Unacceptable Behaviour Policy
1. **Introduction**

1.1 Eden District Council delivers a wide range of public services. The nature of the services that we provide means that we are in daily contact with members of the public. The Council will encourage and welcome all kinds of feedback about our services, but recognises that a very small number of people can act or behave in a way that can be unacceptable for employees.

1.2 This policy sets out the Council’s approach to dealing with unacceptable behaviour by service users and members of the public and it is anticipated its application will be minimal. However, the Council has a duty to safeguard its employees from unacceptable behaviour which may otherwise cause it to breach health and safety legislation unless it take appropriate action.

2. **Policy Aims**

2.1 Eden District Council aims to:

2.1.1 Deal fairly, respectfully and consistently with all members of the public that contact the Council, in accordance with the standards set out in our Customer Care Charter. This includes those whose actions are considered to be unacceptable. People have a right have their service requests considered and to be treated with respect. Employees of the Council have that same right.

2.1.2 Provide accessible services to members of the public. The Council will seek to manage an individual’s contact with a service, where it is considered that a person’s behaviour or actions are unacceptable.

2.1.3 Empower employees to use this policy to deal with any unacceptable behaviour by members of the public (the fair treatment at work policy deals with unacceptable behaviour from colleagues) and ensure that those who act in an unacceptable manner do not disadvantage themselves, and other members of the public.

2.1.4 Ensure that employees enjoy the same level of security whether their job involves them either working as a lone worker, in an office or an external environment.

3. **Definitions**

3.1 **Unacceptable Behaviour**

3.1.1 The Council understands that people can act out of character in times of stress or when they are upset or unhappy with a situation. It is important that the Council still tries to offer the best service it can, even in difficult circumstances, as it is likely that the person will have an ongoing relationship with the Council due to the services it provides. However, sometimes when people are angry, demanding or persistent it can result in unreasonable demands on a service or unacceptable behaviour towards employees. This policy is designed to manage these types of situations. The Council has identified types of unacceptable behaviour and the indicators or triggers which may lead to the policy being invoked.
3.2 **Aggressive or Abusive Behaviour**

3.2.1 This is the use of language (oral or written) or behaviour that may cause employees to feel afraid, threatened, abused or the subject of harassment. Examples include threats, physical aggression, verbal abuse, threats of personal legal action being taken, rudeness and the use of insulting and offensive remarks. Inflammatory statements and unsubstantiated allegations can also be considered to be abusive behaviour.

3.2.2 The Council aims to treat people with respect and will expect its employees to be treated in the same way. It is understood that people can often be angry or upset due to a particular situation or circumstances, but it is unacceptable for this to escalate into threats of action, violence or abuse towards employees.

3.2.3 The Council has a zero tolerance policy with regards to racist, sexist, homophobic or other prejudicial behaviour directed towards any person member of staff or contractors.

3.3 **Unreasonable Persistence and Demands**

3.3.1 The Council recognises that there may be a small minority of people who will not, or cannot, accept a decision taken, or an explanation/information given by the Council. In some cases, some people will not accept that the Council may be unable to provide a level of service. Some people may persistently complain or continually contact the Council about a particular issue.

3.3.2 Examples of this type of behaviour include a persistent refusal to accept a decision or explanation, a repeated refusal to follow an appropriate course of action (e.g., the feedback procedure or a particular appeals procedure) and repeated contact with a service or particular employee or group of employees (by either telephone, email, letter or personal visits) about the same issue without presenting new information.

3.3.3 The Council considers these actions may be unacceptable particularly where they take up a disproportionate amount of time and resources, which could be used for the benefit of delivering services generally and to other members of the public.

3.3.4 The indicators or triggers which may lead to the policy being invoked are set out in Appendix 1.

4. **Managing Unacceptable Behaviour**

4.1 A person should always be given an opportunity to rectify his or her behaviour and in the first instance, employees should explain that they find someone’s behaviour or language unacceptable and allow the person a chance to remedy, moderate or change the behaviour.

4.2 The Council recognises that a person’s actions may be affected by disability, including mental health issues, substance misuse or other factors. The Council will take all of these factors and any other relevant matters into account when implementing this policy.

4.3 Employees should be aware of and put into practice any service specific guidelines/policies on managing unacceptable behaviour.
4.5 If the behaviour continues, employees are able and empowered to:

- End telephone calls if the caller is considered aggressive, abusive or offensive. Employees should clearly explain why they are ending the call.
- Report the threat or use of physical violence, verbal abuse/harassment or persistent correspondence to their line manager. They may then consult the Chief Officer to decide whether the Police need to be contacted or to consider how to manage contact with the person.
- Refuse to meet with someone/take a telephone call if they have directly experienced aggressive or abusive behaviour from that person, or feel bullied or harassed by the oral or written communications.
- Ask the person to leave the premises.
- Make arrangements to be accompanied by a colleague on a home visit.

4.6 If a person has exhausted all internal review mechanisms or exhibits aggressive, abusive or persistent behaviour then it may be appropriate to manage their contact with the Council. Deciding to manage a person’s access to a Council service is a difficult and serious step to take. Any decision should always be appropriate to the circumstances and approved by the relevant Director. However, the Council has an overriding duty of care to its employees for them to work in a safe environment.

