

**UNACCEPTABLE ACTIONS POLICY - *draft***

1. INTRODUCTION

- 1.1 Lister believes that tenants and other service users of Lister have a right to complain, and to be heard, understood and respected. We work hard to be open and accessible to everyone.
- 1.2 Occasionally the behaviour or actions of individuals using our service makes it very difficult for us to deal with their complaint. If this behaviour or action involves abuse of our staff, our Committee members or our process then such behaviour or action becomes unacceptable.
- 1.3 When this happens we must take action to protect our Committee members, our staff and the ability of our organisation to function properly and provide a service to others. This Policy explains how we will approach these situations. This policy is based upon the Scottish Public Services Ombudsman own policy.

2. WHAT ACTIONS DO LISTER CONSIDER TO BE UNACCEPTABLE?

- 2.1 People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complaint coming to our office. We do not view behaviour as unacceptable just because a complainant is forceful or determined. In fact, we accept that being persistent may sometimes be a positive advantage when pursuing a complaint.
- 2.2 However, we do consider actions that result in unreasonable demands on our office or unreasonable behaviour towards Lister staff or Committee members to be unacceptable. It is these actions that we aim to manage under this Policy.

*Aggressive or abusive behaviour*

- 2.3 We understand that many complainants are angry about the issues they have raised in their complaint. If that anger escalates into aggression towards Lister staff or Committee members, we consider that unacceptable. Any violence or abuse will not be accepted.
- 2.4 Violence 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 or Committee members to feel offended, afraid, threatened or abused. We will judge each situation individually and appreciate individuals who come to us may be upset.
- 2.5 Language which is designed to insult or degrade, is racist, sexist or homophobic or which makes serious allegations that individuals have committed criminal, corrupt or perverse conduct without any evidence is unacceptable. We may decide that comments aimed not at us but at third parties are unacceptable because of the effect that listening or reading them may have on our staff.

### *Unreasonable demands*

2.6 A demand becomes unacceptable when it starts to (or when complying with the demand would) impact substantially on the work of the office.

Examples of actions grouped under this heading include:

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

2.7 An example of such impact would be that the demand takes up an excessive amount of staff time and in so doing disadvantages other complainants and prevents their own complaint from being dealt with quickly.

### *Unreasonable levels of contact*

2.8 Sometimes the volume and duration of contact made to our office by an individual causes problems. This can occur over a short period, for example, a number of calls in one day or one hour. It may occur over the life-span of a complaint when a complainant repeatedly makes long telephone calls to us or inundates us with copies of information that has been sent already or that is irrelevant to the complaint.

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

### *Unreasonable refusal to co-operate*

2.10 When we are looking at a complaint, we will need to ask the individual who has complained to work with us. This can include agreeing with us the complaint we will look at; providing us with further information, evidence or comments on request; or helping us by summarising their concerns or completing a form for us.

2.11 Sometimes, an individual repeatedly refuses to cooperate and this makes it difficult for us to proceed. We will always seek to assist someone if they have a specific, genuine difficulty complying with a request. However, we consider it is unreasonable to bring a complaint to us and then not respond to reasonable requests.

### *Unreasonable use of the complaints process*

2.12 Individuals with complaints about Lister have the right to pursue their concerns through a range of means. They also have the right to complain more than once, if subsequent incidents occur. This contact becomes unreasonable when the effect of the repeated complaints is to harass, or to prevent an organisation from pursuing a legitimate aim or implementing a legitimate decision.

2.13 We consider access to a complaints system to be important and it will only be in exceptional circumstances that we would consider such repeated use is unacceptable –but we reserve the right to do so in such cases.

### 3. EXAMPLES OF HOW WE MANAGE UNACCEPTABLE BEHAVIOUR

3.1 The threat or use of physical violence, verbal abuse or harassment towards Lister staff or Committee members is likely to result in a termination of all direct contact with the complainant. We may report incidents to the police. This will always be the case if physical violence is used or threatened.

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

3.3 We will not respond to correspondence (in any format) that contains statements that are abusive to staff or contains allegations that lack substantive evidence. Where we can, we will return the correspondence. We will explain why and say that we consider the language used to be offensive, unnecessary and unhelpful and ask the sender to stop using such language. We will state that we will not respond to their correspondence if the action or behaviour continues.

3.4 In extreme situations, we will tell the complainant in writing that their name is on a 'no personal contact' list. This means that we will limit contact with them to through a third party.

#### *Examples of how we deal with other categories of unreasonable behaviour*

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

#### *Other actions we may take*

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

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

3.7 Where we consider continued correspondence on a wide range of issues to be excessive, we may tell the complainant that only a certain number of issues will be

considered in a given period and we ask them to limit or focus their requests accordingly.

- 3.8 In exceptional cases, we reserve the right to refuse to consider a complaint or future complaints from an individual. We will take into account the impact on the individual and also whether there would be a broader public interest in considering the complaint further.
- 3.9 We will always tell the complainant what action we are taking and why.
4. THE PROCESS WE FOLLOW TO MAKE DECISIONS ABOUT UNREASONABLE BEHAVIOUR
- 4.1 Any member of Lister staff or Committee who directly experiences aggressive or abusive behaviour from a complainant has the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this Policy.
- 4.2 With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact with the SPSO are only taken after careful consideration of the situation by a more senior member of staff. Wherever possible, we will give a complainant the opportunity to change their behaviour or action before a decision is taken.

#### *How we let people know we have made this decision*

- 4.3 When a Lister employee makes an immediate decision in response to offensive, aggressive or abusive behaviour, the complainant is advised at the time of the incident. When a decision has been made by senior management, a complainant will always be given the reason in writing as to 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. This ensures that the complainant has a record of the decision.

#### *The process for appealing a decision to restrict contact*

- 4.4 It is important that a decision can be reconsidered. A complainant can appeal a decision to restrict contact. If they do this, we will only consider arguments that relate to the restriction and not to either the complaint made to us or to our decision to close a complaint.
- 4.5 An appeal could include, for example, a complainant saying that: their actions were wrongly identified as unacceptable; the restrictions were disproportionate; or that they will adversely impact on the individual because of personal circumstances.
- 4.6 A member of staff or Committee member(s) who was not involved in the original decision will consider the appeal. They have discretion to quash or vary the restriction as they think best. They will make their decision based on the evidence available to them. They must advise the complainant in writing that either the restricted contact arrangements still apply or a different course of action has been agreed.

4.7 We may review the restriction periodically or on further request after a period of time has passed. Each case is different. We will explain in the letter setting out the restriction what review process will be in place for that restriction and in what circumstances they could request this be reconsidered.

*How we record and review a decision to restrict contact*

4.8 We record all incidents of unacceptable actions by complainants. Where it is decided to restrict complainant contact, an entry noting this is made in the relevant file and on appropriate computer records. Each quarter a report on all restrictions will be presented to the Director so that they can ensure the policy is being applied appropriately.

4.9 A decision to restrict complainant contact as described above may be reconsidered either on request or on review.

Alistair Cant  
DIRECTOR  
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