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**Scottish Courts
and Tribunals Service**



UNACCEPTABLE ACTIONS POLICY

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This page should be omitted from any document which is to be published publically for example via the Scottish Courts and Tribunals Service website.

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2.1	May 2021	Amendment of template letter and expansion of description of aggressive or abusive behaviour
2.2	Nov 2021	In paragraph 7.8 amend from We may advise to We must advise
2.3	Dec 2021	Replace whole of paragraph 7.8

Document Security/ Freedom of Information

This document is suitable for publication on the SCTS external website.

SCTS Policy Governance

SCTS policy is applicable to all staff, contractors, temporary workers, consultants and others who are working in SCTS buildings or with SCTS systems.

The contents of this policy in no way supersede any legal requirements.

Any potential criminal activity should be referred to the relevant internal and external authorities.

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All SCTS staff should have regard for the [Whistleblowing Policy](#)

Equality Impact Assessment

SCTS information policy documents must be compliant with the Equality Act 2010. The policy is to apply equally to all persons. An Equality Impact Assessment is not considered necessary.

Privacy Impact Assessment

SCTS information policy documents are drafted to avoid containing any information which may be considered sensitive including the avoidance of any personally identifiable information. This Policy does not feature any personal data. A Privacy Impact Assessment is not considered necessary.

1. Purpose and Scope

This policy sets out how the Scottish Courts and Tribunals Service interacts with the small number of people we deal with whose actions or behaviour we consider to be unacceptable.

2. Definitions and Glossary

Expiry/Renewal Date	The date on which the restriction is due to cease or the date 6 months after application of the restriction, whichever is the sooner
SCTS	Scottish Courts and Tribunals Service
Service User	The person who is or may become subject to a restriction under this policy
SPSO	Scottish Public Services Ombudsman

3. Requirements from legislation / standards

The SCTS has a formal [Complaints Handling Procedure](#) which sets out the process for the investigation and determination of any matter regarding the conduct of SCTS staff, or issues about buildings and amenities. This procedure has been developed in accordance with guidance issued by the Scottish Public Services Ombudsman, who provides an independent and impartial service for handling complaints about public services in Scotland.

4. Roles and Responsibilities

The following roles and responsibilities are specifically outlined.

Head of Information Governance & Correspondence	To ensure policy is fit for purpose, to ensure policy and procedure are adhered to, sign off
All managers	To review application of the policy in their areas of responsibility
All staff	To be aware of the policy

5. The aims of the SCTS in relation to unacceptable actions

We aim in all our dealings to:

- make it clear to all service users, both on initial contact and throughout their dealings with our offices, what the SCTS can and cannot do to address their complaint or correspondence;
- be open and not raise expectations that we cannot meet;
- deal fairly, honestly, consistently and appropriately with all service users, even those whose behaviour or actions we consider unacceptable. We believe that all service users have the right to be heard, understood and respected. We also believe that SCTS staff have the same rights;
- provide a service that is accessible to all. However, we retain the right, where we consider a service user's actions to be unacceptable, to restrict or change access to our service; and
- ensure that other people who use the services of the SCTS and our staff do not suffer any disadvantage from service users who act in an unacceptable manner.

6. Defining unacceptable actions

6.1 The SCTS understands that people may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complaint being made or an issue being raised with us.

6.2 We do not view behaviour as unacceptable simply because a service user is forceful or determined. However, the actions of service users who are angry, demanding or persistent may result in unreasonable demands or unacceptable behaviour towards our staff. It is these actions that we consider unacceptable and aim to manage under this policy.

6.3 The SCTS has grouped these actions under the following three broad headings.

Aggressive or abusive behaviour

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6.4 Violence and aggression are not restricted to acts which cause physical harm. They also include behaviour or language (whether oral or written) that may cause staff to feel offended, afraid, threatened or abused. Examples of such behaviour include threats, personal verbal abuse, derogatory remarks and rudeness. Language which is designed to insult or degrade, is racist, sexist or homophobic or which makes serious allegations that individuals have committed criminal, corrupt or perverse conduct without any evidence is unacceptable. We may decide that comments aimed at third parties are unacceptable because of the effect that listening or reading them may have on our staff.

6.5 In line with the SCTS Policy on Dignity at Work we expect our staff to be treated courteously and with respect. Intimidation, violence and abuse are unacceptable. Our staff understand the difference between aggression and anger. We recognise that service users who have lodged a complaint or correspondence may feel angry about the events leading up to that stage, and that the anger felt by many service users involves the subject matter of their correspondence or complaint. However, it is unacceptable for anger to escalate into aggression directed towards SCTS staff.

