

ORKNEY
ISLANDS COUNCIL

Policy on Unacceptable Actions and Challenging Behaviour by Service Users and Complainants

Version 1.1.

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Contents

1. Introduction	3
2. Policy Aims	3
3. Defining Unacceptable Actions by Service Users and Complainants	3
4. Managing Challenging Behaviour	5
5. Managing Unacceptable Actions by Service Users	6
6. After an Aggressive Incident	7
7. Deciding to Restrict Service User Contact	8
8. Appealing a Decision of Restrict Contact	8
9. Recording and Reviewing a Decision to Restrict Contact	8
10. Policy Availability and Review	8
11. Document Control Sheet	9
Appendix 1: Use of Violence / Unacceptable Behaviour Flags	10
Flowchart on passing information on 'flagged people'	14
Flowchart on Removal of Flags	15
Annex 1: Example Notification Letters for Service Users	16

1. Introduction

1.1. This policy sets out the approach of Orkney Islands Council (the Council) to the relatively few service users and complainants whose actions or behaviour the Council considers challenging or unacceptable. The term 'complainant' includes anyone acting on behalf of a complainant or anyone who contacts the Council in connection with a complaint. For the purpose of this policy, references to 'service users' will include complainants who occasionally are not service users. This policy must be read in conjunction with the range of specialist frameworks and procedures within the Council services which support people on a day to day basis who can present behaviours for various reasons which services may find challenging.

2. Policy Aims

2.1. To make it clear to all service users, both at initial contact and throughout their dealings with the Council, what the Council can or cannot do in relation to any issue that they raise, including complaints. In doing so, the Council aims to be open and not raise hopes or expectations that it cannot meet.

2.2. To deal fairly, honestly, consistently and appropriately with all service users, including those whose actions or behaviour the Council considers challenging or unacceptable. The Council believes that all service users have the right to be heard, understood and respected. It also considers that Council employees have the same rights.

2.3. To provide a service that is accessible to all service users. However, the Council retains the right, where it considers service user actions to be unacceptable, to restrict or change access to its service. The Council will not discriminate on grounds of sex, pregnancy and maternity, marriage and civil partnership, race, religion or belief, disability, sexual orientation, gender reassignment or age. Where challenging or unacceptable behaviour maybe as a result of a person's disability, the Council will make every effort to ensure that services remain accessible to service users while ensure that staff are safe.

2.4. To ensure that other service users and Council employees do not suffer any disadvantage from service users who act in an unacceptable manner.

3. Defining Unacceptable Actions by Service Users and Complainants

3.1. People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a service user contacting the Council or raising a complaint. The Council does not view behaviour as unacceptable just because a claimant is forceful or determined. In fact, the Council accepts that being persistent can be a positive advantage when pursuing an issue or making a complaint. However, the actions of service users who are angry, demanding or persistent may result in unreasonable demands on the Council or unacceptable behaviour towards Council employees. It is these actions that the Council considers unacceptable and aims to manage under this policy. The Council has grouped these actions under three broad headings:

Aggressive or Abusive Behaviour

A. Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether oral or written) that may cause employees to feel afraid, threatened or abused.

B. Examples of behaviours grouped under this heading include threats, physical violence, personal verbal abuse, derogatory remarks and rudeness. The Council also considers that inflammatory statements and unsubstantiated allegations can be abusive behaviour.

C. The Council expects its employees to be treated courteously and with respect. Violence or abuse towards employees is unacceptable. Council employees understand the difference between aggression and anger. For example, anger felt by many service users often involves the subject matter of a complaint. However, it is not acceptable when anger escalates into aggression directed towards Council employees.

D. 'Challenging Behaviour Procedure – Customer Services Area' provides advice on how to avoid the risk of employees being subject to violence from aggressive service users.

Unreasonable Demands

A. Service users may make what the Council considers unreasonable demands through the amount of information they seek, the nature and scale of service they expect or the number of approaches they make. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the service user.

B. Examples of actions grouped under this heading include demanding responses within an unreasonable time-scale, insisting on seeing or speaking to a particular employee, continual phone calls or letters, repeatedly changing the substance of a complaint or raising unrelated concerns.

