

**CITY & COUNTY OF SWANSEA
UNREASONABLE CUSTOMER BEHAVIOUR POLICY**

1. BACKGROUND

- 1.1 The City and County of Swansea (the Authority) is committed to serving all of its customers impartially, aiming to providing a high quality service to everyone who communicates with us.
- 1.2 The contact that customers have with the Authority is not normally limited by us. However, there are occasions when customers act in an unacceptable or unreasonable manner. In some cases the frequency and nature of their contact with the Authority can hinder the consideration of their own or other people's enquiries. In some instances the sheer number or nature of their inquiries lead them to be considered as 'persistent' or 'vexatious' in their dealings with staff.
- 1.3 This policy will be invoked either when there has been a single, serious incident of unreasonable / unacceptable behaviour by a customer, or where a customer is repeatedly behaving in an unreasonable manner. Non exhaustive examples of this type of conduct are set out in paragraph 2 below.
- 1.4 In exceptional cases, the Authority reserves the right to take action to manage contact in order to protect the interest of staff, Councillors and the wider public it serves.
- 1.5 Whilst managing future contact, the Authority will still aim to resolve any legitimate concerns that have been raised.
- 1.6 The Authority recognises that members of the public who feel dissatisfied with being designated as persistent or vexatious may feel angry about their treatment.
- 1.7 It is also recognised that there may be situations where behaviour that may initially appear to be unreasonable may actually be due to certain health conditions. Although this is a difficult area, the Authority undertakes that whenever such circumstances are identified, every effort will be made to provide appropriate assistance. However, the Authority has a duty of care towards the safety and welfare of its staff and a balancing exercise has to be undertaken.
- 1.8 Occasionally, the Authority will insist on correspondence in writing only, particularly when complex / emotive issues are being discussed. In such cases, contact will take the form of letters or e-mail, as oral communication can lead to one party misunderstanding or misinterpreting the issues being discussed. This will ensure that there can be no misunderstanding about what is / has been said. This action is not taken under the terms of this Policy and as such there is no appeal against a decision of the Authority that communication must be in writing only.

2. WHAT IS UNREASONABLE CUSTOMER CONDUCT?

2.1 Whilst it cannot be precisely defined, examples of conduct which may be considered as unreasonable are listed below (the list is not exhaustive):

- a) Acts or threats of violence or aggression by an individual toward staff, Members of Council or any third party. (Note: In such cases offenders names may be recorded on a risk register for Health and Safety reasons);
- b) Persistent failure to show respect in dealings with staff or Council Members, or acting in a threatening or abusive way. This includes instances of 'unusual' or 'abnormal' behaviour that may lead a third party to the genuine perception that they may be at risk of harm (defined as "physical injury or mental damage");
- c) Hindering objective consideration of an enquiry or operation of a service by the nature or frequency of contact with the Authority;
- d) Making malicious, unwarranted or defamatory comments or making remarks which are related to any protected characteristic as defined by the Equality Act 2010;
- e) Continuing to attempt to make unwarranted or unjustified representations during ongoing attempts to resolve existing issues, or attempting to improperly influence or change aspects of the enquiry, during investigation;
- f) Continuing to attempt to pursue any matter, having exhausted all stages of the corporate or other statutory complaints procedure. This includes complaints repeated in their original form or where the substance of a complaint is the same as that originally made. This will also apply in cases where the Public Services Ombudsman for Wales has completed his investigation and closed the case;
- g) Seeking an unrealistic outcome and persisting in doing so despite being clearly advised of the justification for the decision.

Notes:

- 1) **Contact may be in person, by telephone, letter, e-mail, text or fax;**
- 2) **References to an individual or person include a group or a number of individuals.**

3. ACTION THE AUTHORITY MAY TAKE

3.1 If a Service Department considers that a person is acting unreasonably, this will be explained to that person and they will be asked to change their behaviour. If the behaviour continues, the Service Department will note the comments, and notify an Appropriate Officer, requesting that remedial action(s) be implemented as set out in this Policy.

