



SCOTTISH SENTENCING COUNCIL UNACCEPTABLE ACTIONS POLICY Approved December 2024

Introduction

The Scottish Sentencing Council is committed to openness and engagement in our work. We listen to views across the justice system and beyond and welcome input from a wide range of interested organisations and individuals. In the course of our work, a relatively small number of people who engage with us may act in ways that we consider unacceptable. This policy sets out the Council's approach for handling unacceptable actions and behaviour directed towards our members and staff. It should be read and understood alongside the Council's [Complaints Handling Procedure](#).

Aims and objectives

We believe that all correspondents and complainants have the right to be heard, understood and respected. We also believe that our members and staff have 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 the Council 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 members and staff and other people who engage with the Council do not suffer disadvantage as a result of the unacceptable behaviour of others.

Defining unacceptable actions

The Council 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 concern or complaint 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 members or staff, as unacceptable. We have grouped these actions under the following three broad headings.

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 members or staff, we consider that unacceptable. Violence towards or abuse of our members or 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 members or 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 Council or staff member 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 Council or staff member, may constitute unacceptable actions in the terms of this policy, on which the Council will act. It is the overall context of the behaviour that is important.

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 time-scale, placing unreasonable conditions on members or staff
- insisting on seeing or speaking to a particular Council or staff member even when that is not appropriate
- refusing to accept that the Council cannot provide a particular service or deal with 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 Council. Dealing with such behaviour requires a disproportionate amount of time and diverts an unreasonable proportion of our resources away from our statutory functions. This can be difficult and stressful for staff to deal with, particularly 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.

Unreasonable persistence

Sometimes an individual will contact the Council 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 may take the form of serial complaining – lodging complaints about the handling of complaints. The defining characteristic is the persistence of approaches over time. The Council has 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 members and staff.

Managing unacceptable actions

We will aim to ensure that a person is warned immediately, or as soon as is practicable, if their actions are tending towards unacceptable, and what will follow if they persist. We will do so in a way intended 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 members and 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 from an individual that is abusive towards members or staff, gratuitously offensive, or which makes clearly unreasonable demands, we will not deal with that correspondence or communication, and will inform the individual of that fact. We will also warn the individual 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 Council members and staff
- preventing the individual from inflicting further harm on him/herself or others
- ensuring that the business of the Council is carried out as efficiently and effectively as possible.

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

Restricting or terminating contact

The process of restricting or terminating contact will be carefully managed. There are a number of issues to consider, and a decision to restrict or terminate contact will not be taken lightly or without sufficient evidenced grounds. In reaching a decision, we will have due regard to the public sector equality duty to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010.

Generally, the recommendation to restrict or terminate contact will be made by the Secretary to the Council. Where there has been correspondence to or with Council members, the Chair of the Council will be asked to confirm the decision. Where the primary reason for restriction or termination is the individual's unreasonable behaviour towards staff, the decision will be taken by the Secretary.

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

- refusing to accept communication on a specified subject only
- requiring the individual to communicate only through a third party
- terminating communication by specified channels only (e.g. refusing to take telephone calls from an individual)
- terminating all contact.

Limitations on restriction or termination of contact

In deciding to restrict or terminate contact, we will not attempt to limit the rights of an individual to respond to any of our public consultation exercises on sentencing guidelines or to raise requests under information legislation, such as the right to request information under the Freedom of Information (Scotland) Act 2002 (FOISA). Any such requests received will be considered under the normal terms of the applicable legislation – although any such FOISA request, if expressed in terms that are harassing or unreasonable, may be deemed vexatious under FOISA.

Informing the individual

When a decision to restrict or terminate contact with an individual is made, we will tell the individual what action we are taking and why. This communication will also make it clear what recourse, if any, the individual has to make representations (provide views) regarding that decision (see below).

Where an individual represents an organisation

An individual to whom this policy is applied may be in contact with Council members or staff as a representative of an organisation. In that case, an initial approach will be made to the organisation itself. The Council reserves the right to restrict or terminate contact in the interests of our own members and 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 members or staff. We will consider measures such as seeking to block an individual's telephone number or email

address, and in extreme cases we will consider whether legal measures are necessary in order to protect our members and 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 Secretary or Chair in taking the decision to restrict or terminate contact.

Right to make representations (provide views) and right of appeal

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

Where we decide to terminate all contact with an individual, we will offer no right of appeal and accept 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 Council services to the Scottish Public Services Ombudsman.

We may review the decision to restrict or terminate contact periodically or on request after a significant amount of time has passed (at least two years unless otherwise specified). Each case is different and the timing and nature of any review will depend on the circumstances. We will tell the individual what the review process will be.

If we review a decision on request, we will require the individual to show that something significant has occurred to give us assurance that their behaviour has moderated sufficiently for us to lift any restrictions or to allow contact again.

Recording a decision to restrict or terminate contact

We will record all incidents involving unacceptable actions and behaviours. Where it is decided to restrict or terminate contact with an individual, we will record that decision, the reasons for it, and its duration. A report on all decisions to restrict or terminate contact will be presented to the Council's Communications and Engagement Committee at each of its quarterly meetings so that it can ensure the policy is being applied appropriately.

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