

PROCEDURE & GUIDANCE

Unacceptable Behaviour – Restricting Access

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Procedure and Guidance: Unacceptable Behaviour – Restricting Access

1. Introduction

This document set out the Council's policy, guidance and procedure in relation to our approach to individuals who display unacceptable behaviour which may give rise to a need to restrict their access to the council, including to its team of staff and buildings.

It should be read in conjunction with the [Delivering Safe Customer Service - A procedure for managing unacceptable customer behaviour](#), which provides guidance for teams working with challenging customer behaviour.

North Tyneside Council is committed to dealing with residents and others who have contact with us, fairly and impartially whilst providing a high-quality service to them. It is unusual for individual restrictions on contact with officers or access to council buildings to be made, however, there will be circumstances where due to the unacceptable behaviour of an individual it is necessary to manage their access.

This guidance and procedure aims to provide a safe, effective and fair means of determining how to proceed in these circumstances. It must be followed before any restrictions are imposed.

2. Unacceptable (or unreasonable) behaviour

There is no precise definition of what constitutes unacceptable or unreasonable behaviour. Judgement must be applied in each case. However, indicators could include:

- a. Persistent enquiries into a matter which has already been dealt with, especially if previously investigated by an impartial person or body.
- b. Pursuit of a trivial matter wholly disproportionate to the likely effect of that matter which may require an unreasonable use of public resources to dealt with.
- c. Acts clearly malevolent towards the Council, officers, Councillors or others.
- d. Vexatious behaviour – i.e. aimed at and spoiling some other proper process.
- e. Offensive behaviour.
- f. Abusive language.
- g. Aggressive and or threatening behaviour.
- h. An excessive amount of representations to an extent that compromises the effectiveness or delivery of a service or wastes resources.
- i. Not co-operating with enquiries, e.g. preventing a reasonable response.
- j. Attempts to unreasonably extend the remit of a complaint.

Care must be taken not to confuse unacceptable behaviour with mental health issues. Officers should take advice from their line manager and/or the adult safeguarding service on how to proceed if it is considered that mental health is a factor. This does not preclude appropriate action being taken where there is a known mental health issue.

3. Restricting Access

Except in circumstances where the immediate personal safety of staff and customers is an issue (see section 4 below), wherever the restriction of access to the Council is contemplated, decisions should not be made hastily and all reasoning must be fully recorded.

Any restrictions imposed must be appropriate and proportionate. The restriction must be considered necessary to modify the unacceptable or unreasonable behaviour. For example, email access should only be withdrawn if the person has sent abusive or threatening emails or has become vexatious in their use of the facility. Restrictions must not be used as a punishment.

The options to be considered include but are not limited to;

- a. Requesting contact only in a particular form, e.g., in writing, allowing or not including emails but withdrawing contact by telephone.
- b. Requiring contact to take place with a named officer only.
- c. Restricting telephone calls to a specified number.
- d. Requesting that the complainant enters into an agreement about the conduct of their future contact with the Council.
- e. Refusing access to a particular building or class of building.
- f. Withdrawing a non-statutory service.

4. Accelerated Procedure - Immediate Threat to Safety and Welfare

Where the behaviour is so extreme that it threatens the immediate safety and welfare of council staff or others, officers should consider making an immediate report to the Police. In such cases officers should assess and decide whether to give the person exhibiting the behaviour, prior notification of that action. That assessment should always be focused on the seriousness of the threat and the potential for violence.

Where there is a threat of violence, officers should ask the Police to remove the person from a building.

In all cases where violence has been threatened or has occurred, Legal Services must be consulted at the earliest opportunity. If considered necessary, the Legal Services team may seek an injunction and will correspond with the person or their legal representative regarding the legal proceedings. Once Legal Services have been engaged, service areas should take advice prior to directly contacting, corresponding or responding to the individuals. This is to avoid prejudicing any legal proceedings.

