

NATURESCOT

UNACCEPTABLE BEHAVIOUR POLICY

STAFF GUIDANCE

NatureScot believes that people who engage with us have a right to be heard, understood and respected and we work hard to be open and accessible at all times.

This guidance deals with those rare examples of unacceptable behaviour by people engaging with NatureScot, including those who have raised a complaint in person or through someone acting on their behalf.

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1. At a glance guide to the procedure

Please highlight any cases that fall under these descriptions to complaints@nature.scot

What has happened	This is:	Your role and behaviour	See the sections on:
A person has demonstrated aggressive or abusive behaviour, made unreasonable demands for the first time	Stage 1	You are the complaint handler: discuss with your line manager with the aim of taking preventative action.	Preventative measures
If preventative behaviour has failed to work, and a person has demonstrated aggressive or abusive behaviour, made unreasonable demands or makes the same complaint repeatedly	Stage 2	Inform your line manager and relevant directorate contact (DSU or another relevant NatureScot member of staff can take on this role if considered more appropriate) who will notify the person of contact being limited.	Issuing of a Notification Letter Flow chart for stage 2
A person has continued to be, or shows new aggressive or abusive behaviour, made unreasonable demands or makes the same complaint repeatedly	Stage 3	Restriction of contact letter issued by relevant Director. Contact withdrawn if behaviour persists	Issuing of a Restriction of Contact Letter Flow chart for stage 3
A person has appealed against a Restriction of Contact letter	Stage 4	Chief Executive Appeals process	Right of appeal Flow chart for stage 4

2. Statement on unacceptable behaviour

NatureScot is committed to operating an organisation that is open and accessible to all. We are further committed to achieving a culture of mutual respect amongst all who work with, visit or contact us. In that context, this guidance defines what we consider to be unacceptable behaviour and how we should respond in such instances.

It is concerned primarily with relationships between people who engage with NatureScot and our staff through any communication channel. It is intended to compliment our complaints guidance, which enables people to complain about our services, policies, staff or Board members.

We aim to support everyone engaging with us to do so positively to help us provide them with the best possible level of service. In some circumstances, we need to take action to protect our staff or service from types of engagement which impact our ability to provide a service or the well-being of our staff. This policy sets out how we identify and respond to those types of engagement.

We recognise that people may act out of character in times of trouble or distress. There may have been stressful circumstances leading up to their complaint or engagement. We do not view behaviour as unacceptable just because a person is forceful or determined. In fact, we accept that being persistent can be a positive advantage when pursuing a complaint.

Our unacceptable behaviour procedure follows the DESC Model.

- **D**escribe the behaviour
- **E**xplain the impact of the behaviour
- **S**uggest how the behaviour should change
- **C**onsequences (what will happen if the engagement changes and, what will happen if it does not)

Importance of preventative measures

We will deal honestly, consistently and appropriately with everyone making a complaint, even those whose actions are unacceptable. We will make all reasonable efforts to ensure no one suffers if people complain in an unacceptable way. Preventative measures should always be considered before taking the formal procedures outlined later in this Guidance.

Preventative measures that we will consider include:

- advise that even if offensive behaviour was not intended, offence has been taken;
- reassure that resolution is still the aim but only if all parties remain professional toward one another;
- clarify what NatureScot deems to be unacceptable behaviour; and/or
- clarify the action we may take should the current behaviour not be moderated.

3. What Behaviour do NatureScot consider to be unacceptable

3.1 Aggressive or abusive behaviour

We understand that in times of stress people can become angry. We consider it unacceptable when that anger escalates into aggression, violence or abuse towards our staff. We have a zero tolerance approach to such behaviour.

Aggression or abusive action is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether verbal or written) that may cause staff to feel afraid, threatened or abused, and may include threats, personal verbal abuse, derogatory remarks and rudeness. We also consider inflammatory statements and unsubstantiated allegations to be abusive behaviour.

3.2 Making unreasonable demands

Sometimes people make unreasonable demands when they complain. Examples include:

- excessive amounts of information sought;
- unreasonable demands regarding the nature and scale of service expected or the number of times they complain;
- repeated complaints;
- unrealistic demands regarding timescales for NatureScot to respond;
- insisting on seeing or speaking to a particular member of staff when that is not possible; and/or
- repeatedly changing the substance of a complaint, or raising unrelated concerns.

Demands are considered unreasonable if they impact greatly on the work of staff meaning they are unable to carry out their normal duties and would disadvantage others.