4.7 If the disruptive behaviour continues the Manager will report the matter to the Director of the relevant service area. The Director will consider and assess all evidence relating to the issue including that presented by the Section Head. If appropriate the Director will write to the complainant identifying his/her findings and the reasons for them. The Director may advise them that the way in which they will be allowed to contact the Council in future will be restricted. If the disruptive behaviour falls across various departments, any Director may write the letter to cover all aspects of disruption. The letter will identify the restrictions.

4.7.1 The Director will inform the complainant in writing of what procedures, or restrictions have been put in place and for what period.

4.7.2 Any restriction that is imposed on the complainant’s contact with the Council will be appropriate and proportionate and the complainant will be advised of the period of time the restriction will be in place.

4.7.3 Restrictions will be tailored to deal with the individual circumstances of the complainant. Where a complainant has a disability, the restrictions applied will be mindful of the responsibility of the Council to make reasonable adjustments to meet a disabled person’s needs. The following lists examples of possible restrictions, although the list is not exhaustive:

- Restricting telephone calls to specified days/times/duration.
- Requiring any personal contact to take place in the presence of an appropriate witness.
- Requiring contact to take place with one named member of staff only.
- Requiring contact to take place in a specified process or manner, for example, only by telephone, only by email, or only by letter.
- Informing the complainant that the Council will not reply to or acknowledge any further contact from them on the specific topic (in this case, a designated member of staff should be identified who will read future correspondence).
- Restricting the complainant from making contact by telephone except through a third party, for example, a solicitor, a councillor or a friend acting on their behalf.
- Restricting the complainant from sending emails to an individual and/or all council officers and insisting they only correspond by letter or in an identified way.
- Restricting the complainant from using certain council services, for example leisure centres or Council owned parks.
- Restricting the complainant from entering any Council building except by appointment.

4.8 When the decision has been taken to apply this policy to a complainant, the Director will write to the complainant (and/or as appropriate) to explain:

- why the decision has been taken;
- what action is being taken;
- the duration of that action; and
- the review process such as the ability of the complainant to contact the Local Government Ombudsman about the fact that their behaviour has been deemed to be unacceptable by the Council.

4.9 The Director will enclose a copy of this policy with the letter to the complainant.

4.10 Staff will be advised on the restrictions that have been made. Advice will also be given on how to handle the customer when they make contact with the Council and this may be through the use of a standardised email or a standardised response to telephone calls.

4.11 Where a complainant continues to behave in a way which is unacceptable, the Director or Chief Executive may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

4.12 Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff the Council will consider other options, for example reporting the matter to the police or taking legal action. In such cases the Council may not give the complainant prior warning of the action to be taken.

4.13 An official record should be kept of any decision to manage contact. A full written explanation of the action being taken, why it is being taken and how long it will last for, as well as a copy of this policy should be given to the person concerned.
4.14 Managing contact could include:

- Requesting and requiring that the person only contacts the Council in writing.
- Any other action that is considered to be reasonable and appropriate.

5. **Appealing and Reviewing a Decision to Manage Contact**

5.1 It is important that a person has an opportunity to appeal a decision to manage contact. Any appeal should be made in writing to the Chief Executive. The appeal should be made within ten working days of notification of the decision to manage contact. The Chief Executive will consider the appeal and advise the person in writing of the decision that is whether the managed contact arrangements still apply or whether a different course of action has been agreed.

5.2 A decision to manage contact may be reconsidered if the person demonstrates a more acceptable approach or if the circumstances that led to the original decision have changed.

5.3 Managed contact arrangements should be reviewed regularly to check that they are still appropriate.

5.4 Review

5.4.1 The status of a complainant whose behaviour has been judged to be unacceptable will be reviewed by the Director of the relevant service area at a frequency deemed reasonable in each circumstance and during which the restrictions are to apply.

5.4.2 The complainant will be informed of the result of any review if the decision to apply this policy to them has been changed, affected or extended.

6. **New Complaints from complainants whose behaviour has been deemed to be unacceptable**

6.1 New complaints or service requests from people who have been or are the subject of restrictions under this policy will be treated on their merits. The Director of the relevant service area, usually with information from the appropriate Section Head, will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. The Council does not support a ‘blanket policy’ of ignoring genuine service requests or complaints where they are founded.

6.2 The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on our contact with him or her, will be recorded and notified to those who need to know.

7. **Referring unreasonably persistent or vexatious complainants to the Local Government Ombudsmen**

7.1 In some cases, relations between councils and unreasonably persistent or vexatious complainants break down completely while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there may be little purpose in following all the stages of the formal complaints procedure. Where this occurs the Ombudsman may be prepared to consider a complaint before the procedure has run its course.
8. **Record Keeping**

8.1 Appropriate records will be retained by the Council. The details of the case, the action that has been taken will be recorded on the appropriate systems. The Manager will also inform staff in all appropriate departments of:

- The name and address of each customer whose behaviour has deemed to be unacceptable;
- When the restriction(s) came into force and ends;
- What nature of the restriction(s); and
- When the customer was advised of the restriction(s).