Where the unreasonable behaviour includes acts of violence, aggressive or threatening behaviour the full procedure as set out below may not be appropriate and an "accelerated procedure" may be adopted. Advice should be sought on the particular circumstances but in general this may mean dispensing with the warning notice and/or putting immediate interim measures in place pending a decision being taken. In such cases, the actions taken should be documented contemporaneously and a request for

formal authorisation for any ongoing measures should be sought as a matter of priority. The request should detail any action already taken and be clear if further dispensation from the usual 14 day notification period is sought.

In all other cases, the process as set out below should be followed.

5. Notification of Unacceptable Behaviour

Where an officer considers that a person's behaviour has become unacceptable then they should, if safe to do so, inform the person of this and allow them an opportunity to modify their behaviour.

The officer may seek the support of their line manager who may consider it appropriate to issue a warning with regard to restricting access. Where such a warning is given it should be confirmed in writing to the person, if their address is known and accompanied by the "Restricting Access to the Council" warning notice (see Appendix 1 attached).

If this type of behaviour continues or is repeated on a further occasion, a Senior Manager, must write and tell the person what behaviour has been considered to be unacceptable and make reference to any previous warnings. A copy of any such warning must be sent to the Senior Complaints Manager for central recording. The Senior Manager must avoid giving multiple warnings without progressing a request to impose restrictions.

6. Requesting a Restriction

If the Senior Manager considers a restriction is appropriate they must obtain authorisation to impose any restriction from the Chief Executive, who, in consultation with the Head of Law, is the officer with delegated authority to take decisions on managing access to the council, its staff and buildings (in accordance with General Delegation 3 of the Officer Delegation Scheme). Any request should be made using the attached template (Appendix 2).

A Senior Officer may seek restrictions for their Directorate or Service area, subject to the following provisos:

- i The restriction may only extend to the area managed by the Senior Officer.
- ii The restriction must not interfere with any statutory right of the person to contact the Council e.g. a tenant must be given access to report repairs.

Where it is considered necessary to restrict a person's contact to more than one Directorate or Service area, the Senior Officers should make a joint request to the Chief Executive. Where the service areas fall under more than one directorate, only one Director is required to give authority.

Senior Officers must ensure that any proposed restrictions are proportionate and non-discriminatory.

The public enter Council buildings under a permissive licence. The extent of that licence will depend on the purpose of their visit. Nothing in these guidelines prevent a Senior Officer or building manager from requesting and/or directing a person or group of people leave a specific building (for example, a library) where they are exhibiting disruptive or unreasonable behaviour. If their exclusion is intended to last beyond the occasion upon which they were asked to leave, then the procedure in this document should be followed.

Similarly, it is not necessary for a Senior Officer to obtain specific authorisation before refusing access or withdrawing a service on a temporary basis, where this is an immediate reaction to an isolated incident. However, where withdrawal of service or other restriction is intended over a longer period, Senior Officers must follow the process set out in this document.

6.1 Restricting Access to a Statutory Service

Senior Officers will be expected to know if any service they provide to the public comprises a statutory or a non-statutory service. Where something is a statutory service, this does not necessarily mean a person must be given access to specific premises. Before seeking to restrict access to a statutory service a Senior Officer should consult Legal Services who will advise on any proposed restriction and its likely effect on the person's right to receive that service. This advice should be reflected in the request to the Chief Executive.

In cases where the behaviour of a person is continuous, extreme, criminal or puts the safety of staff at risk and complete withdrawal of the service is considered necessary, this may require formal legal action, such as securing an injunction.

Having obtained authorisation, the Senior Manager must write to the person describing what action the Council intends to take, the reasons for the action, the duration of the action and the right to request a review of the decision (see section 7 below).

A restriction will not take effect any earlier than **14 clear days** from the date of notification unless exceptional circumstances require that they take immediate effect. Where necessary the restriction can be imposed immediately, pending any review but this must be specifically determined and reasons given.