- 3.2 The Authority reserves the right to implement the policy immediately without first issuing a warning as set out in 3.1 above. This power will only be used in exceptional circumstances. In all such cases, the person(s) against which action has been taken under this policy will be provided with the reasons why immediate action was considered appropriate, and rights of appeal will not be affected.
- 3.3 The “Appropriate Officer” to determine action to be taken will depend upon the circumstances of each case. This may be a Service Manager, Head of Service or Complaints Manager acting on behalf of the Chief Executive.
- 3.4 The Appropriate Officer will then respond to the referral, as appropriate, following discussion with the relevant Head of Service (if different).

3.5 The type of actions / restrictions that can be applied include:

- a) Restricting contact to a particular form (e.g. by letter only);
- b) Requiring contact to take place with a named member of staff or team as a single point of contact (SPOC), or at a particular time or place. Contact may also be subject to appropriate conditions;
- c) Restricting telephone calls to specific days and times;
- d) Asking the Customer to enter into a voluntary agreement about their contact;
- e) Exclusion from one or more buildings controlled by the Authority, due to the person’s unreasonable or violent behaviour.

Exclusions will normally be for a specified duration, but in extreme cases may be permanent. The duration of all exclusions will be determined on a case by case basis. Where exclusion has been imposed and is subsequently ignored, the period of exclusion may be immediately reviewed and extended. The Authority may seek a court injunction to support the original (and, where relevant, the extended) exclusion. See Section 4 below for more detail on exclusions.

- f) Other actions / restrictions may be implemented at the Authority’s absolute discretion where actions a) to e) above are not considered appropriate, providing the Appropriate Officer and the relevant Head of Service (if different) agree that such action is both reasonable and proportionate.

Note: The above actions / restrictions are not mutually exclusive and can be applied as appropriate at the discretion of the Authority.

- 3.6 Where it is determined that implementation of the actions outlined above is necessary, the Appropriate Officer will write to tell the person / group why it is believed their behaviour is unacceptable, the action that is being taken, and the

proposed duration. In all circumstances where a right of appeal is allowed, the letter will also tell them how to challenge the decision if they disagree with it (except in the case of exclusions – see Section 4 below) and to whom such an appeal should be addressed.

4. THREATS TO HEALTH AND SAFETY / POTENTIAL CRIMINAL ACTION

- 4.1 If a staff member feels threatened by contact with members of the public they will report their fears in writing (and the reason for them) to their Service Manager (i.e. normally a Third Tier officer).
- 4.2 Where it is considered that there is an imminent risk of harm, the Service Manager may immediately temporarily exclude the customer from the premises to stop the situation from escalating further.
- 4.3 If the Service Manager believes that the customer should be excluded on a long term basis, s/he must put the case for exclusion to their Head of Service for consideration in conjunction with the Appropriate Officer (if different) under the provisions of 3.5.e) above.
- 4.4 The Service Manager will complete appropriate Health & Safety (HS3) incident report form, forward a copy to the Corporate Health and Safety Service and as part of the action arising from his/her investigation will consider:
 - a) Writing to the customer, requiring no repetition of the behaviour and, if necessary, setting conditions and restrictions for further contact with staff. This could include restrictions upon attendance at Council premises, together with appropriate restrictions e.g. supervision by security staff;
 - b) Reporting the matter to the Police.
- 4.5 If dealing with threatening, rude or abusive behaviour in a telephone conversation, the staff member will explain that they will terminate the call if the behaviour continues. If despite this warning the behaviour continues, the call will be terminated and a note placed on the case file to explain why this action was taken. Staff will respond to repeated calls in the same way.
- 4.6 Repeated calls may be deemed to be harassment, which, after consultation with the Head of Service, will be reported to the Police.
- 4.7 Any infringements of the rights of a member of staff may also result in legal action being taken.
- 4.8 Any physical or verbal assaults on a member of staff, Council Member or against any other customer will be reported to the police.
- 4.9 There will be no right of appeal against a decision to exclude a person / group from one or more buildings, where that decision was made for reasons as set out in 3.5.e) above.

