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**POLICE  
SCOTLAND**

Keeping people safe

**Unacceptable, Persistent or Unreasonable  
Actions by Complainers**

**Standard Operating Procedure**

**Notice:**

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<b>Owning Department</b>	Professional Standards
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2.00	Minor amendment to Appendix 'M'	28/11/2013
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4.00	Under the direction of DCC Johnny Gywnne the amendments noted in this SOP are in relation to grammatical changes only from the wording 'police office' to 'police station'.	17/07/2017

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## **1. Purpose**

- 1.1 This Standard Operating Procedure (SOP) supports the Police Service of Scotland, hereafter referred to as Police Scotland, Policy for:
  - Professional Standards
- 1.2 This SOP provides guidance to staff when dealing with unreasonable or persistent complainers.
- 1.3 This document has been adapted from guidance provided to public service providers by the Scottish Public Services Ombudsman (SPSO) and articulates the Police Scotland approach to the rare instances where persons who complain about the police do so in such circumstances that their actions or behaviour do not justify expending further resources or are otherwise unreasonable.
- 1.4 Such instances are very rare but typically involve persons who refuse to accept 'closure' and constantly write reiterating the same complaint thus impacting on police time and effort. Consequentially public monies are unnecessarily and/or disproportionately spent on such investigations. The term complainer includes anyone acting on behalf of a complainer or who contacts Police Scotland in connection with a complaint.

## **2. Process**

- 2.1 To deal and respond fairly, honestly, consistently and appropriately with all complainers, including those whose actions Police Scotland consider unacceptable. All complainers have the right to be heard, understood and respected. All complainers should receive an appropriate response in line with our obligations to comply with Article 10 of the European Convention on Human Rights (ECHR) - freedom of expression.
- 2.2 To advise all complainers, both at the point of initial contact and throughout their subsequent dealings with Police Scotland, of what Police Scotland can or cannot do in relation to their complaint. In doing so, Police Scotland aim to be open and not raise hopes or expectations that Police Scotland cannot meet, or that would not lead to a proportionate outcome.
- 2.3 To provide a service that is accessible to all complainers. However Police Scotland reserve the right, where complainer's actions have become unacceptable, to restrict or manage access to the service.
- 2.4 To ensure that other complainers and staff do not suffer any disadvantage from those complainers who act in an unacceptable manner.
- 2.5 To have a stated Police Scotland position, that explains how and why Police Scotland will disengage with complainers, who act in an unreasonable or unacceptable manner.

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- 2.6 This procedure applies to all police officers and employees of Police Scotland but has particular significance to staff working within the Professional Standards Department (PSD) who manage unreasonable or persistent complainers.
- 2.7 This procedure applies on all occasions when a complainer's actions and persistence are deemed to be 'unreasonable'.

### **3. Legal References**

- 3.1 This SOP adheres to the provisions of the legislation that governs complaints about the police in Scotland as regulated by the Police, Public Order and Criminal Justice (Scotland) Act, 2006.

### **4. Complainer Conduct**

#### **4.1 Defining Unacceptable Actions by Complainers**

- 4.1.1 People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading to a complaint being received by Police Scotland, however, the actions of complainers who are 'unreasonable' and/or have unrealistic expectations places excessive demands on Police Scotland. It is only those actions that Police Scotland consider to be unreasonable or unacceptable that Police Scotland aim to manage under this procedure. For ease of reference these unreasonable actions are grouped under three broad headings:

#### **4.2 Aggressive or Abusive Behaviour**

- 4.2.1 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 staff to feel afraid, threatened, abused or adversely affects their dignity in the workplace. At the same time Police Scotland accept the requirements to treat all complainers with dignity and respect.
- 4.2.2 Examples of behaviours grouped under this heading include threats, physical violence, personal verbal abuse, derogatory remarks and calculated rudeness. Police Scotland consider that inflammatory statements and malicious allegations can be abusive behaviour.
- 4.2.3 Officers and staff are entitled to be treated courteously and with respect. Violence or abuse towards staff is unacceptable. The anger felt by many complainers involves the subject matter of their complaint, however, it is not acceptable when anger escalates into aggression directed towards any member of Police Scotland.