3.3 Unreasonable levels of contact

Sometimes the volume and duration of contact made by an individual causes problems. This can occur over a short period, for example, a number of calls in one day or one hour. It may occur over the life-span of a complaint when a person repeatedly makes long telephone calls to us or inundates us with copies of information that has been sent already or that is irrelevant.

We consider that the level of contact has become unacceptable when the amount of time spent talking to a person on the telephone, corresponding to, reviewing and filing emails or written correspondence impacts on our ability to deal with that complaint, or with other people's complaints.

4 Managing unacceptable behaviour

Our response in dealing with unacceptable behaviour will depend on the nature and extent of the behaviour. If it is affecting our ability to work and provide services, we may need to manage the situation by taking steps to prevent further unacceptable behaviour through use of one or more of the preventative measures listed above. We will always try to do this in a way which allows us to deal with the complaint by means of our normal complaints procedures. We will try to maintain at least one form of contact.

If a person threatens or uses physical violence, verbal abuse or harassment towards staff we will likely stop all direct contact with that person. We may also report the matter to the police. We will always tell the police if physical violence is used or threatened.

4.2 Actions we may take

Where a person's behaviour is deemed unacceptable, we may decide to:

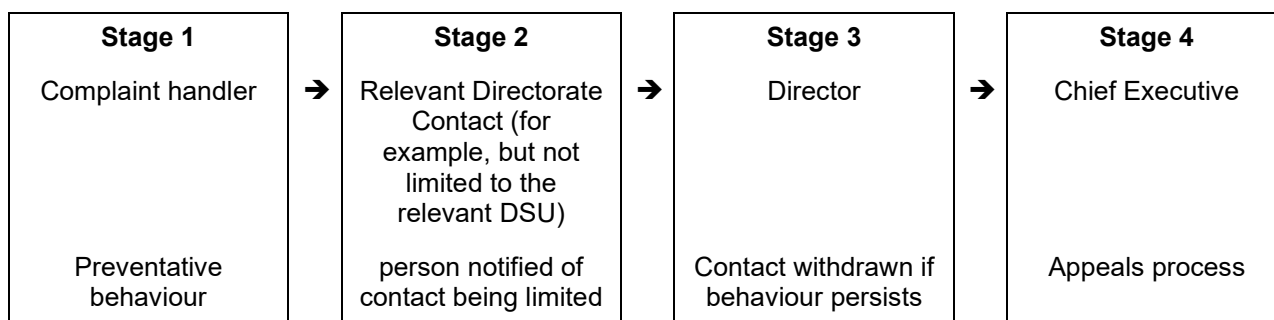
- end telephone calls or face-to-face meetings. The staff member is authorised to make this decision, tell them that his/her behaviour is unacceptable and end the call or meeting if the behaviour does not stop;
- restrict contact to a nominated member of staff who will deal with future calls or correspondence from the person.
- meet them by appointment only;
- restrict contact to written correspondence by letter or email only;
- return any irrelevant or inappropriate documents or, in extreme cases, advise that further irrelevant documents will be destroyed;
- remove unacceptable comments on any of our social media sites
- see them at our premises only with two members of staff in attendance;
- refuse to visit the person's own premises, sites or other locations;
- if they display unreasonable behaviour towards NatureScot staff at a public meeting or event then the standards of conduct enforceable by the Police or other security staff (as authorised under licence) will apply. We may take behaviour to suspend/end the meeting and/or call the Police;
- take any other action that we consider necessary, which may include legal advice on whether continued contact is appropriate.

In exceptional cases, we reserve the right to refuse to consider a complaint or future enquires from an individual. We will take into account the risk of further unacceptable behaviour towards our employees the impact on the individual and also whether there would be a broader public interest in considering the complaint further.

5 The process we follow to make decisions about unreasonable behaviour

With the exception of immediate incidents, decisions to restrict contact with NatureScot should only be taken after careful consideration of the situation by a manager. Wherever possible, we will give the person the opportunity to change their behaviour before deciding to limit contact with them.

A four stage process, inclusive of a right of appeal, has been designed to support this Guidance. Full instructions can be found in the [Annex](#).



6 How we let people know we have made this decision

When a NatureScot employee makes an immediate decision to restrict contact in response to aggressive or abusive behaviour, the person should be advised at the time of the incident. When a decision has been made by a manager, the person in question will always be told in writing¹ 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.