Unreasonable demands

6.6 Service users might make what we consider to be unreasonable demands on our offices through the amount of information they seek, the nature and scale of the service they expect or the number of approaches they make. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour.

6.7 Examples of such behaviour include:

- insisting upon a response within an unreasonable time-scale;
- unreasonably insisting on speaking to only one particular member of staff;
- communicating via repetitive phone calls, letter or emails;
- repeatedly raising unsubstantiated or previously resolved concerns.

6.8 We consider such demands as unacceptable and unreasonable if they start to impact substantially on the work of our staff or the SCTS, for example by taking up an excessive amount of staff time to the disadvantage of other service users or other official functions.

Unreasonable persistence

6.9 We recognise that some service users will not or cannot accept that the SCTS is unable to assist them further. There are occasions where service users contact our offices persistently about the same issue. We accept that the way these service users approach us may be reasonable, but persistent behaviour in continuing to do so may not be.

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6.10 The actions of persistent service users are unacceptable when they take up what the SCTS would reasonably consider to be a disproportionate amount of time or resources which impacts on our ability to deal with our administrative functions and other service users.

7. Managing Unacceptable Actions

7.1 There are relatively few service users whose actions we consider unacceptable. How we manage these unacceptable actions depends on their nature and extent. If the action adversely affects our ability to do our work and provide a service to others, we may need to restrict a service user's contact with some or all of our offices in order to manage the unacceptable action. If the unacceptable action relates to a complaint we will ensure that it is being, or has been, dealt with according to our published complaints procedure.

7.2 We may restrict contact in person, by telephone, letter or electronically or by any combination of these. In extreme situations, we will tell the service user in writing that their name is on a "no personal contact" list. This means that they must restrict contact with our offices to either written communication or through an appropriate third party.

7.3 The threat or use of physical violence, verbal abuse or harassment of any kind, whether in person, by phone or in writing, towards SCTS staff is not tolerated and is likely to result in the ending of all direct contact with the service user. Incidents of this nature may be reported to the police; this will always be the case if physical violence is used or threatened, or where verbal abuse or harassment may be considered to be a criminal offence

7.4 We do not accept correspondence (in any format) that is abusive to staff. When this happens we tell the service user that we consider their language offensive, unnecessary and unhelpful. We ask them to stop using such language and if this does not happen, we will not reply to further abusive correspondence. We may require future contact to be made through an appropriate third party.

7.5 SCTS staff will end telephone calls/face to face discussions if the service user is considered aggressive, abusive or offensive. The staff member involved has the right to make this decision and will advise the service user that it is their intention to end the call/discussion if the unacceptable behaviour continues. We may require future contact to be through an appropriate third party or in written form.

7.6 Where the service user's conduct is subject to the oversight of a professional body, for example a solicitor or journalist, consideration may be given to making a formal complaint to that body.

7.7 We will always tell the service user what action we are taking and why.

Persistent Correspondence

7. 8 Where a service user persistently contacts the SCTS about an issue which has already been resolved (for example via a complaint that has gone fully through our complaints procedure and been referred to the SPSO) we may decide that future correspondence on this same issue will be read and filed, and only acknowledged or responded to if the service user raises a significant new point or is making a fresh complaint or query about another matter. In these circumstances the service user **must** be informed that no further responses will be issued in order that they are aware that no response will be provided. Once such a decision is taken and intimated, there is no requirement to apply the review process set out under this Policy

8. Deciding to Restrict Service User Contact

8.1 SCTS staff who experience aggressive or abusive behaviour directly from a service user have the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this policy.

8.2 In the case of an immediate decision to restrict contact, this will only be a temporary measure and a decision on any further restrictions will be made following consideration by a senior member of staff. Wherever possible, we give a service user the opportunity to modify their behaviour or action before a decision is taken.

8.3 With the exception of immediate decisions taken at the time of an incident, decisions to restrict contact with the SCTS are taken only after careful consideration of the situation by a sheriff clerk/department or unit head.

8.4. In the event that the seriousness of the case is such that it is deemed appropriate by the sheriff clerk/department or unit head, the matter may be immediately escalated to a more senior member of staff. Where the immediate decision to restrict contact is made by a senior member of staff, this will only be a temporary measure and a decision on any further restrictions will be made following consideration of any representations made by the service user. Those representations may be considered by the *same* senior member of staff.

