

**Human Resources**

**Unacceptable Behaviour Policy & Procedure**

1. **Introduction**

This policy applies to all individuals contacting the Parliamentary and Health Service Ombudsman (“PHSO”) on behalf of themselves, another individual or group. It applies to all contact and defines the behaviours and actions that are not acceptable to the PHSO.

We recognise that some individuals who contact the PHSO may have reason to feel aggrieved, upset or distressed. However, while we accept that those in contact with us may feel angry, it is not acceptable when that anger is directed towards our employees. We will manage behaviour that is aggressive or abusive, or which places unreasonable demands on our employees under this policy.

PHSO has a zero-tolerance position on threats against our employees. This behaviour will be reported to the police.

Our resources, including employees time are limited, and must be used for the benefit of all. This might mean that we cannot respond to every issue in the way an individual might wish, if in doing so it would take up what the PHSO regards as being a disproportionate amount of time and resources.

1. **Principles**

The behavioural expectations for PHSO employees and individuals interacting with us are:

For us to:

* Provide a fair, open, proportionate, and accessible service.
* Listen and understand.
* Treat everyone who contacts us with respect, empathy, and dignity.

For those interacting with us to:

* Treat employees with respect and courtesy.
* Engage with us in a way that does not impact on our ability to carry out our work effectively and efficiently for the benefit of all individuals interacting with our organisation.
1. **Safeguarding and disclosures**

If in the course of our work an individual expresses threats of harm to themselves or others, we will consider disclosure to a relevant health professional. We may also contact the police if there is a threat of harm to others. Decisions to contact the police will be taken in discussion with a manager.

1. **How we will take account of our duties under the Equality Act 2010**

We will ensure that we meet the requirements of the Equality Act 2010 and the Public Sector Equality Duty. Part of this requirement will be to ensure we consider adjustments for disabled individuals.

Some individuals may have difficulty expressing themselves or communicating clearly and/or appropriately. Where there is an indication, this may be the case, we will consider the needs and circumstances of the individual before deciding on how best to manage the situation, including applying any necessary reasonable adjustments. However, this does not mean we will tolerate abusive language, shouting, unacceptable behaviour or actions.

If a disabled individual becomes the subject of a restriction under this policy, consideration of whether the restriction may affect them more than a non-disabled person will be undertaken. If this is the case, different arrangements may be made so they are still able to access the service. Advice on considering reasonable adjustments in conjunction with a restriction can be sought from the Equality, Diversity and Inclusion specialist. Consultation should always be carried out with the Equality, Diversity and Inclusion Specialist or Legal Services before declining an adjustment sought.

1. **What behaviour is unacceptable**

Behaviour and/or actions are unacceptable if they involve abuse of PHSO employees, associates, or our service.

Some examples of what we consider to be unacceptable behaviour and/or actions are provided below, although this is not an exhaustive list:

**Aggressive/abusive behaviour**

Physical behaviour, language, or images (whether verbal i.e., face to face, via telephone or written in emails, letters or online) that may cause employees to feel intimidated, uncomfortable, threatened or abused. This includes behaviour about any protected characteristic, as defined by the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation). Abuse may include but is not limited to:

* + - * threats or harm to people or property.
			* verbal abuse of any kind, including racist, homophobic or sexist abuse.
			* degrading, patronising, defamatory, offensive, discriminatory, harassing and/or derogatory language or behaviour.
			* rudeness.
			* escalating agitation, intimidation, oppressive or coercive behaviour.
			* raising unsubstantiated allegations.

**Unacceptable demands**

Demands may be considered unacceptable by the nature or scale of service expected including:

* + - * Requesting responses in unreasonable timescales.
			* Insisting on speaking with senior colleagues or escalating contact to senior colleagues when not getting the answer sought from PHSO employee.
			* Making repeated approaches about the same issues without raising new information.
			* Vexatious requests for information.
			* Repeatedly changing the substance of a complaint or raising unrelated concerns.
			* Refusing to accept a decision where explanations for the decision have been given.

**Unacceptable levels of contact**

Communication may be considered unacceptable by the nature or scale of service expected including:

* + - * Continually contacting us while we are in the process of looking at the issue/complaint e.g., numerous calls/emails in one day or excessive contact over a short period of time.
			* Repeatedly sharing copies of information that has been sent already.
			* Continually reframing the issue/complaint in such a way as to make it challenging to do our job effectively i.e., numerous emails providing different information each time.

**Refusal to cooperate**

During communication we may need to ask an individual to work with us to progress an issue/complaint. Sometimes they may refuse to engage in this process. This may include:

* + - * Refusal to provide information and/or evidence.
			* Not providing a summary of their concerns or refusal to provide information.
			* Not providing comments or responses to reasonable deadlines.
			* Not agreeing to a defined complaint scope within a reasonable timescale.
1. **Approaches that may be taken as a result of unacceptable behaviour**

The approach taken will be the minimum required to solve the problem.

The threat of violence, verbal abuse, or harassment towards a PHSO employee is likely to result in termination of all direct contact. We will normally report all such incidents to the police. This will always be the case if violence is used or threatened. Employees should make the decision to contact the police in discussion with a manager.

PHSO employees should end telephone calls if they consider the caller aggressive, abusive, or offensive. Employees 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 any correspondence, in any format, that contains statements that are abusive or contain allegations about PHSO employees that lack evidence.