C. The Council considers these demands as unacceptable and unreasonable if they start to impact substantially on the work of the Council, such as taking up an excessive amount of employee time to the disadvantage of other service users or functions.

Unreasonable Persistence and Vexatious Complaints and Requests

A. The Council recognises that some service users will not or cannot accept that the Council is unable to assist them further or provide a level of service other than that provided already. Service users may persist in disagreeing with the action or decision taken in relation to their complaint or contact the Council persistently about the same issue.

B. Examples of actions grouped under this heading include persistent refusal to accept a decision made by the Council, including in relation to a complaint, persistent refusal to accept explanations relating to what the Council can or cannot do and continuing to pursue the Council regarding a decision that has been made without presenting any new information. The way in which these service users approach the Council may, if treated in isolation, appear to be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.

C. The Council considers the actions of persistent service users to be unacceptable when they take up what the Council regards as being a disproportionate amount of time and resources.

4. Managing Challenging Behaviour

4.1. Some behaviour by service users may be considered challenging and not unacceptable. This behaviour can often be for the reasons set out in paragraph 3.1. The following points are useful to consider when a member of staff is confronted by a service user with challenging behaviour, whether face-to-face or on the telephone. Following this advice can often help prevent challenging behaviour escalating into unacceptable behaviour on the part of the service user and can calm the situation down.

4.2. When a challenging behaviour situation occurs, it is always helpful for staff to try and understand the reasons for the person's apparent frustration. Recognising the person's feelings may help staff to soothe their anger thus preventing the situation from escalating. Careful attention should be paid to the person's reactions, for example, their looks and gestures which may indicate aggression. Particularly telling are clenched fists and poking fingers, banging on the table, staring, changes in the tone of the voice, offensive language and personal insults.

4.3. Staff should try to remain calm by controlling their own feelings in order that they may think clearly and make good decisions. This may be achieved by taking deep breaths, making an asserted effort to relax any parts of the body which have become tense and by speaking slowly and clearly.

4.4. Staff should try to maintain a confident stance since research has shown that confident people are less likely to be attacked. Staff should try, however, not to be overbearing.

4.5. Communication is vital and every effort should be made in order that it is maintained throughout. Staff should be mindful not to rush the person, encouraging them to communicate their point. Audiences should be avoided since many people do not like losing face in front of other people and may become aggressive or violent as a result.

4.6. After the person has become calm, every effort should be made in order to keep control of the situation with understanding and reassurance being given. The content of the person's argument can then be considered; provided that they remain calm and reasonable. Staff should never give the message that being abusive or threatening brings with it success.

4.7. Where it is helpful, mediation can be considered as an option.

4.8. In those circumstances where it is not possible to meet the person's demands, every effort should be made to offer alternatives rather than respond with a blank no. In those circumstances where a no is the only possible response, an explanation should be given and recorded. Staff should avoid the temptation to make promises which, although likely to resolve the immediate situation, are unlikely to be fulfilled. Finally, the discussion should not be prolonged nor should the person be dismissed out of hand.

5. Managing Unacceptable Actions by Service Users

5.1. There are relatively few service users whose actions the Council considers unacceptable. How the Council aims to manage these actions depends on their nature and extent. If it adversely affects the Council's ability to do its work and provide a service to others, it may need to restrict service user contact in order to manage the unacceptable action. The Council aims to do this in a way, wherever possible, that allows a service user to communicate with the Council to get the services they require or to allow a complaint to progress to completion through its Complaints Procedure. The Council may restrict contact in person, by telephone, fax, letter or electronically or by any combination of these. The Council tries to maintain at least one form of contact. In extreme situations, the Council tells the service user in writing that their name is on a 'no personal contact' list. This means that they must restrict contact with the Council to either written communication or through a third party.

5.2. The threat or use of physical violence, verbal abuse or harassment towards Council employees is likely to result in the ending of all direct contact with the service user. Incidents may be reported to the Police (see below). Where staff are in a workplace, a manager can be consulted about the decision whether to contact the Police. However, many staff work in situations and locations where they do not have the direct support of line managers. Such staff will need to and are authorised to make the decision whether or not to contact the Police.

