

UNACCEPTABLE ACTIONS POLICY

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SECTION 1. INTRODUCTION

We come into contact with many people in the course of the work of the Water Industry Commission for Scotland (the Commission), and the vast majority of cases these interactions are positive and productive for all parties. Occasionally, the behaviour or actions of individuals we have dealings with make it impossible for us to continue any constructive engagement. In this small number of cases, we have to consider taking steps to protect our staff or to ensure that our ability to work effectively is not undermined. This policy explains how we will approach these situations.

1.1 Communicating positively

We believe that all correspondents and complainants have the right to be heard, understood and respected.

We also believe that our staff have the same rights, and we must provide a safe working environment for them.

We aim, in all our dealings, to:

- make it clear to everyone we deal with, both on initial contact and throughout our engagement, what the Commission can and cannot do to meet their concerns and expectations
- be open and not raise expectations that we cannot meet
- deal fairly, honestly, consistently and appropriately with all correspondents and complainants, even those whose behaviour or actions we consider unacceptable
- provide a service that is accessible to all
- ensure that our staff and other people who use the services of the Commission do not suffer disadvantage as a result of the unacceptable behaviour of others

Our unacceptable actions policy explains how we address unacceptable actions towards our staff. Our policy sets out the kinds of actions and behaviour that may have a negative effect and what we will do if this occurs.

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SECTION 2. DEFINING UNACCEPTABLE ACTIONS

The Commission understands that people may act out of character in times of trouble or distress. Often, they have experienced upsetting or distressing circumstances leading up to a complaint or concern being raised with us. We do not view behaviour as unacceptable simply because a correspondent or complainant is forceful or determined.

However, we consider actions that result in unreasonable demands on our business or unreasonable behaviour towards our staff as unacceptable. The Commission has grouped these actions under the following three broad headings.

2.1 Aggressive or abusive behaviour

We understand that people can feel passionate about the issues they discuss with us, and sometimes hurt, frustrated or angry. If those feelings escalate into aggression towards the Commission staff, we consider that unacceptable. Violence towards or abuse of our staff will never be tolerated.

Violence and aggression are not restricted to acts which cause or threaten physical harm. They also include behaviour or language (whether oral or written) that may cause staff to feel afraid, threatened or abused.

Examples of such behaviour include swearing, threats, personal verbal abuse, derogatory remarks and rudeness (the lack of manners, displaying disrespect, being impolite, failing to thank for assistance etc). Inflammatory statements and unsubstantiated allegations can also be abusive behaviour.

Statements do not need to be made directly to a member of staff or expressly address or name them to be abusive or threatening. Even statements made outside the work environment, or directed towards friends or family of a staff member, may constitute unacceptable actions in the terms of this policy, on which the Commission will act. It is the overall context of the behaviour that is important.

2.2 Unreasonable demands

People can make unreasonable demands on our resources by the nature and scale of the service they expect.

Examples of such behaviour may include repeatedly demanding responses within an unreasonable time-scale, placing unreasonable conditions on officials, insisting on seeing or speaking to a particular member of staff even when it isn't possible, refusing to accept that the Commission cannot provide a particular service or action a particular issue, or repeatedly changing the exact nature of the complaint or issue they are raising or raising unrelated concerns.

These kinds of behaviour can detract from the service we can offer to others, placing a significant burden on the organisation. Dealing with such behaviour requires a disproportionate amount of time and diverts an unreasonable proportion of our financial and human resources away from our statutory functions. This can be difficult and stressful for staff to deal with when it is impossible to find common ground or a realistic approach to the issues being raised. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour.

2.3 Unreasonable persistence

Sometimes an individual will contact the Commission repeatedly about the same issue or closely related issues. Their manner in these contacts may be quite reasonable in itself, but the persistence of their approach is not – they take up a disproportionate amount of time or resources in exchanges that are unproductive to us and ultimately to themselves.

Sometimes this persistence will take the form of serial complaining – lodging complaints about the handling of complaints. The defining characteristic is the persistence of approaches over time. The Commission has the right to assess whether that persistence has reached the point of disrupting our ability to undertake the work of the Commission or is amounting to harassment or unreasonable treatment of our staff.

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SECTION 3. MANAGING UNACCEPTABLE ACTIONS

We will aim to ensure that a person is warned immediately if their actions are tending towards unacceptable, and what will follow if they persist. We will do so in a way calculated to defuse the situation, and the aim will be to bring the tone of communication back to a more reasonable level.

We will not tolerate any threat or use of physical violence against, or verbal abuse or harassment of, our staff. Such actions may be reported to the police, and will always be reported if physical violence is used or threatened.

Where we receive correspondence or a communication that is abusive towards staff, gratuitously offensive, or which makes clearly unreasonable demands, we will not deal with that communication, and will inform the correspondent of that fact. We will also warn the correspondent that if she or he continues to use such language that we will consider terminating all contact.

