SPPA

Scottish Public Pensions Agency

Buidheann Peinnseanan Poblach na h-Alba

Unacceptable Actions Policy

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Introduction

We come into contact with many people in the course of our work and in 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 a 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.

Aims and objectives

We believe that all correspondents and complainants have the right to be heard, understood and respected. We also believe that our staff has the same rights. We aim in all our dealings to:

- make it clear to everyone we deal with, both on initial contact and throughout our engagement, what we 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 other people who use our services and our staff do not suffer disadvantage as a result of the unacceptable behaviour of others

Defining unacceptable actions

We understand 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. We have grouped these actions under the following three broad headings.

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 our 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. 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 SPPA will act. It is the overall context of the behaviour that is important.

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 include:

- repeatedly demanding responses within an unreasonable timescale
- 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 we cannot provide a particular service or action a particular issue
- 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.

3. Unreasonable persistence

Sometimes an individual will contact us 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, often across different organisations or parts of the same organisation. The defining characteristic is the persistence of approaches over time. We have the right to assess whether that persistence has reached the point of disrupting our ability to undertake our work, or is amounting to harassment or unreasonable treatment of our staff.

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, or discrimination against our staff. Such actions may be reported to the police, and will always be reported if physical violence is used or threatened.

We will not deal with correspondence or a communication that is abusive towards staff, gratuitously offensive, or which makes clearly unreasonable demands. We will inform the correspondent of that fact and will also warn them that if they continue to use such language, 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 at:

- reducing the risk of harm to our staff
- preventing the individual from inflicting further harm on him/herself or others
- ensuring that our business 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.

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 evidenced grounds.

Generally, the recommendation to terminate contact will be made by the **Head of Customer Services** Where there has been correspondence to or with Ministers, a Minister will be asked to confirm the decision. Where the primary reason for termination is the individual's unreasonable behaviour towards staff, the decision will be taken by the relevant **Customer Services Manager and Head of Customer Services**.

We will carefully consider the form of such a termination in order to balance the rights of the individual against the duty of SPPA to protect our staff and to avoid disruption to our business. 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 (e.g. refusing to take telephone calls from an individual)
- refusing to accept communication on a specified subject only
- requiring the individual to communicate only through a third party

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) Act 2002 (FOISA), the Environmental Information (Scotland) Regulations(EIR(S)) 2004 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 expressed in terms that are harassing or unreasonable, may be deemed vexatious under FOISA or manifestly unreasonable under EIR(S).

We will also consider if the individual's or anyone else's rights under European Convention on Human Rights are engaged in this decision, especially Article 10 relating to freedom of expression (this will be of particular relevance if the individual is or could be seen to be a journalist or if our decision could be seen to have a chilling effect on the free reporting of matters on public interest).

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).

Where an individual represents an organisation

An offending individual may be in contact with us as a representative of an organisation. In that case, an initial approach should be made, usually by a Line Manager (B2) in the affected team, to the organisation itself. SPPA 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.

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.

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 our services to the Scottish Public Services Ombudsman.

Where we decide to place restrictions on how an individual may contact us or on what subject, we will consider whether to offer a route for the individual to make representations to a senior member of staff in SPPA. This will not be a formal right of appeal but an opportunity for us 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.

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. This period should be no longer than 20 days in general, but in some cases (where contact with an individual takes place on a quarterly cycle) should be longer, as appropriate.

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 units that have general public contact (Central Enquiry Unit, Ministerial Correspondence Unit), and also with any that either has been contacted by the individual or where it is judged possible or likely that the individual may contact a team.

Additional guidance

This policy takes account of the Scottish Public Sector Ombudsman's Unacceptable Actions Policy and the Scottish Information Commissioner’s briefing on Scottish Information Commissioner's briefing on vexatious requests.