#### **4.3 Unreasonable Demands**

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- 4.3.1 Complainers may make what is considered to be / are unreasonable demands on Police Scotland 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 gravity of the issues raised by the complainer.
- 4.3.2 Examples of actions grouped under this heading include demanding responses within an unreasonable time-scale, insisting on seeing or speaking to a particular member of staff, excessively frequent phone calls or letters, repeatedly calling at offices seeking personal contact, repeatedly changing the substance of the complaint or raising unrelated concerns with the intention of prolonging the investigation or diverting enquiries.
- 4.3.3 Police Scotland consider these demands as unacceptable and unreasonable if they:
- Unreasonably impact on the work of the PSD/Police Scotland or other Local Police Command / Departmental resources,
  - Take up an excessive and disproportionate amount of staff time,
  - Disadvantage other complainers or departmental functions,
  - Are judged as intended to disrupt, and
  - Deliberately exaggerate the impact of the conduct complained of.
- 4.3.4 It is acknowledged that some complaints will require substantial investigation and, in such cases, resources invested are entirely necessary and proportionate.

### **4.4 Unreasonable Persistence**

- 4.4.1 Police Scotland recognise that some complainers will not or cannot accept that Police Scotland is unable to assist them further or provide a level of service other than that provided already. Complainers may persist in disagreeing with the action or decision taken in relation to their complaint or contact the office persistently about the same issue. The final letter to a complainer will include a signpost to the Police Investigation and Review Commissioner (PIRC) (Formerly known as the Police Complaints Commissioner for Scotland - PCCS). It is recognised that some complainers may have already sought a complaint handling review from the PIRC and received a response but continue to pursue the matter with Police Scotland.
- 4.4.2 Examples of actions grouped under this heading include:
- Persistent refusal to accept a decision made in relation to a complaint,
  - Persistent refusal to accept explanations relating to what Police Scotland can or cannot do,

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- Continuing to pursue a complaint without presenting any new or relevant information,
  - Providing fictitious or manufactured evidence to pursue,
  - Manufacturing complaints against members of Police Scotland who have corresponded with the complainer when the complainer disagrees with an outcome,
  - Endeavouring to pursue a complaint by multiple approaches to different functional areas of Police Scotland.
- 4.4.3 The decision of these complainers to approach Police Scotland may be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.
- 4.4.4 Police Scotland consider the actions of persistent complainers to be unacceptable when they take up what Police Scotland regards as being a disproportionate amount of time and resources.

## **5. Managing Unacceptable Conduct by Complainers**

- 5.1 There are relatively few complainers whose conduct Police Scotland consider unacceptable. How Police Scotland aim to manage this conduct depends on its nature and extent. If it adversely affects Police Scotland ability to do their work and provide a service to others, Police Scotland may need to restrict complainer contact in order to manage the unacceptable conduct.
- 5.2 Police Scotland aim to do this in a way, wherever possible, that allows a complaint to progress to completion through our complaints process. Police Scotland may restrict contact in person, by telephone, fax, letter or electronically or by any combination of these. Police Scotland will try to maintain at least one form of contact in these circumstances. In extreme cases and where it is appropriate, Police Scotland will advise the complainer in writing that their name is on a 'no personal contact' list. This means that they must restrict contact with the organisation in relation to any complaint matter to either written communication or through a third party. This will not impact upon their right to contact the police in an emergency situation or for any other policing purpose. It is acknowledged that any person, regardless of their previous history of making unfounded complaints may make entirely reasonable complaints at other times.
- 5.3 The threat or use of physical violence, verbal abuse or harassment towards any member of Police Scotland during the course of a complaint investigation, is likely to result in the ending of all direct contact with the complainer and may lead to criminal proceedings.
- 5.4 Police Scotland do not accept correspondence (letter, fax or electronic) that is abusive to staff. When this happens Police Scotland will tell the complainer that they will not respond to their correspondence. If they do not stop, the

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complainer will be advised that Police Scotland may require future contact to be through a third party.