If someone ignores the warning they have been given, or if they use or threaten physical violence, we will take action aimed as far as possible towards:

- reducing the risk of harm to Commission staff
- preventing the individual from inflicting further harm on him/herself or others
- ensuring that the business of the Commission is carried out as efficiently and effectively as possible and to the extent required by law

This action is likely to involve terminating or limiting contact with the individual.

3.1 Examples of how we manage aggressive behaviour

The Commission staff should feel confident and empowered to escalate any unacceptable communications (whether via telephone, email, in person etc) to their line manager or any other member of the senior management team.

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

By dealing with unacceptable behaviour promptly and escalating it to management we can ensure we are handling all communications in a timely, professional manner.

3.2 Terminating or limiting contact

The process of terminating contact will be carefully managed. There are a number of issues to consider, and the decision to terminate will not be taken lightly or without sufficient evidence.

Generally, the recommendation to terminate contact will be made by the Chief Executive Officer.

We will carefully consider the form of such a termination in order to balance the rights of the individual against the duty of the Commission to protect our staff and to avoid disruption of the business of government. We will consider a range of options, such as:

- terminating all contact (subject to necessary limitations referred to below)
- terminating communication by specified channels only (eg refusing to take telephone calls from an individual)
- refusing to accept communication on a specified subject only

3.3 Limitations on termination of contact

Any consideration of limiting or terminating contact needs to start by considering the nature of the contact we have had.

In deciding to terminate or restrict contact, we will not attempt to restrict the rights of an individual to raise requests under information legislation, such as the right to request information under the Freedom of Information (Scotland)

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Act 2002 (FOISA), the Environmental Information (Scotland) Regulations 2004 (EIR) or the Data Protection Act 2018 as appropriate.

Any such requests received will be considered under the normal terms of those access regimes – although of course such a request, if couched in terms that are harassing or unreasonable, may be deemed vexatious under FOISA or manifestly unreasonable under EIR(S).

3.4 Informing the individual

When a decision to restrict or terminate communication with an individual is made, we will inform that individual of the decision and its terms. This communication will also make it clear what if any recourse the individual has to make representations regarding that decision (see below).

3.5 Where an individual represents an organisation

An offending individual may be in contact with Commission staff as a representative of an organisation. In that case, an initial approach should be made, usually by a manager in the affected team, to the organisation itself. The Commission reserves the right to terminate contact in the interests of our own staff even where an external organisation is not able or willing to act in respect of alleged unacceptable behaviour.

3.6 Measures to prevent contact

We will consider using technical measures to block an individual's attempts to contact us if that individual's communications have been judged to be abusive, threatening, or to constitute harassment of our staff.

We will consider measures such as seeking to block an individual's telephone number or email address, and we will consider in more extreme cases whether to seek to interdict the individual or take other legal measures in order to protect our staff.

Where we decide to implement technical blocking measures, e.g. of an email address, we will not necessarily make that known to the individual concerned. Whether to inform the individual of the use of technical measures will be a matter of judgement for the manager taking the decision to terminate or restrict contact.

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SECTION 4. RIGHT OF APPEAL OR TO MAKE REPRESENTATIONS

Where we decide to terminate all contact with an individual, we will offer no right of appeal and entertain no representations from them. We will make this clear in our final communication, and we will draw their attention to their right to complain about Commission services to the Scottish Public Services Ombudsman.

Where we decide to place restrictions on how an individual may contact us or on what subject etc, we will consider whether to offer a route for the individual to make representations to a senior member of staff in the Commission. This will not be a formal right of appeal but an opportunity for the Commission to consider if the restrictions we have decided to apply are unfair in some way to the individual affected.

Where we have terminated or restricted contact and a significant amount of time has elapsed (at least two years), we will consider representations from an individual that something significant has occurred which will give us assurance that their behaviour has moderated sufficiently for us to lift restrictions.

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SECTION 5. RECORDING A DECISION TO RESTRICT CONTACT

We will record incidents involving unacceptable actions and behaviours as they occur, but will retain those records only for a limited period unless further action is decided on in that time.

Where it is decided to terminate or restrict contact with an individual, we will record that decision and the reasons for it. This record will be shared with senior management and also with anyone that either has been contacted by the individual or where it is judged possible or likely that the individual may contact a team.

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SECTION 6. ADDITIONAL GUIDANCE AND TRAINING

This policy takes account of the [Scottish Public Sector Ombudsman's unacceptable actions policy](#) and the [Scottish Information Commissioner's briefing on vexatious request](#).

We will issue guidance on processes required to implement this policy in particular cases, including some simple boilerplate text for use in communications relating to unacceptable actions and guidance on recording information about unacceptable behaviour.

We will also provide training resources for staff in handling situations involving unacceptable behaviours and actions.