- 4.10 All completed HS3 forms will be reviewed, and a record of the incident will be maintained by the Health and Safety Service.
- 4.11 The Authority may compile a Risk Register which will be held and maintained by the Occupational Health Team. This may be accessed by all Service Departments in the interests of Health & Safety. Whenever an incident has been recorded on the risk register, the offender will be notified, by the Authority giving the reasons for why this action has been taken.
- 4.12 The Service Manager will review their risk assessments to ensure that suitable control measures are in place to prevent recurrences as far as is practicable.

5. RELATED MATTERS

- 5.1 New issues raised by members of the public who have been designated as persistent or vexatious will be treated on their merits. This will avoid a failure to respond to a request for service made in an appropriate fashion, or a request for information where the authority must comply with any statutory requirements.
- 5.2 However, persistent unreasonable behaviour, or exceptionally unreasonable behaviour may result in a refusal of further contact on any matter.
- 5.3 Withdrawal of any action taken under this policy must be undertaken in consultation with the Head of Service who agreed the original sanction.
- 5.4 Records of actions to be taken will be maintained by the Complaints Section. A review will be carried out on a 12 monthly basis to determine whether a member of the public should continue to be treated as persistent or vexatious. This review will be conducted by the Appropriate Officer in consultation with the relevant Head of Service (if different).

6. ELECTRONIC RECORDING OF ORAL COMMUNICATION

- 6.1 The electronic recording of meetings or telephone conversations by customers may be considered intimidating to staff or Councillor. If a customer intends electronically recording a conversation by any means (e.g. on a mobile phone or Dictaphone), that intention must be made clear to the other party beforehand.
- 6.2 There is no obligation for a member of staff / Councillor to agree to the electronic recording of conversations / meetings. Where a member of staff / Councillor states that they are not happy to proceed with an electronically recorded conversation / meeting, the customer will be expected to agree not to electronically record the conversation/meeting.
- 6.3 If the member of staff / Councillor is happy to continue with an electronically recorded conversation/meeting, the recording must only be retained for personal use by the customer to help with their recollection of the discussion. Electronic recordings must not be shared with any third party for any reason.

- 6.4 Any covert recording of telephone calls / meetings by customers will be considered as unreasonable behaviour and the customer would therefore be subject to appropriate actions as outlined in this policy.