5.3. The Council does not deal with correspondence (letter, fax or electronic) that is abusive to employees or contains allegations that lack substantive evidence. When this happens, the Council tells the service user that it considers their language offensive, unnecessary and unhelpful. The Council will ask them to stop using such language and states that it will not respond to their correspondence if they do not stop. The Council may require future contact to be through a third party.

5.4. Council employees will end face-to-face conversations and telephone calls if the service user's behaviour is considered aggressive, abusive or offensive. The employee has the right to make this decision, tell the caller that the behaviour is unacceptable and end the call if the behaviour does not stop.

5.5. Where a service user repeatedly phones, visits the office, sends irrelevant documents or raises the same issues, the Council may decide to:

- Only take telephone calls from the service user at set times on set days or put an arrangement in place for only one employee to deal with calls or correspondence from the service user in the future.
- Require the service user to make an appointment to see a named employee before visiting the office or that the service user contacts the office in writing only.
- Return any documents to the service user or, in extreme cases, advise the service user that further irrelevant documents will be destroyed without opening.
- Take other action that the Council considers appropriate. The Council will, however, always tell the service user what action it is taking and why. The Council will keep a record of the action taken.

5.6. Where a service user continues to correspond on a wide range of issues, and this action is considered excessive, then the service user is told that only a certain number of

issues will be considered in a given period and asked to limit or focus their requests accordingly.

5.7. With complaints, service user action may be considered unreasonably persistent if all internal review mechanisms have been exhausted and the service user continues to dispute the Council decision relating to their complaint. The service user is told that no future phone calls will be accepted, or interviews granted concerning this complaint. Any future contact by the service user on this issue must be in writing. Future correspondence is read and filed, but only acknowledged or responded to if the service user provides significant new information relating to the complaint.

5.8. Where members of the public act in a way that leads a member of staff to believe that they hold extreme views then staff should consider whether this needs reporting in line with the Council's PREVENT Procedures.

6. After an Aggressive Incident

6.1. Following any incident of aggression or violence, consideration must be given as to whether the incident was sufficiently serious as to merit the involvement of the Police. Where it is considered likely that a criminal offence has occurred, the Police must in all circumstances be contacted immediately and their advice sought. Care should be taken not to disturb any physical evidence or to initiate detailed investigations since this may hamper any future Police enquiry. Staff should wait until the Police arrive and assist them as necessary with their investigation.

6.2. Following the initial visit by the Police, or where the incident is not considered to be sufficiently serious as to warrant involvement by the Police, the incident must be reported by the staff member to their manager / supervisor as soon as is practicable.

6.3. The manager / supervisor must carry out a de-brief with all staff who were involved on the same day which the incident occurred, where practicable.

6.4. The de-brief should take place in a quiet area which is free from interruption and should be conducted in a supportive and blame free environment. A detailed account of the incident should be provided by those who were involved. Attempts should be made to identify those factors, both environmental and interpersonal, which may have contributed towards the incident. The response to the incident should be considered in detail and should identify those elements of the response considered not to need improvement; and those elements of the response which could be improved upon. Finally, staff should be enabled to discuss any feelings which they may have as a result of the incident.

6.5. It is essential that the de-brief is accurately recorded by the manager / supervisor and filed appropriately for future reference.

6.6. In addition to the de-brief, staff must be provided with ongoing support from their manager about challenging behaviour at any time. It should also be recognised that being subjected to an aggressive incident may have an impact on the mental or physical well-being of the individual staff member. In such circumstances specialist counselling may be needed and advice should be sought from Human Resources.

6.7. Following any aggressive incident, the office / team / unit manager will ensure that the current Council and Service accident / incident reporting and investigation procedure is carried out and take whatever remedial action as may be necessary to avoid a repeat of

the incident. The relevant line managers, Head of Service and Executive Director should be briefed.

6.8. The Council has a procedure to 'Flag' users who are either violent or display unacceptable behaviour to staff members. Information on these users will be passed to all Services in order to protect staff who may come into contact with them in the course of their duties. Details of the flagging system can be found in Appendix 1.

