

Unacceptable Actions Policy

Introduction

HMIE is committed to ensuring that we listen to the views of all individuals and organisations in the education system and the wider community. On occasion, we may experience interactions with others that are unacceptable. This policy sets out how HMIE will handle any unacceptable behaviours or actions directed towards our staff.

Policy aims

Through this policy we aim to:

- make it clear to everyone what HMIE can and cannot do to meet their concerns and expectations,
- be open and not raise expectations that we cannot meet,
- ensure that HMIE staff and other people who engage with HMIE do not suffer disadvantage as a result of the unacceptable behaviour of others,
- deal fairly, honestly, consistently, and appropriately with all correspondents and complainants, even those whose behaviour or actions we consider unacceptable,
- provide a service that is accessible to all.

Defining unacceptable actions

HMIE understands that people may act out of character in times of trouble or distress. Often they have experienced upsetting or distressing circumstances leading up to a concern or complaint being raised with us. We do not view behaviour as unacceptable simply because a correspondent or complainant is forceful or determined. However, we consider actions that result in unreasonable demands on our business, or unreasonable behaviour towards our members or staff, as unacceptable. We have grouped these actions under the following three broad headings.

Aggressive or abusive behaviour

We understand that people can feel passionate about the issues they discuss with us, and sometimes hurt, frustrated or angry. If those feelings escalate into aggression towards our members or staff, we consider that unacceptable. Violence towards or abuse of our members or staff will never be tolerated.

Violence and aggression are not restricted to acts which cause or threaten physical harm. They also include behaviour or language (whether oral or written) that may cause members or staff to feel afraid, threatened or abused. Examples of such behaviour include swearing, threats, personal verbal abuse, derogatory remarks and rudeness. Inflammatory statements and unsubstantiated allegations can also be abusive behaviour. Statements do not need to be made directly to HMIE staff or expressly address or name them to be abusive or threatening. Even statements made outside the work environment, or directed towards friends or family of HMIE staff, may constitute unacceptable actions in the terms of this policy, on which HMIE will act. It is the overall context of the behaviour that is important.

Unreasonable demands

People can make unreasonable demands on our resources by the nature and scale of the service they expect. Examples of such behaviour include:

- repeatedly demanding responses within an unreasonable time-scale, placing unreasonable conditions on members or staff
- insisting on seeing or speaking to a particular HMIE staff member even when that is not appropriate
- refusing to accept that HMIE cannot provide a particular service
- repeatedly changing the exact nature of a complaint or issue they are raising or raising unrelated concerns.

These kinds of behaviour can detract from the service we can offer to others, placing a significant burden on HMIE. Dealing with such behaviour requires a disproportionate amount of time and diverts an unreasonable proportion of our resources away from our statutory functions. This can be difficult and stressful for staff to deal with, particularly when it is impossible to find common ground or a realistic approach to the issues being raised. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour.

Unreasonable persistence

Sometimes an individual will contact HMIE repeatedly about the same issue or closely related issues. Their manner in these contacts may be quite reasonable in itself, but the persistence of their approach is not – they take up a disproportionate amount of time or resources in exchanges that are unproductive to us and ultimately to themselves. Sometimes this persistence may take the form of serial complaining – lodging complaints about the handling of complaints. The defining characteristic is the persistence of approaches over time. HMIE has the right to assess whether that persistence has reached the point of disrupting our ability to undertake our work, or is amounting to harassment or unreasonable treatment of our members and staff.

Managing unacceptable actions

We will aim to ensure that a person is warned immediately, or as soon as is practicable, if their actions are tending towards unacceptable, and what will follow if they persist. We will do so in a way intended to defuse the situation, and the aim will be to bring the tone of communication back to a more reasonable level. We will not tolerate any threat or use of physical violence against, or verbal abuse or harassment of, our members and staff. Such actions may be reported to the police, and will always be reported if physical violence is used or threatened. Where we receive correspondence or a communication from an individual that is abusive towards members or staff, gratuitously offensive, or which makes clearly unreasonable demands, we will not deal with that correspondence or communication, and will inform the individual of that fact. We will also warn the individual that if they continue to use such language we will consider terminating all contact.