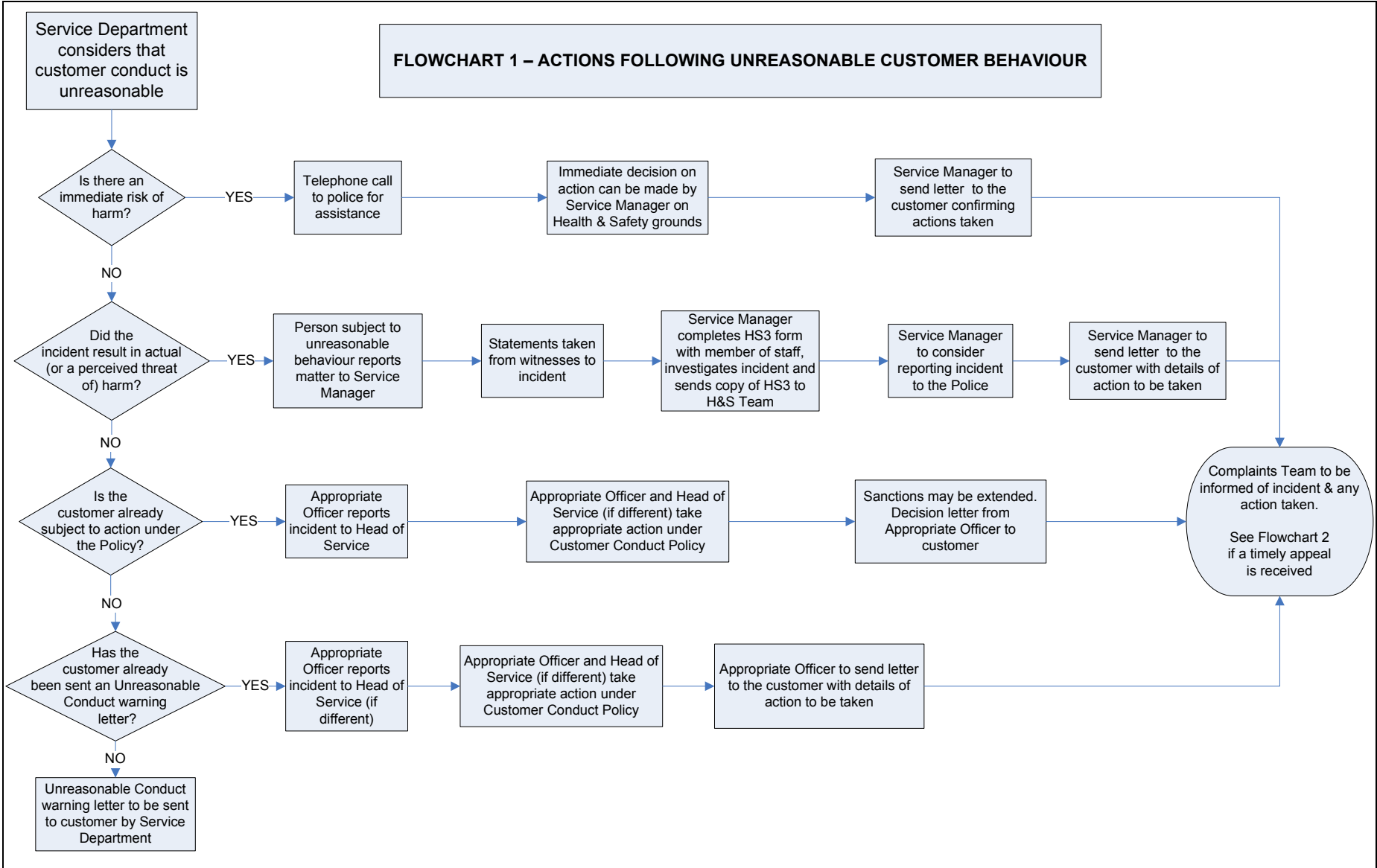
7. APPEALS

- 7.1 Customers have the right to appeal against decisions to invoke this policy, except where the decision relates to exclusion(s) from buildings for reasons as set out in 3.5.e) above. Appeals must be made within 15 working days of notification of a decision to invoke the policy.
- 7.2 Appeals against any decision to manage contact with the authority under the terms of this policy (other than a decision to exclude from buildings) may be made in writing to the Monitoring Officer, who will acknowledge receipt of the appeal and refer it to the Council's Standards Committee. The decision to invoke the Policy and any course of action taken under this policy will remain in place until an appeal is dealt with by the Standards Committee.
- 7.3 The Standards Committee is comprised of members who will determine the merits of any appeal. The decision of the Standards Committee will be conveyed to the appellant in writing by the Monitoring Officer within 5 clear working days of the Committee. The Committee will consider written representations on the matter from the complainant and any relevant Officers or Members. An appellant has no right to have a personal hearing before the Committee. If an appellant requests a personal hearing it is a matter for the Standards Committee to decide in its absolute discretion whether the request is granted.

8. SUMMARY

- 8.1 The City and County of Swansea has policies in place to protect all members of the public from unsatisfactory service. The Authority respects the rights of these individuals or groups to make service requests or to complain and have established procedures to facilitate this. However, this must be done in an appropriate and reasonable manner. This policy seeks to ensure that this is achieved and that the rights of customers, staff and Council Members are respected.

FLOWCHART 1 – ACTIONS FOLLOWING UNREASONABLE CUSTOMER BEHAVIOUR



**FLOWCHART 2 – APPEALS AGAINST DECISIONS MADE UNDER
THE UNREASONABLE CUSTOMER BEHAVIOUR POLICY**