6.9. It is important to state that the flag is not a mechanism for attributing blame; it is a process for alerting staff to the possibility of violence, whether such actions are deliberate or take place as a result of a medical condition or as a response to treatment or medication.

6.10. The flag and associated additional information should be available to all Council staff who may have face-to-face contact with a particular individual and may be subject to an increased risk of violence. This is in line with current health and safety guidance. Information-sharing with staff is permissible where the risk justifies it.

7. Deciding to Restrict Service User Contact

7.1. Council employees who directly experience aggressive or abusive behaviour 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.

7.2. With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact with the Council are only taken after careful consideration of the situation by a more senior officer. Wherever possible, the Council gives a service user the opportunity to modify their behaviour or action before a decision is taken. Service users are told in writing 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.

8. Appealing a Decision of Restrict Contact

8.1. A service user can appeal a decision to restrict contact. A senior officer who was not involved in the original decision considers the appeal. They will advise the service user in writing that either the restricted contact arrangements still apply or a different course of action has been agreed.

9. Recording and Reviewing a Decision to Restrict Contact

9.1. The Council records all incidents of unacceptable actions by service users. Where it is decided to restrict service user contact, an entry noting this is made in the relevant file and on appropriate computer records.

9.2. A decision to restrict service user contact may be reconsidered if the service user demonstrates a more acceptable approach. A senior officer reviews the status of all service users with restricted contact arrangements on a regular basis.

10. Policy Availability and Review

10.1. Copies of this policy are available on the Council website, on request and free of charge from the Council Offices, School Place, Kirkwall, Orkney. The Council reviews this policy on a biennial basis to make sure that the aims of the policy are being achieved.

11. Document Control Sheet

Review / Approval History

Date.	Name.	Position.	Version Approved.
1 March 2016.	General Meeting of the Council.	n/a.	Version 1.0.

Change Record Table

Date.	Author.	Version.	Status.	Reason.
20.06.18.	Alan Tait.	1.0.	Considered by CMT.	New Appendix 1.
12.07.18.	Alan Tait.	1.1.	Consider comments from Gavin Mitchell.	Update Appendix 1.

Status Description

Final – The document is complete and is not expected to change significantly. All changes will be listed in the change record table.

Appendix 1: Use of Violence / Unacceptable Behaviour Flags

Employees of the Council should be able to carry out their duties without experiencing fear or threats of violence or unacceptable behaviour from Service users. The Council also has a duty to provide services to individuals, some of whom behave inappropriately, or have a condition which may induce involuntary behaviour of this nature.

Therefore, serious or repeat instances of physical and / or verbal abuse may result in a risk flag being placed against an individual's record in order that such information may be appropriately shared among employees who could come into contact with that individual.

The aim of the risk flag is to help alert Council staff to individuals who pose or could pose a risk of violence, enable them to reduce this risk and, when possible, continue to provide a service to these individuals. The flag should achieve this by:

- Serving as an early warning of a particular individual or situation that represents a risk to them, their colleagues or other Service users enabling Services to review and update risk assessments.
- Providing security warnings and handling advice to Council staff to avoid or minimise the risk.
- Where appropriate, enabling Council staff to seek professional advice on what action should be taken.
- Helping the Council meet its obligations under the Health and Safety at Work etc. Act 1974 and Management of Health and Safety at Work Regulations 1999.
- Helping reduce the number of violent incidents at a local level.
- Assisting in creating a safe and secure environment for staff, Service users and visitors to Orkney Islands Council.
- Enabling the Council to safely provide services to individuals.

Scope

This policy and guidance will apply to all Council employees.

This process does not apply in a school setting where the service user is a pupil, or in a residential care setting where the service user is a resident. Education, Leisure and Housing and Orkney Health and Care are expected to have local control systems in place to manage such situations and to encourage reporting of such incidents. All incidents should be investigated by the Line Manager.

Limited information on relevant markers should be passed on to Contractors who are carrying out works on behalf of the Council in property where relevant Service users may be. Only the minimum amount of information to ensure the safety of contractor staff will be shared with the contractor. For example, 'visit in pairs' or 'no out of hours visits'.

Contractors will be told that the information is confidential and should not be shared with anyone else unless it is to protect the health or safety of individuals. Contractors will be reminded of their legal duty of confidentiality set out in the agreements they have with the Council to provide services.