Where necessary, we will restrict individuals from direct contact. Any contact must be through a third party, such as an advocate. It will be the responsibility of the individual to arrange third party support.

In addition, we reserve the right to:

* + Limit telephone contact to set times on set days.
	+ Restrict contact to a nominated employee who will deal with all future calls or correspondence.
	+ Restrict contact to in writing only.
	+ Restrict the issues we will correspond on.
	+ Block emails or telephone numbers if the number and length of communications sent is excessive.
	+ Refuse to consider a complaint or any further contact in exceptional circumstances.
1. **The process we will follow in making decisions about unacceptable behaviour**

Any PHSO employee who directly experiences offensive, aggressive, or abusive action from an individual has the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation in line with this policy. When an employee makes an immediate decision in response to offensive, aggressive or abusive action the individual should be advised at the time of incident and followed up in writing, or in an agreed format where a reasonable adjustment is in place.

Except for immediate decisions taken at the time of an incident, decisions to restrict contact over a longer period should be taken after consultation with a manager. Where possible, we should give an individual the opportunity to change their behaviour or action before a decision is taken to restrict contact.

Where a decision is made in consultation with a manager to restrict contact, we should explain:

* + - why a decision has been made,
		- what arrangements for contact, if any, have been put in place,
		- the length of time the restrictions will be in place,
		- when the restriction will be reviewed.

We should provide the details above in writing, or in an alternative agreed format, if a reasonable adjustment is in place.

Restricted contact will normally be for an initial period of six months and will be reviewed at 3 monthly intervals by the employee who put the restriction in place, except where we have made the decision to cease all contact. Restricted contact can be extended beyond six months but should continue to be reviewed at 3 monthly intervals. Where the restriction is continued the individual should be informed in writing, or in an alternative agree format, if a reasonable adjustment is in place.

1. **Changes in behaviour**

Employees have approval to review the application of this policy prior to the review date of the restriction if they consider the individual has positively changed their behaviour. If restrictions are removed the individual should be informed in writing, or in alternative agreed format, if a reasonable adjustment is in place, of the removal of the restriction.

1. **Not adhering to a restriction**

Where an individual does not follow the restriction put in place, employees may discontinue contact at the point of incident e.g. if the restriction included no telephone contact, you have approval to remind individuals of the restriction and end the call immediately.

If an individual continues to ignore the restriction, you should consult with a manager to consider whether further restrictions in line with this policy are required, for example blocking calls or emails.

1. **Restrictions in place when a case concludes**

If a restriction is in place when a case concludes this should remain in place and be reviewed by the caseworker who put the restriction in place 3 months following the case conclusion to decide if restrictions can be removed.

If there are other cases open for the individual, then this responsibility should be passed to a caseworker or manager with the open case in discussion with them. The individual responsible for reviewing should be updated in CMS.

If a new case is opened during the 3 months following the previous case conclusion, the restriction should remain in place until a review is carried out by the caseworker responsible for the open case.

1. **Legal advice**

If after consultation with a manager further advice is required, the legal team will provide the necessary support.

1. **How an individual can appeal our decision**

Information on appealing against the decision to restrict contact will be provided in the letter sent to the individual. A request for an appeal must be made within 10 working days of the decision to restrict contact (or another reasonable time period to be agreed upon if a reasonable adjustment is in place).

Any appeal will only consider arguments against the restriction and not in relation to any complaint or issue brought to us. An appeal could include, for example, the individual saying that the restrictions:

* are disproportionate
* will be disproportionally impacted upon because of personal circumstances, e.g. a previously undisclosed disability.

The Review and Feedback Team will consider the appeal unless the restriction was put in place by that team. If so, an Assistant Director will consider the appeal. They have discretion to remove, change or uphold the restriction based on the evidence available to them.

The appeal will be considered within 10 working days of receipt of the request for an appeal and the individual will be advised in writing (or alternative agreed format if a reasonable adjustment is in place) of the outcome of their review and whether restrictions will be maintained, removed, or varied as a result.

Whilst the appeal is being considered, the restricted contact arrangements will remain in force. There is no further right of appeal. The decision made is final.

1. **Record Keeping**

A record of incidents of unacceptable behaviour and/or action by individuals should be maintained on CMS creating a profile for the individual as required, a process map detailing when incidents should be recorded is available [include link].

Where the individual is given a warning for their behaviour, the individual’s CMS record will be updated. Where the incident takes place over the telephone and a recording is available, the recording should be added to the SharePoint folder connected to the individual on CMS.

Where contact is restricted because of unacceptable behaviour and/or action, this should be noted on the individual’s CMS record. In addition to marking the individual’s record a note should be placed in the ‘Alert’ section of the individual’s record stating ‘Unacceptable Behaviour Policy Applied’ so that anyone accessing the individual’s records is immediately aware.

Any review of the restriction and the outcome of that review should also be recorded on the individual’s CMS record and communicated with the individual. If you do not have access to CMS, please contact ++Manchestersharedservices who will provide support in recording information on CMS.

1. **Providing support to employees impacted by unacceptable behaviour**

The manager of the employee who has been impacted by unacceptable behaviour should discuss with them what support they require following the incident(s). This may include connecting them with a mental health first aider, referring them to our employee assistance programme or ensuring they have no further contact with the individual who has behaved unacceptably.

**Policy Information**

**Related policies:** Code of Conduct

 Privacy Policy

**Version control**

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