6.2 Restricting Access to Public Meetings

The Local Government Act 1972 reinforces the right of access for the public to attend council meetings. This right should not be readily interfered with. There are prescribed circumstances where the public can be excluded due to the nature of the business being discussed and there still remains the common law right of exclusion to suppress or prevent disorderly conduct or other misbehaviour.

Common law allows for the exclusion of a person or the public as a whole, from a meeting, if the business of the meeting is being disrupted or frustrated by the behaviour

of one or more members of the public present. This can be done pre-emptively if it is believed that there is a possibility of disruption but this must be clearly evident.

There is an implied delegation to the Chair of any meeting to exclude a person or group of people where they are exhibiting disruptive or unreasonable behaviour. The Chair must act reasonably and have consulted the other members of the meeting/committee who will pass a resolution to enable the exclusion to take place. In exceptional circumstances the Chair has the authority to exclude the public and then immediately seek a resolution of the meeting to support their decision.

In circumstances where an officer of the Council considers the exclusion of a person from a meeting normally accessible to them is appropriate because they have demonstrated or are likely to demonstrate unreasonable behaviour, that officer must advise the Chair of the meeting and the Head of Law at the earliest opportunity. A decision may be sought from the Chief Executive in advance of the meeting.

Every effort must be made to give any person who it is intended to exclude from a public meeting, notice of that exclusion and an opportunity to appeal against that exclusion before it takes effect.

Exclusions from attending public meetings must be proportionate and thoroughly reasoned and not used as a method of dealing with “awkward” participants.

Any breach of an exclusion from attending public meetings can only be enforced by the imposition of an injunction unless there is a threat of violence, in which case the Police should be asked to attend.

7. Right of Review

Where a restriction is to be put in place, the person concerned must be advised of their right to ask for a review of that decision if they disagree with it. Any request for such a review must be made in writing within 5 working days, to the Senior Complaints Manager, who, in consultation with the Head of Law, will determine the matter within a further 5 working days. If the matter directly involves the service area of the Head of Law, a Director or Senior Manager who was not involved with the original decision, will assist the Senior Complaints Manager. Any such decisions will be excluded from the council's Complaints Procedure. Any person who has not availed themselves of the review option or is still unhappy with the Council decision following a review, will be directed to the Local Government and Social Care Ombudsman and/or the Housing Ombudsman.

8. Restrictions: Monitoring & Records

Any restriction must be monitored by the Senior Officer (or all Senior Officers where multiple service areas are involved) to establish if further action is required or if the restriction can be removed. Formal reviews of any restriction in place must be carried out at reasonable periods and at least every six months. Exclusion from premises or restrictions which have a greater impact should be monitored more frequently than

other lesser restrictions to ensure they do not last longer than necessary to achieve their intended goal.

Where a restriction has been imposed, a record of the person involved, the reasoning for applying the restriction, the decision and records of reviews of the restriction will be kept electronically by the Senior Complaints Manager. It is the responsibility of any Senior Officer involved to provide this information to the Senior Complaints Manager.

At the time an exclusion is proposed, consideration must be given to the possibility of the person breaching any exclusion leading to the necessity to enforce the exclusion by legal remedy e.g. injunction. Therefore, it is important to ensure that comprehensive recording of any past and future incidents takes place to record relevant dates, times, location, details of the impact on staff and others and the possible consequences of the behaviour continuing.

Where monitoring shows a restriction to be ineffective, Senior Officers will be expected to consider further restrictions and if necessary, consult with Legal Services on the possibility of using other options.

9. Further Assistance

For further assistance regarding this process please contact the Legal Services Team (legalpracticeteam@northtyneside.gov.uk).

Advice can also be obtained from the Health & Safety Team (HealthandSafety@northtyneside.gov.uk).

Appendix 1: Restricting Access to the Council Warning Notice

Appendix 2: Template of Request and Record of Delegated Decision to Restrict Access