Process for approving a flag

A risk flag will only be placed on an individual's records where an agreement has been given by the Line Manager and Head of Service. This will serve as a safeguard to ensure that the decision-making process is objective, transparent and fair.

The following risk factors should be considered when determining whether a recommendation should be made that a record should be marked:

- Nature of the incident (i.e. physical or non-physical, use of abusive / insulting language).
- Degree of violence used or threatened by the individual.
- Injuries sustained by the victim.
- The level of risk of violence that the individual poses.
- Whether an urgent response is required to alert staff.
- Impact on staff and others who were victims of or witnessed the incident.
- Impact on the provision of services.
- Likelihood that the incident will be repeated.
- Any time delay since the incident occurred.
- Staff are due to visit a location where the individual may be present in the near future.
- The incident, while not serious itself, is part of an escalating pattern of behaviour.

The recommendation to use a flag should be based on a specific incident(s) and not based on personal opinion or hearsay.

If the service user in question already has been flagged by a separate Service it is still important to follow the flagging procedure as flags from multiple Services may trigger a Flag Management Team.

If the police are called to an incident, the Service should liaise with the investigating officer to ascertain what action they are taking. Waiting to receive relevant information from the police should not delay the decision-making process for a flag. If a recommendation is made to flag a record, this should not prevent or replace any legal action being taken against the individual.

Notification to the individual

In the majority of instances, the individual should be informed in writing as soon as possible following a decision to flag their records.

The Head of Service is responsible for sending a notification letter (see Annex 1 for template letters) to the individual outlining the reasons for the flag. The letter should clearly explain:

- The nature of the incident.
- That their records will show a flag.
- The reasons why the flag is being placed on their records.
- Who the information may be shared with and for what purpose.
- When the flag will be reviewed for removal.
- The process for complaints.

There may be exceptional cases when it is decided that notifying the individual may increase the risk that they pose to staff and that notification is not appropriate. This may include situations where informing the individual may provoke a violent reaction and put staff at further risk. A detailed record of any decision not to notify an individual and the reasons for this course of action must be kept by the Head of Service.

Reviewing flags

Best practice requires that flags are periodically reviewed, to ensure they are up to date and remain relevant. Any updates in relation to risks and handling advice should be included as necessary. Records should not be flagged for longer than necessary and flags should be removed when there is no longer a risk. It is for the Line Managers and Heads of Service who placed the flag to review it.

In some cases, there will already be an agreed review period in place and this process should be followed. Where there is not, this review should normally be carried out monthly and a record of the review should be retained.

When a flag is placed by Customer Services on their spreadsheet, it will contain the following information:

- Name of individual.
- Address of Individual.
- Date of Incident.
- Incident Type.
- Name of Line Manager that placed Flag.
- Review Date.

All flagged records should be considered 'Official Sensitive' and with the appropriate security measures in place as set out in the Council's Protective Marking Scheme.

As part of the decision-making process, those reviewing the flag should consider the original decision on which the flag was based. If the decision is made to retain the flag on the record, a further date for review should be set. This review date should be no more than six months from the original decision.

When a decision is taken that the individual's behaviour gives no further cause for concern and the flag should be removed, the Service is responsible for ensuring that this is completed. Any contractors to whom information on a flag has been passed shall be informed of the removal of the flag.

Checking for warning flags

A list of flagged names and addresses will be produced by Customer Services who should ensure that this list is carefully passed on to the other Services / Units in line with data protection requirements so that they can update their own data management systems. This should be done regularly so that those who are out visiting addresses can check for flags prior to making a visit.

If the address / service user being visited is flagged it is the responsibility of the employee to contact the Line Manager for the Service who placed the flag for further information. The Line Manager for the Service will provide the employee with more detailed information

such as the control measures detailed in the flag and risk assessment held against the case. A risk assessment must be completed prior to the visit occurring so the employee must ensure that they discuss these details with their own Line Manager before any visit is conducted. Copies of this risk assessment should be retained.