- 5.5 Staff may end telephone calls if the caller becomes aggressive, abusive or offensive. The staff member taking the call 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. Staff may decide to cause a telephone call to be recorded or instruct the caller to telephone via the Communications/Control Centre. The caller will be notified that their call may be recorded.
- 5.6 Where a complainer repeatedly phones, visits a police station, sends irrelevant documents or continually raises the same issues, Police Scotland may decide to:
- Only take telephone calls from the complainer at set times on set days and/or appoint a single point of contact (SPOC) to deal with calls or correspondence from the complainer in the future;
  - Require the complainer to make an appointment to see the appointed SPOC before visiting the office or restrict contact to written correspondence only;
  - Return 'irrelevant' documents to the complainer;
  - Take other action that Police Scotland consider appropriate. Police Scotland will always tell the complainer what action is being undertaken.
- 5.7 Where a complainer continues to correspond on a wide range of issues, and this conduct is considered unreasonably excessive, then the complainer may be told that only a certain number of issues will be considered in a given period and asked to limit, or focus their requests accordingly. Police Scotland response will be proportionate to the nature of the given allegations.
- 5.8 Complainer action may be considered unreasonably persistent if all internal review mechanisms have been exhausted and the complainer continues to persistently dispute the decision relating to their complaint. The complainer may be told that no future phone calls will be accepted or interviews granted concerning this complaint. Any future contact by the complainer on this issue must be in writing. Future correspondence may be read and filed, but only subject to further enquiry or review if the complainer provides significant new information relating to the complaint.
- 5.9 The complainer will receive a written acknowledgement that their correspondence has been read, assessed and placed in their file. Local Police Commanders or Heads of Department who propose this course of action to be taken locally should first consult with the Head of PSD or Territorial Superintendent PSD and the rationale leading to the decision being made is clearly recorded. Appendix 'B' provides a template for documenting considerations and actions together with a sample form.



## **6. Deciding to Restrict Complainer Contact**

- 6.1 Staff who directly experience aggressive or abusive behaviour from a complainer have the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this procedure. Where such circumstances arise, the staff member should record the issues faced and actions taken by them. The circumstances should then be intimated to the appropriate supervisor.
- 6.2 With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact in relation to any unacceptable, unreasonable or persistent complainer are only taken after careful consideration of the situation by the Head of PSD or Territorial Superintendent PSD.
- 6.3 The Head of PSD will make the final decision regarding any restriction of contact and may elect to raise potential restrictions with a Lay Advisor, if considered to be appropriate.
- 6.4 Wherever possible, Police Scotland will give a complainer the opportunity to modify their behaviour or action before a decision is taken. Complainers will be told in writing why a decision has been made to restrict future contact and what the restricted contact arrangements are. This will not exclude or restrict contact with the police for matters other than complaints.

## **7. Dissatisfaction about a Decision to Restrict Contact**

- 7.1 If a complainer is dissatisfied with the final response to their complaint they may apply to the PIRC who may examine the manner in which the complaint was dealt with. As part of this, the PIRC may consider whether the decision to restrict contact with the complainer was reasonable.
- 7.2 In the event that the PIRC find in favour of the complainer, Police Scotland will endeavour to maintain contact with the complainer in line with the findings of the PIRC.
- 7.3 Subsequent correspondence from complainers once restriction of contact has been notified should be carefully considered to ensure that no new circumstances are being reported which should otherwise be subject to separate investigation or significantly affect any decision on the matter complained of.

## **8. Recording and Reviewing a Decision to Restrict Contact**

- 8.1 Police Scotland will record all incidents of unacceptable actions by complainers. Where it is decided to restrict complainer contact, an entry will be made in the relevant file on the CENTURION database setting out the

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decision to restrict contact and revised contact arrangements. The Professional Standards Department will maintain a list of unacceptable complainers which will be provided to designated points of complainer contact within Police Scotland, to ensure consistency of approach.

- 8.2 A decision to restrict complainer contact may be reconsidered if the complainer is prepared to appropriately engage with Police Scotland procedure and protocols. The Head of PSD will review the status of all complainers with restricted contact arrangements on a regular basis should that person continue to correspond with Police Scotland.
- 8.3 Any complaints received by or intimated to PSD will be checked for any restrictions under this procedure. Where this is evident, the relevant investigating officer will be informed.

## **9. Policy Approval and Review**

- 9.1 The contents of this document have been adapted from guidance provided by the Office of the Scottish Public Services Ombudsman and is entirely in line with guidance offered to all Scottish Public Authorities on such matters. The terms of this procedure also meet with the provisions of the Police, Public Order and Criminal Justice (Scotland) Act, 2006, with particular reference to the ability of the police to disengage with persistent or unreasonable complainers and to refer such persons to the PIRC.