If someone ignores the warning they have been given, or if they use or threaten physical violence, we will take action aimed as far as possible at:

- reducing the risk of harm to HMIE staff
- preventing the individual from inflicting further harm on him/herself or others
- ensuring that the business of HMIE is carried out as efficiently and effectively as possible.

This action is likely to involve restricting or terminating contact with the individual.

Restricting or terminating contact

The process of restricting or terminating contact will be carefully managed. There are a number of issues to consider, and a decision to restrict or terminate contact will not be taken lightly or without sufficient evidenced grounds. In reaching a decision, we will have due regard to the public sector equality duty to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010. Generally, the recommendation to restrict or terminate contact will be made by His Majesty's Chief Inspector of Education in Scotland or the Deputy Chief Inspector. Where the primary reason for restriction or termination is the individual's unreasonable behaviour towards staff, the decision will be taken by the Chief Inspector.

We will carefully consider the form and duration of such a restriction or termination in order to balance the rights of the individual against the duty of HMIE to protect our staff and to avoid disruption of our business. We will consider a range of options, such as:

- refusing to accept communication on a specified subject only
- requiring the individual to communicate only through a third party
- terminating communication by specified channels only (e.g. refusing to take telephone calls from an individual)
- terminating all contact.

Limitations on restriction or termination of contact

In deciding to restrict or terminate contact, we will not attempt to limit the rights of an individual to respond to any of our public consultation exercises or to raise requests under information legislation, such as the right to request information under the Freedom of Information (Scotland) Act 2002 (FOISA). Any such requests received will be considered under the normal terms of the applicable legislation – although any such FOISA request, if expressed in terms that are, for example, harassing or unreasonable, may be deemed vexatious under FOISA.

Informing the individual

When a decision to restrict or terminate contact with an individual is made, we will tell the individual what action we are taking and why. This communication will also make it clear what recourse, if any, the individual has to make representations (provide views) regarding that decision (see below).

Where an individual represents an organisation

An individual to whom this policy is applied may be in contact with HMIE staff as a representative of an organisation. In that case, an initial approach will be made to the organisation itself. HMIE reserves the right to restrict or terminate contact in the interests of our own members and staff even where an external organisation is not able or willing to act in respect of alleged unacceptable behaviour.

Measures to prevent contact

We will consider using technical measures to block an individual's attempts to contact us if that individual's communications have been judged to be abusive, threatening, or to constitute harassment of our members or staff. We will consider measures such as seeking to block an individual's telephone number or email address, and in extreme cases we will consider whether legal measures are necessary in order to protect our members and staff. Where we decide to implement technical blocking measures, e.g. of an email address, we will not necessarily make that known to the individual concerned. Whether to inform the individual of the use of technical measures will be a matter of judgement for the staff member taking the decision to restrict or terminate contact.

Right to make representations (provide views) and right of appeal

Where we decide to place restrictions on how an individual may contact us or on what subject, we will consider whether, and if so how, to offer a route for the individual to make representations about this. This will not be a formal right of appeal but an opportunity for HMIE to consider if the restrictions we have decided to apply are unfair in some way to the individual affected. Where we decide to terminate all contact with an individual, we will offer no right of appeal and accept no representations from them. We will make this clear in our final communication, and we will draw their attention to their right to complain to the Scottish Public Services Ombudsman.

We may review the decision to restrict or terminate contact periodically or on request after a significant amount of time has passed (at least two years unless otherwise specified). Each case is different and the timing and nature of any review will depend on the circumstances. We will tell the individual what the review process will be. If we review a decision on request, we will require the individual to show that something significant has occurred to give us assurance that their behaviour has moderated sufficiently for us to lift any restrictions or to allow contact again.

Recording a decision to restrict or terminate contact

We will record all incidents involving unacceptable actions and behaviours. Where it is decided to restrict or terminate contact with an individual, we will record that decision, the reasons for it, and its duration.

Email

complaints@HMIE.gov.scot

Write to us

HMIE
Optima
58 Robertson St
Glasgow G2 8DU