Multiple flags

Where an individual has flags placed on them from multiple services then a Flag Management Team (FMT) will be convened. The FMT will be chaired by the Head of Service that put the original flag on. It is recommended that at least the following should attend:

- Administration staff to keep a minute of the meeting.
- Line Managers who have placed flags on the Service User in question.
- Representative of Legal Services.
- A member of the Safety and Contingencies Team.
- Head of IT and Facilities.
- Head of Executive Support.
- Head of Planning and Regulatory Services.
- Police Scotland, if applicable.

The FMT will discuss how the Service User will be dealt with in future, what legal action is open to the Council and how this will be conveyed to the Service User.

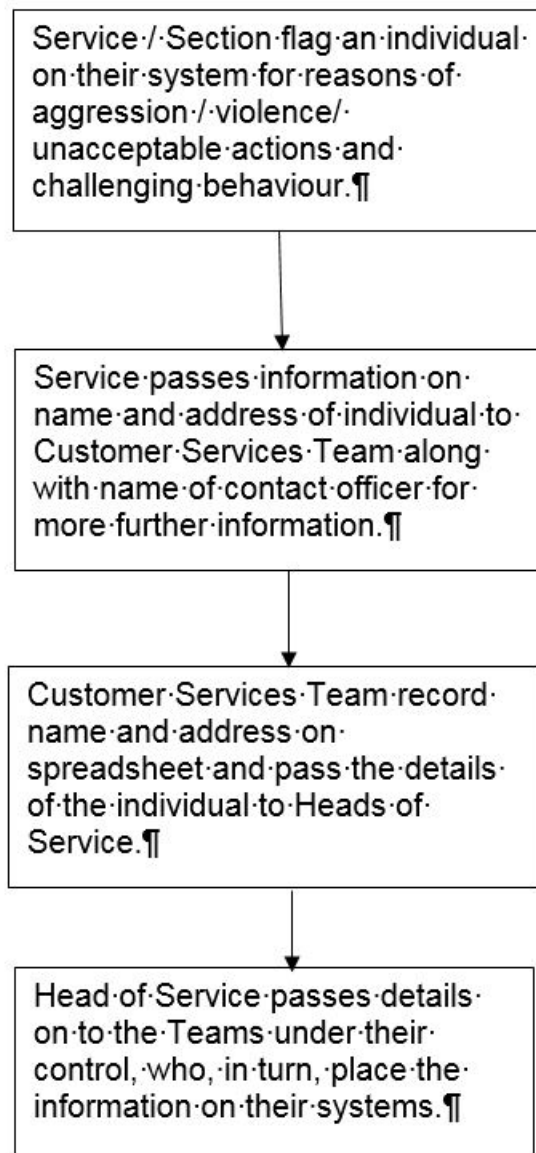
Monitoring and review

Services should monitor the frequency and type of violent and / or aggressive incidents and ensure that appropriate control measures are being implemented.

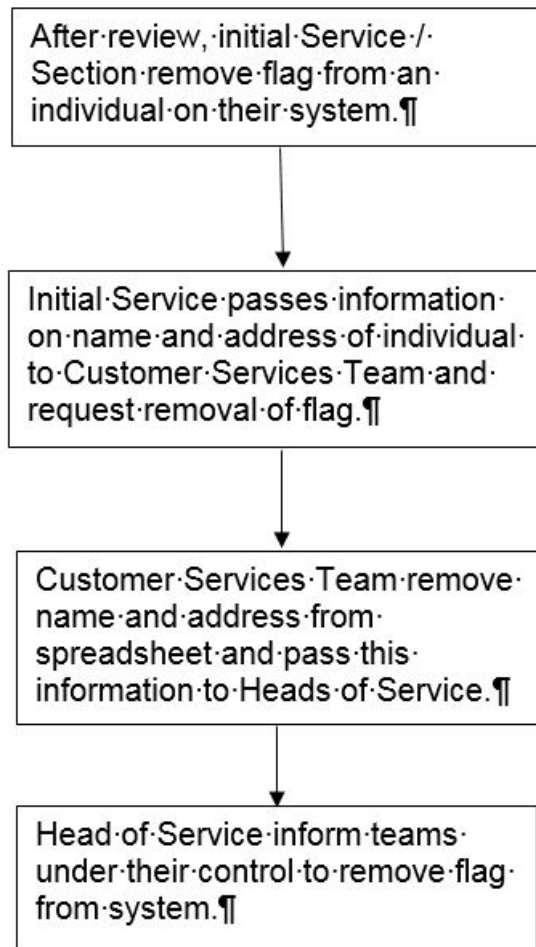
This policy will be monitored by the Safety and Contingencies Team to ensure that Services are meeting the requirements so that a consistent, corporate approach is being followed.