7 The process for appealing a decision to restrict contact

It is important that a decision can be reconsidered. Anyone can appeal a decision to restrict contact. If they do this, we will only consider arguments that relate to the restriction and not to either the complaint made to us or to our decision to close a complaint.

An appeal could include, for example, a person saying that: their actions were wrongly identified as unacceptable; the restrictions were disproportionate; or that they will adversely impact on the individual because of personal circumstances.

A manager who was not involved in the original decision, for example, a manager from a different unit, will consider the appeal. They have discretion to quash or vary the restriction as they think best. They will make their decision based on the evidence available to them. They must advise the person in writing that either the restricted contact arrangements still apply or a different course of action has been considered more appropriate.

8 How we record and review a decision to restrict contact

All incidents of unacceptable behaviour should be reported to NatureScot's complaints mailbox (complaints@nature.scot). All accompanying documentation must be recorded clearly in eRDMS or on CMS.

¹ This can be supplemented if written communication is not the most appropriate form for the individual.

Annex: Unacceptable Behaviour Procedure

All instances of unacceptable behaviour should be reported to NatureScot's complaints mailbox (complaints@nature.scot).

Each instance of unacceptable behaviour which is formally recorded within the process has a maximum of three internal stages and a subsequent right of referral to the Scottish Public Services Ombudsman. A flow chart can be found at [Appendix 1](#).

Stage 1 – Preventative behaviour (no formal proceedings)

Stage 2 – Issuing of a Notification Letter (see [Appendix 2](#))

Stage 3 – Issuing of a Restriction of Contact Letter (see [Appendix 3](#))

Stage 4 – Right of appeal against issuing of Restriction of Contact Letter (see [Appendix 4](#))

The decision to issue a letter in respect of Stage 2 and 3 above should always be fair, reasonable, transparent and proportionate. Any such letter should clearly define the unacceptable behaviour in question and the resultant impact on NatureScot's communication with the recipient or their representatives.

Stage 2 - Issuing of a Notification Letter

Stage 2 of the procedure should be invoked and completed within ten working days of the date of the Directorate Contact (in this instance the DSU or another relevant staff member) agreeing that unacceptable behaviour has taken place.

Letters issued under Stage 2 of this procedure will include details of:

- the unacceptable behaviour identified; and
- the Unacceptable Behaviour Guidance.

At this stage, an opportunity is given to modify any unacceptable behaviour before further behaviour is taken.

Any letter issued under Stage 2 of this procedure will be signed by the relevant Directorate Contact (this could be the relevant DSU, but the role could be taken by on by another relevant members of staff).

A Stage 2 letter can be amended or withdrawn in exceptional circumstances if it can be demonstrated that NatureScot has been incorrect in the facts of the unacceptable behaviour it has cited within the issued Stage 2 letter. The person in question will be able to contact the relevant Directorate Contact in this instance who will be responsible for determining whether the facts supporting the Stage 2 letter are sustainable.

Stage 3 - Issuing of a Restriction of Contact Letter

In situations where unacceptable behaviour which has been the subject of a letter issued under Stage 2 of this procedure is repeated or continuous, the Directorate Contact should liaise with the relevant Director to agree whether there is sufficient evidence to trigger the issue of a Stage 3 letter.

Letters issued under Stage 3 of this procedure will include details of:

- the continued incidence of the unacceptable behaviour specified in the letter issued at Stage 2, or where appropriate, the incident which itself gives rise to taking behaviour at Stage 3;
- the period during which the restriction of contact will apply; and
- the right of appeal at Stage 4.

Any letter issued under Stage 3 of this procedure will be signed by the relevant Director.

The restriction of contact which has been imposed may include specifically stating that, during the period of restriction of contact, any future communication, unless deemed by NatureScot to be a legitimate complaint, an appeal against the Stage 3 letter (see Stage 4) or a matter on which NatureScot has a specific statutory obligation to respond, will be read, but such acknowledgement shall not necessarily respond to the content of the communication.

There may be circumstances that justify a Stage 3 letter without first having issued a Stage 2 letter. These may include circumstances where staff feel threatened or intimidated. This may happen as a result of a threat of an assault upon staff. Decisions to adopt this measure will be made by the Chief Executive or their nominated deputy (normally a Director).

Restriction Periods

The restriction period applied at Stage 2 will be commensurate with the severity of the unacceptable behaviour. In general, an initial restriction period of six months will be imposed. If no further unacceptable behaviour has occurred in the specified period, the active record will be closed on the Unacceptable Behaviour Register. Any restriction of contact does not necessarily mean that an existing complaint with NatureScot cannot continue through the proper complaints procedure.

