



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

Crown Office and Procurator Fiscal Service

Unacceptable Actions Policy

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Version 1	September 2017
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The policy

The principles set out in this Policy also apply to our dealings with people who are complaining about us. This Policy should be read and understood along with the COPFS Complaints Handling Procedure.

Expected behaviours

COPFS are committed to providing a fair and accessible service to members of the public and organisations with whom we deal. We expect all staff to behave in accordance with our standards and conduct informed by our key values of being professional and showing respect and treat individuals with courtesy, respect and dignity. We also believe that our staff have the same rights and we must provide a safe working environment for our staff and ask members of the public and organisations having contact with this organisation (including, but not restricted to, making a complaint) to treat our staff with courtesy, respect and dignity.

We recognise that people may act out of character in times of trouble or distress. Sometimes a health condition or a disability can affect how a person expresses themselves. The circumstances leading to contact with COPFS may also result in an individual acting in an unacceptable way.

Individuals who have a history of challenging or inappropriate actions, or have difficulty expressing themselves, may still have a legitimate grievance, and where a complaint is made, we will treat all complaints seriously. However, we also recognise that the actions of some people may result in unreasonable demands on time and resources or unacceptable behaviour towards our staff.

What actions do COPFS consider to be unacceptable?

COPFS may refuse to deal with an enquiry or complaint received from the relatively few people whose actions or behaviour is considered unacceptable. We aim to provide a service that is accessible to all those affected by our work who wish to make an enquiry or complaint. However, we retain the right, where we consider actions to be unacceptable, to restrict or change access to our service.

We do not view behaviour as unacceptable just because an individual might be forceful or determined. However, we do consider that the actions of those who are angry, offensive, threatening, demanding or unreasonably persistent in their contact with COPFS may result in unreasonable demands on us or constitute unreasonable behaviour towards our staff. It is these actions that we aim to manage under this Policy.

Aggressive or abusive behaviour

We understand that some people may be angry about the issues they have raised with COPFS (including by way of complaint). If that anger escalates into aggression

towards COPFS staff, we consider that unacceptable. Any violence or abuse towards staff will not be accepted.

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 to feel offended, afraid, threatened or abused. We will judge each situation individually and appreciate individuals who contact us may be upset.

Language which is designed to insult or degrade, is racist, sexist, bigoted or homophobic is unacceptable. We may decide that comments aimed not at us but at third parties are unacceptable because of the effect that listening to or reading them may have on our staff.

We will not tolerate aggressive or abusive behaviour towards our staff including threats, physical violence, verbal abuse, swearing, derogatory remarks and rudeness.

We also consider that inflammatory statements, abuse or unsubstantiated serious allegations about our organisation or staff that individuals have committed criminal, corrupt or perverse conduct without any evidence is unacceptable.

Recording of staff, Social Media and publication of material produced by COPFS

We consider that inappropriate recording of staff and use of social media can be abusive behaviour and is unacceptable for example:

- recording members of our staff in telephone or face to face conversations
- uploading these recordings to any digital platform including social media
- uploading written responses from this organisation to any digital platform including social media.

We consider that unauthorised publication or distribution of COPFS written responses produced for the sole purpose of responding to an enquiry or complaint can be abusive behaviour and is unacceptable for example:

- extracting parts of a response into leaflets for onward distribution.

Unreasonable refusal to cooperate

When dealing with an individual, we will need to ask them to engage actively with our processes. This can include responding to reasonable requests for information, providing proof of identification in respect of a data subject access request or completing a form for us.

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 or submit a request to us and then not respond to reasonable requests.

Unreasonable demands

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

Examples of actions grouped under this heading include:

- repeatedly demanding responses within an unreasonable timescale
- the nature and scale of the service expected
- the amount of information sought
- insisting on seeing or speaking to a particular member of staff
- repeatedly changing the substance of an enquiry or complaint or raising unrelated concerns.

An example of the impact would be that the demands take up an excessive amount of staff time and in so doing disadvantages other correspondents and prevents their own enquiry or complaint from being dealt with quickly.

Unreasonable levels of contact

Sometimes the volume and duration of contact made to our organisation 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 an individual's contact with COPFS for example:

- repeatedly makes long telephone calls to us
- inundates us with copies of information that has been sent already, that is for another organisation or that is irrelevant to the complaint
- repeatedly copying COPFS into emails where the content is not relevant to the work of this organisation.