**List of Associated Legislation**

- European Convention on Human Rights
- Police, Public Order and Criminal Justice (Scotland) Act, 2006

**Persistent, Unreasonable or Unacceptable Actions By Complainers  
Decision Framework**

**Complainer:**

**File Reference Number:**

<b>Values</b>	<b>Integrity Fairness Respect</b>
<b>Information</b>	<p><b>What is the background and behaviour?</b></p> <p><b>Example</b> The complainer first started to correspond with the Police Service of Scotland (Police Scotland) in (date) however the real origin of his complaint can be traced back to (date) when he was found to be in Contempt of Court regarding Road Traffic Offences.</p> <p>The complainer tends to go through phases when corresponding with Police Scotland, however, over the past (no of months/years) his complaints have become unreasonable and vexatious in their nature.</p> <p>In summary, since (day, month, year) Police Scotland Professional Standards Department have received (number) pieces of written correspondence from the complainer, (number) of these were received in the last (months/years)</p> <p>Often one piece of correspondence contains multiple allegations of alleged criminality and corruption.</p> <p>Various members of staff have attempted to deal with the many issues raised by the complainer, but he seems unable to accept the responses given, indeed these responses often result in additional complaints being made. Unfortunately the time spent addressing these 'new' complaints is greatly disproportionate to the actual issues being complained about.</p> <p>These statistics do not, however reflect the true level of contact Police Scotland staff have had with the</p>

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	<p>complainer through the very many telephone calls and personal visits made to him to establish the extent and validity of his complaints.</p> <p>The complainer has been advised, in writing, on at least (number) of occasions that as a result of the high volume of allegations made by him, relating to the same original complaint, that we will simply acknowledge his non-criminality correspondence unless there is new evidence available.</p> <p>Unfortunately, what this appears to have resulted in is a more tactical approach by the complainer insomuch as he now ensures his correspondence includes the word 'criminality' or 'corruption in a public office'. As a result he has an unrealistic expectation that these 'crimes' are fully investigated by the 'Specialist Crime Directorate' (SCD).</p> <p>The vast majority of the complainers 'criminal' allegations and complaints are not against Police Scotland but relate to actions and findings of various Sheriffs, Sheriff Clerks and Warrants issued through Sheriff Courts. Despite our best intentions in dealing with these matters and writing to the complainer advising him that his complaints (where appropriate) relate to the Scottish Court Service he is now starting to complain about other members of Police Officers and Police Staff, his accusations surrounding his belief that we are not treating his complaint seriously enough and therefore not investigating them to his satisfaction.</p>
<b>Assessment</b>	<p><b>Over the last 3, 6, 9 or 12 months, how can the behaviour be classed as;</b></p> <ul style="list-style-type: none"><li>• <b>Aggressive or abusive</b></li><li>• <b>Making unreasonable demands</b></li><li>• <b>Being unreasonably persistent</b></li></ul> <p><b>Examples</b></p> <ol style="list-style-type: none"><li>1. There has been a particularly high level of demand from the complainer as detailed above</li><li>2. Of late there have been a number of telephone calls to a named Police Officer/Police Staff member</li></ol>

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	<ol style="list-style-type: none"><li>3. There are now indications that the complainer is complaining about named Police Officer/Police Staff member and these complaints are unfounded</li><li>4. The issues are not in the main about Police Scotland, but about other corporate bodies</li><li>5. The complainer has already been provided with full responses</li><li>6. The issues take up an excessive and disproportionate amount of staff time</li><li>7. The complainer persistently refuses to accept any decision made in relation to his complaints</li><li>8. The complainer persistently refuses to accept explanations relating to what the Police Scotland can and cannot do</li></ol>
<b>Powers and Policy</b>	<b>Complaints and Discipline - Unacceptable, Persistent or Unreasonable Actions by Complainers, Standard Operating Procedures, Version 3.00</b>
<b>Options</b>	<p><b>What options are available to resolve the situation with the least risk of harm?</b></p> <ul style="list-style-type: none"><li>• Do nothing and continue as things are</li><li>• Decide that the complainer is being persistent and unreasonable</li><li>• Restrict written and telephone contact with the complainer</li></ul>
<b>Actions</b>	<p><b>Decision –</b> There is a sufficiency of information to support that the complainer is being persistent and unreasonable.</p> <ul style="list-style-type: none"><li>• Restrict future contact with the complainer in relation to telephoning and writing to PSD about matters that have already been dealt with.</li></ul>
<b>Actions Approved by (date)</b>	