8.5 Service users will be told in writing:-

- 1) why a decision has been made to restrict future contact;
- 2) what the restricted contact arrangements are;
- 3) how long the restriction will remain in force
- 4) where the period of restriction is more than 6 months, a review date in 6 months' time should be specified
- 5) that they can appeal the decision within 20 working days after the date of notification of the restrictions if not satisfied by contacting the

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Correspondence Manager by post to Scottish Courts and Tribunals Service, Saughton House Broomhouse Drive, Edinburgh, EH11 3XD; or by email to correspondence@scotcourts.gov.uk

- 8.6 The Chief Executive of the Scottish Courts and Tribunals Service will appoint a senior member of staff to consider the appeal.
- 8.7 The restriction imposed can be specific in its terms. For example, a restriction could be applied to only a single court, if there is no concern that the unacceptable behaviour is likely to recur in another SCTS property. Wider application can be considered on a case by case basis.
- 8.8 A restriction under this policy can, and must, be temporarily lifted if the service user is specifically required to attend an SCTS property, for example as a witness or party in a court case. The temporary lifting of the restriction is to apply to the extent required for the service user to fulfil the required activity (e.g. giving evidence). The service user should present the appropriate supporting documentation on attendance at the court (e.g. the witness citation).

9. Appealing a Decision to Restrict Contact

9.1 A service user can appeal a decision to restrict contact or to renew an existing restriction within 20 working days after the day of intimation of the restriction or of its renewal. A senior member of staff who was not involved in the original decision will consider the appeal and may ask the service user if they wish to submit any additional representations, providing at least 10 working days for any representations to be made. The senior member of staff will write to the service user within 20 working days of receipt of the appeal, or the additional representations, to advise them whether or not their appeal has been upheld. If additional time is required to consider the appeal the service user will be notified in writing. Restrictions will stay in place while awaiting the outcome of the appeal and this should be notified to the service user when acknowledging receipt of the appeal.

10. Recording a Decision to Restrict Contact

10.1 We will record all incidents of unacceptable actions by service users. Where it is decided to restrict service user contact, an entry noting this and the duration of the restriction will be made in the relevant files and/or on appropriate computer records and the Unacceptable Actions Register, maintained by the SCTS Information Governance & Correspondence Team.

11 Review of an existing restriction

- 11.1 Where a restriction is applied for a period exceeding 6 months a review date will be set for no later than 6 months after the date of imposition of the restriction. That date will be specified within the restriction notification sent to the service user.
- 11.2 Where a restriction is applied for a period of less than 6 months a review may be carried out before the expiry of the restriction if the unacceptable behaviour continues.
- 11.3 All restrictions will expire if not reviewed by the sheriff clerk/department or unit head or senior manager before the end of the term set when the condition was imposed or within 6 months of the condition being imposed (whichever is the sooner). This is termed the "Expiry/Renewal Date". As part of the review, consideration will be given to the level of behaviour during the period of the restriction, and the restriction could be narrowed, lifted altogether or continued. If the review requires additional time due to the need to conduct further enquiries, the sheriff clerk/department or unit head or senior manager may choose to allow the restriction to remain in force pending his or her decision. Any such extension must be intimated to the service user and the restriction cannot be extended in this way by more than 2 months.
- 11.4 The sheriff clerk/department or unit head or senior manager conducting the review should write to the service user at least 4 weeks prior to the Expiry/Renewal Date providing an opportunity to make written representations as to whether the restriction should be lifted. This requirement does not apply if no contact details for the service user are available. Service users should be given at least 10 working days in which to respond.
- 11.5 If the restriction is to be continued/amended/extended the service user will be told in writing:-
- 1) why a decision has been made to continue/amend/extend the restriction;
 - 2) what the restricted contact arrangements are;
 - 3) how long the continued/amended/extended restriction will remain in force

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4) where the continued/amended/extended restriction period is more than 6 months a further review date in 6 months time should be specified; and

5) that they can appeal the decision within 20 working days after the date of notification if not satisfied by contacting the Correspondence Manager by post at Scottish Courts and Tribunals Service, Saughton House Broomhouse Drive, Edinburgh, EH11 3XD or by email at correspondence@scotcourts.gov.uk

11.6 If the restriction does not require to be extended the service user will be told in writing:-

1) the date the restriction ceases to have effect; and

2) reference to the unacceptable actions policy and the expectation of future compliance.

12. Further Information

12.1 For further information please contact:

Chief Executive's Office
Scottish Courts and Tribunals Service
Parliament Square
Edinburgh
EH1 1RQ

DX 549306
LP 1, Edinburgh 10

Tel: 0131 444 3300

email: enquiries@scotcourts.gov.uk

Website: www.scotcourts.gov.uk