not sure how these relate to the complaint I am reviewing.</p> <p>I appreciate you are concerned and want to make sure the service has all the information I need to make a decision. However, you have sent xxx amount of information. The service has reviewed this and most of it was not directly relevant. Each time you send me more paperwork that is not relevant it prevents staff spending time on your own and other people's complaints. Can we agree that I will ask you for any information I need? ...</p> <p>When you receive my response you will see what information the service used to consider your complaint and we can discuss if I've missed anything at that point.</p>
Each call is very lengthy and detailed	<p>Let the person know at the start of the call that there is only a limited amount of time to spend on the call. Reference to previous calls can be made: Last time we spoke, we talked about similar issues and I think we are</p>

Situation	Guidance
	<p>spending a lot of time talking around the issue without this moving forward. The longer I spend talking to you on the same points the less time I have to investigate your issue and other complaints. I will contact you when our response is ready. Can we agree we will wait to discuss your complaint again then when you have seen our response?</p> <p>[If you are not receiving agreement you should add] We have a policy which says if someone is contacting the service too often, we can restrict contact. I don't want to do this so I would like to reach an agreement with you about contact. [If not achieved] I am sorry we are unable to agree today about this. I would like to give you some time to think about this and I will write to you explaining why I am concerned about your contact with a leaflet/copy of policy explaining what steps the service can take.</p> <p>Some people do need more time. If this is the case staff can manage this by agreeing times for calls in advance. This means the service can give the person the attention they need without worrying that you need to end soon to deal with another issue.</p>
<p>The person keeps visiting the office</p>	<p>The process is similar to the above. Staff could also advise them they have to book an appointment or explain the procedures the service has on customer meetings. Staff may need to put this in writing if an initial verbal explanation does not work.</p>
<p>The person has been contacting lots of different colleagues</p>	<p>I know you have spoken to xxx today/this week on the same point. I have explained I am looking at your complaint and have explained the timescales for response. Can I ask that you contact me with any enquires you may have in relation to this matter.</p> <p>My colleagues know I am dealing with your complaint and any questions will be referred to me for clarification. Can we agree if you have concerns you will contact me direct? If I am not here you can leave a message for me.</p> <p>[If you are not receiving agreement you should add] We have a policy which says if someone is contacting us too often, the service can restrict contact. I don't want to do this so I would like to reach an agreement with you about contact.</p> <p>[If not achieved] I am sorry we are unable to reach an agreement today. I would like to give you some time to think about our discussion(s) and I will write to you explaining why I am concerned about your level of contact. I will enclose a leaflet/copy of the Unacceptable Actions Policy explaining what steps the council can take as a result of your persistent contact</p>

Appendix 3 Guidance- Unreasonable demand examples

Situation	Guidance
The person wants you to respond to their timescale	Can you tell me why it is important we respond by that date? ... [there may be some circumstances where the request is reasonable if there would be significant repercussions if not] I am sorry I know you would like a response sooner. It is important that we take our time to make sure we investigate your concern properly. [if needed you could add] I am afraid we would need a very good reason to cut the process short
The person insists you conduct the service investigation the way they would want it done	I will look at your concerns carefully and consider what information I need. At present I do not consider I need to take those steps. [This is because I have enough information from you about the location, I do not need to check that information or whatever reason this is not possible, it may be disproportionate]; I will let you know in my decision the steps I have to obtain evidence and consider your complaint properly.
The request continues to be made after you have explained this is unreasonable	Your approach will be similar to those in terms of too much contact. I have explained why I am unable to do this. It is not helpful for us to continue to have the same conversation. If you are unhappy with this decision you can put your concerns in writing ... Meanwhile, I will continue to consider your complaint and respond by xxx.

Appendix 4 Unreasonable demands service letter

Dear Mr Smith,
I am writing in response to your letter of xxx/following our conversation.

You have said you would like the service to xxx. I have explained why this is not possible [repeat explanation]. Your request was also considered by xxx.

I will continue to look at your complaint. I would ask you to wait until you receive the decision which should be with you by ... If, at that point, you remain unhappy and consider that the service has failed to look at your complaint fully, you will be able to take your concerns about the way we have dealt with your complaint to the Scottish Public Service Ombudsman at that stage.

Appendix 5 Guidance- A refusal to cooperate example

Situation	Guidance
The person is refusing to cooperate.	Can you tell me why you would be unable to ... provide a summary, provide evidence? [This is to make sure you have checked there is not a good reason for this]. The service know you do not want to provide the information but ... <ul style="list-style-type: none"> • The investigation cannot proceed without it. • The service will not be able to consider this unless it has a clear understanding of your complaint; • The service will not consider these allegations unless you provide the evidence you hold. <p>... I am sorry you do not want to provide me with help. This means I will not be able to take this further. I will put this in writing to you.</p>

Appendix 6 Unreasonable use of the complaints process by customers- sample letters

Sample Letter A

Dear Mr Smith

I am writing to you to set out the problems the council is experiencing with the way you are communicating to our service.

Since xxx, you have complained about the service xxx times. The attached list outlines when you complained, the issues raised and each outcome. The service has not upheld your complaints or upheld only on minor points.

[As appropriate]

The service appreciates the complaint(s) you have raised are important to you. However, the council has a responsibility to use our staff time fairly and the service considers that responding to all of your regular complaints is now becoming disproportionate and means you are receiving an unfair amount of our staff resource.

Sample Letter B

Or

Explain these are all related to an issue now closed.

Your complaint about xxx which is the main reason you are unhappy with the service and was considered on xxx. At this point you were informed of your right to contact the Ombudsman.

While the complaints you have raised are technically different from the original complaint, they are closely related and the service considers that they are attempts by you to reopen that original issue.

The service needs to request that you carefully consider your use of the complaints process.

Please find the Unacceptable Actions Policy enclosed which, in exceptional circumstances, allows the council to limit customer access to this process. The service does not wish to implement this policy but it is not a fair use of our staff resource to continue to provide a full response to each contact. If you continue to act in this way, the service will review each complaint but only respond to those which are new, considered to have a wider interest to the service or have a genuine and significant impact on you.

Sample Letter C

Dear Mr Jones,

You have submitted xxx new complaint.

I wrote to you on xxx and explained the problems the service had with the way you were using the complaints procedure. I consider that this new complaint is continuing the pattern of behaviour the service asked you to change.

I have now decided to restrict your access to the complaints procedure. This means you will still be able to submit a complaint. Each complaint will be assessed to decide whether there is a public interest or a new significant impact on you from the matters you have raised. If there is, the service will write to tell you that the complaints will be considered. If it is decided that there is not a

public interest or significant impact on you, the service will not consider your complaint and you will only receiving an acknowledgement noting the correspondence.

I am sorry to have to take this step. I enclose again a copy of our leaflet/policy which explains why the council has to act in this way in extreme circumstances. If you are unhappy with this decision you can refer to the ombudsman xxx.

[if appropriate] While the council is restricting access to the complaint's procedure, we will continue to provide xxx services and will review this decision to restrict contact every xxx months. If the service considers that the restriction is no longer appropriate, the council will write to inform you of this decision