9. **The Freedom of Information Act (FoIA)**

9.1 Under Section 14(1) of the Act, public authorities do not have comply with ‘vexatious’ requests. The Information Commissioner’s Office has issued guidance on dealing with vexatious requests, ‘Dealing with Vexatious Requests (Section 14) 2014. The Council will use this guidance in making a decision about whether a request is vexatious.

9.2 The key question in determining if a request is ‘vexatious’ in terms of the FoIA is whether it is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

9.3 The Council’s policy is to consider the use of Section 14(1) only in a case where the request is disproportionate or unjustified and the key question is satisfied.

9.4 The Council recognises that it is the nature of the request that is being assessed, not the individual who submits it. There may be the situation that the requester has been judged to behave unacceptably, but his/her request under FoIA may be proportionate and justified.

9.5 Similarly the Council will not refuse a new request under FoIA solely on the basis that it has classified previous requests from the same individual as vexatious. The indicators or triggers listed in Appendix 1 and the ICO guidance will be considered in determining if a request is vexatious.

9.6 Refusing a Request

If a refusal notice relying on Section 14(1) is issued, the Council will include details of the internal complaint mechanism and identify the reasons for the decision in the refusal notice.

10. **Reporting Incidents**

10.1 All incidents should be reported on the Council’s Health and Safety Management System to ensure that where necessary, appropriate controls are put in place to prevent a repetition.

10.2 In the event of bodily harm being threatened, or occasioned consideration shall be given to reporting the incident to the police.

11. **Counselling and Other Support Services**

11.1 Support services are available for employees within the Council. Please refer to the Human Resources Section or the personnel policies for further details.
Assistance may be available through a trade union or work colleagues. Counselling is available through the Council.

12. **Policy Monitoring and Review**

12.1 Copies of this policy are available on request and can be found on the website.

12.2 This policy is reviewed on a regular basis to make sure that the aims of the policy are being achieved and that it is being applied in an appropriate and proportionate manner.

12.3 The Council will develop and use systems and processes for sharing information with other relevant agencies and bodies.

12.4 Where there are specific hazards identified it is recommended that a risk assessment is completed and this is used to identify the appropriate control measures for those hazards.

13. **Acknowledgement**

13.1 This policy has been developed using the principles set out in:

- the Ombudsman's guidance note on the management of unreasonable complainant behaviour;
- the Information Commissioner's guidance on vexatious requests.

**Date of Approval:** May 2015

**Date of Next Review:** Interim Review by September 2015
Appendix 1

Indicators (not listed in any order of importance)

Abusive or Aggressive Language
The tone or language of the customer’s correspondence goes beyond the level of criticism that a public authority or its employees should reasonably expect to receive. Harassment, verbal abuse or intimidation by the use of foul, inappropriate, offensive or racist language will not be tolerated.

Personal Grudges
For whatever reason, the customer is targeting their correspondence towards a particular employee or office holder against whom they have some personal enmity. Making groundless complaints about staff dealing with their complaint and seeking to have the officer replaced or dismissed.

Unreasonable Persistence
The customer is attempting to reopen an issue which has already been comprehensively addressed by the public authority or otherwise subjected to some form of independent scrutiny.

Unfounded Accusations
The request makes completely unsubstantiated accusations against the public authority or specific employees.

Intransigence
The requested takes an unreasonably entrenched position, rejecting attempts to assist and advise and shows no willingness to engage with the authority.

Frequent or overlapping requests
The customer submits frequent correspondence about the same issue or sends in new requests before the public authority has had an opportunity to address their earlier enquiries.

Deliberate intention to cause annoyance
The customer has explicitly stated that it is their intention to cause disruption to the authority, or is a member of a campaign group whose stated aim is to disrupt the authority.

Scattergun Approach
The complaint appears to be part of a completely random approach, lacks any clear focus or seems to have been solely designed for the purpose of ‘fishing’ for information without any idea of what might be revealed. This includes contacting several officers about the same issue, despite being given a single case officer or pursuing parallel complaints on the same issue with various organisations.

Futile Requests
The issue at hand individually affects the customer and has already been conclusively resolved by the authority or subjected to some form of independent investigation.
Further indicators that relate to Requests for information under the Freedom of Information Act: Disproportionate effort

The matter being pursued by the requester is relatively trivial and the authority would have to expend a disproportionate amount of resources in order to meet their request.

No obvious intent to obtain information

The requester is abusing their rights of access to information by using the legislation to vent their anger at a particular decision, or to harass and annoy the authority, for example, by requesting information which the authority knows them to possess already.

Being an unreasonable Burden on the Authority and making Excessive Demands

The amount of officer time to handle requests is grossly disproportionate to service delivery overall.

Frivolous Requests

The subject matter is inane or extremely trivial and the request appears to lack any serious purpose. The request appears to be made for the purpose of amusement.

Refusing to Co-operate

The complainant refuses to engage in seeking solutions and remedies to the problem.

The list is not exhaustive, nor does one single feature on its own necessarily mean that the person will be considered as behaving unreasonably.