This policy and guidance will be reviewed on a biennial basis to ensure continuing compliance with legislation and best practice.

Flowchart on passing information on 'flagged people'



Flowchart on Removal of Flags



Annex 1: Example Notification Letters for Service Users

Notification of Risk Flag Letter

Dear <<Customer name>>

Notification of Risk Flag being placed on the Orkney Islands Council's System

I am writing to you as Head of << Service Details>>. Part of my role is to protect Council staff from abusive and violent behaviour and I am writing to you in connection with the incident below:

Incident Details

Date of Incident: <<Date of Incident>>

Time of Incident: <<Time of Incident>>

Type of Incident: <<Type of Incident>>

Location of Incident: <<Location of Incident>>

Police Contacted: <<Police Contacted>>

Behaviour such as this is unacceptable and will not be tolerated. Orkney Islands Council is firmly of the view that all those who work in or provide services to the Council have the right to do so without fear of violence, threats or abuse.

All employers have a legal obligation to inform staff of any potential risks to their health and safety. One of the ways this is done is by marking the records of individuals who have in the past behaved in a violent, threatening or abusive manner and therefore may pose a risk of similar behaviour in the future.

A copy of the Council policy on placing risk flags is enclosed/can be obtained from [insert details]

I have carefully considered the reports of the behaviour referred to above and have decided that a risk flag will be placed on your records. This information will be shared with other Council Services and possibly other organisations with whom we jointly provide services (e.g. NHS Highland) for the purpose of their health and safety.

This decision will be reviewed in 6 months' time (insert date if known) and if your behaviour gives no further cause for concern this risk flag will be removed from your records. Any other provider we have shared this information with will be advised of our decision.

If you do not agree with the decision to place a flag on your record, and wish to submit a complaint in relation to this matter you can do so using our online form available at <http://www.orkney.gov.uk/council/c/complaints-procedure.htm>

Yours faithfully

Head of <<Service>>

Retention of Flag Letter

Dear <<Customer Name>>

Notification of risk flag being retained on the Orkney Islands Council System

Further to my letter of (Insert date of letter) informing you that a risk flag had been placed against your record I would like to inform you that the records have been reviewed and the decision has been taken to retain the risk flag. This decision has been taken as a result of:

(Insert reason flag is being retained from Case Update notes)

Behaviour such as this is unacceptable and will not be tolerated. Orkney Islands Council is firmly of the view that all those who work in or provide services to the Council have the right to do so without fear of violence, threats or abuse.

All employers have a legal obligation to inform staff of any potential risks to their health and safety. One of the ways this is done is by flagging the records of individuals who have in the past behaved in a violent, threatening or abusive manner and therefore may pose a risk of similar behaviour in the future. Such a flag may also be placed to warn of risks from those associated with service users (e.g. relatives, friends, animals, etc).

A copy of the Council policy on placing risk flags is enclosed/can be obtained from [insert details]

This decision will be reviewed in 6 months' time (insert date if known) and if your behaviour gives no further cause for concern this risk flag will be removed from your records. Any other provider we have shared this information with will be advised of our decision.

If you do not agree with the decision to place a flag on your record, and wish to submit a complaint in relation to this matter you can do so using our online form available at <http://www.orkney.gov.uk/council/c/complaints-procedure.htm>

Yours (sincerely/faithfully)

Head of <Service >

▲ Removal of Flag Letter

Dear <Customer Name>

Notification of risk flag being removed from the Orkney Islands Council system

Further to my letter of (Inset date of letter) informing you that a risk flag had been placed against your record, I would like to inform you that the records have been reviewed and the flag has now been removed.

Yours (sincerely/faithfully)

Head of <Service>