We consider that the level of contact has become unacceptable when the amount of time spent talking to an individual on the telephone, or responding to, reviewing and filing emails or written correspondence impacts substantially on our work and diminishes our service to all.

Unreasonable persistence

We will not consider persistent complaints to be acceptable when they take up a disproportionate amount of time and resources for example:

- persistent refusal to accept a decision made in relation to a complaint

- persistent refusal to accept explanations relating to what COPFS can or cannot do
- continue to contact us without presenting any new or relevant information.

We consider that persistent contact in relation to a complaint which has been raised and is under consideration impacts on our ability to deal with that complaint, or with other people's complaints, for example where an individual continues to contact us by telephone, email/post without presenting any new or relevant information. In addition, persistent contact, which is repetitive and raises no new or relevant information, relating to a complaint which has already concluded or a matter which has already been explained by COPFS staff, is unacceptable and will not be responded to.

Examples of how we manage aggressive or abusive behaviour

COPFS will ask an individual to leave our offices should they act in a threatening, abusive or unreasonable manner. The threat or use of physical violence, verbal abuse or harassment towards COPFS staff is likely to result in a termination of all direct contact with that individual. We may report incidents to the police. This will always be the case if physical violence is used or threatened.

COPFS staff will terminate telephone calls if they consider the caller aggressive, abusive, offensive or unreasonable. COPFS 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.

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.

In extreme situations, we will tell the individual 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

We have to take action when unreasonable behaviour impairs the functioning of our offices. We aim to do this in a way that allows an enquiry or 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.

Actions we may take

Where an individual repeatedly phones, visits our office(s), raises repeated issues, or sends large numbers of documents where their relevance isn't clear, we may decide to:

- inform that no further action will be taken in response to a complaint which has exhausted our complaints procedure
- advise that only new or substantive issues will receive a further response
- restrict contact to a nominated member of COPFS staff who will deal with future calls or correspondence from the individual
- restrict the format of the contact that we have with the individual
- return any documents to the individual or, in extreme cases, advise the individual that further irrelevant documents will be destroyed
- advise that a complaint we consider to be persistent or vexatious will not receive a substantive reply
- block emails
- take any other action that we consider appropriate.

In exceptional cases, we reserve the right to refuse to consider a complaint or future complaints from an individual.

We will always tell the individual what action we are taking and why.

The process we follow to make decisions about unreasonable behaviour

Any member of COPFS staff who directly experiences aggressive or abusive behaviour from an individual has the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this Policy.

With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact with COPFS are only taken after careful consideration of the situation by a more senior member of staff within the relevant Sherifffdom or Function.

Wherever possible, we will give the individual the opportunity to change their behaviour or action before a decision is taken.

How we let people know we have made this decision

When a COPFS employee makes an immediate decision in response to offensive, aggressive or abusive behaviour, the individual is advised at the time of the incident.

When a decision has been made by senior management, the individual 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 and advising that if they disagree with the decision they can appeal this within 7 days. This ensures that the individual has a record of the decision.

The process for appealing a decision to restrict contact

It is important that a decision can be reconsidered. An individual can appeal a decision to restrict contact. If they do this, we will only consider appeals that relate to the restriction and not to either the enquiry or complaint made to us or to our decision to close a complaint.

An appeal could include, for example, an individual 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.

A senior member of staff within the relevant Sherifdom or Function 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 individual in writing (this can be supplemented if written communication is not the most appropriate form for the individual) that either the restricted contact arrangements still apply or a different course of action has been agreed.

All such appeals will be dealt with within 20 working days of receipt.

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

We record all incidents of unacceptable actions by members of the public or organisations. Where it is decided to restrict 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 local function Senior Leaders so that they can ensure the policy is being applied appropriately. A decision to restrict contact as described above may be reconsidered either on request or on review.

Vexatious correspondence or contact

We consider vexatious correspondence or contact to be contact which would impose a significant burden on COPFS and which:

- does not have a serious purpose or value
- is designed to cause disruption or annoyance
- has the effect of harassment
- would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.

In the limited number of cases where contact is being restricted for this purpose and the correspondence declared vexatious, we will write to the individual concerned advising the reasons why the contact is being limited and advising that if they disagree with the decision they can appeal this within 7 days by writing to our Response and Information Unit. All such appeals in respect of vexatious correspondence or contact will be dealt with by the Head of Policy and Engagement within 20 working days.