If NatureScot staff encounter further unacceptable behaviour, either during or after the end of the specified restriction period, it will be at the discretion of the relevant Director to apply a further restriction that is proportionate.

Stage 4 - Right of appeal against issuing of Restriction of Contact Letter

A recipient of a letter issued under Stage 3 of this procedure has a right of appeal against issuing of the letter and the imposition of the restriction of contact. Any such appeals should be made in writing to the Chief Executive and will be investigated by a Director (or a nominated deputy) in the first instance within 20 working days. The Director should not be the same Director who signed the Stage 3 letter. If the person in question is still unsatisfied, they should be directed to contact the Scottish Public Services Ombudsman.

Data protection

Complaints require the processing of personal data and on occasion the processing of personal data of other external third parties and NatureScot staff. It is the responsibility of all NatureScot staff directly involved in the handling of a complaint under the process to ensure that any such personal data is processed, recorded and retained in accordance with the requirements of the Data Protection Act 1998. Further guidance on the requirements of the Data Protection Act can be obtained from NatureScot's Information Managers or from the guidance provided on the intranet [Complaints Service](#) space.

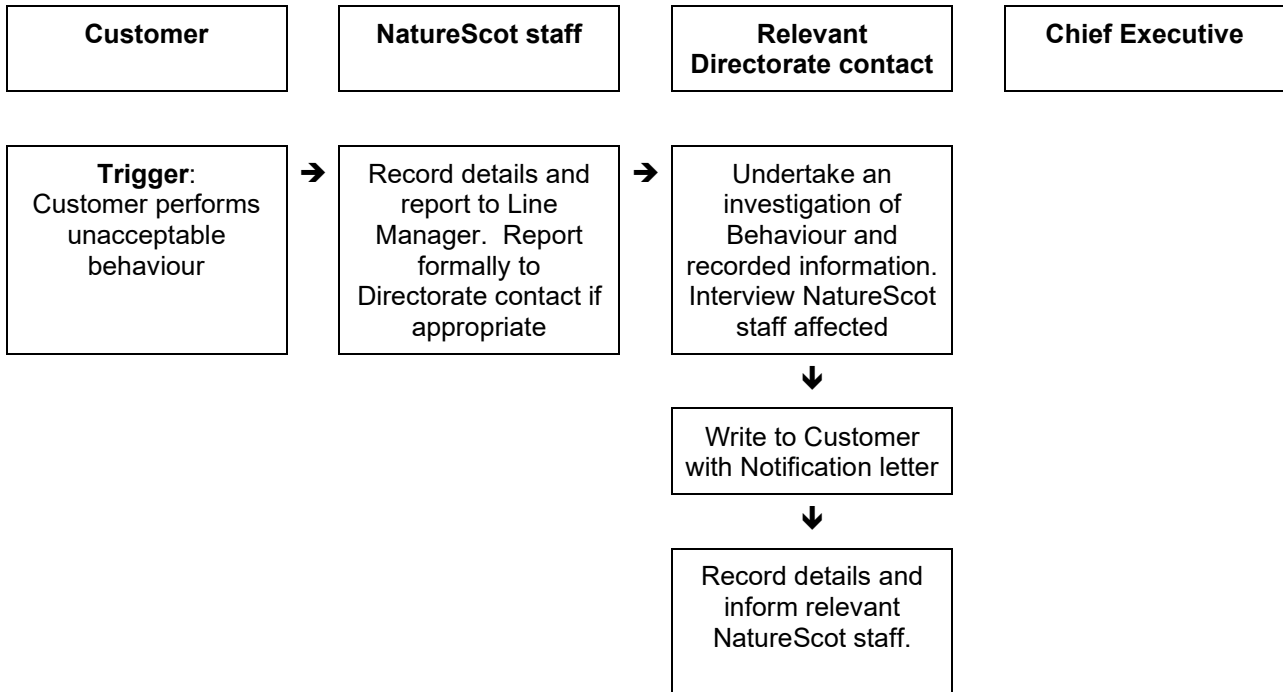
Record keeping

Where unacceptable behaviour has been identified, copies of all correspondence, including emails and letters sent to, or received from, the person in question will be held within the eRDMS file plan. Details of each logged instance of unacceptable behaviour being agreed by the Directorate

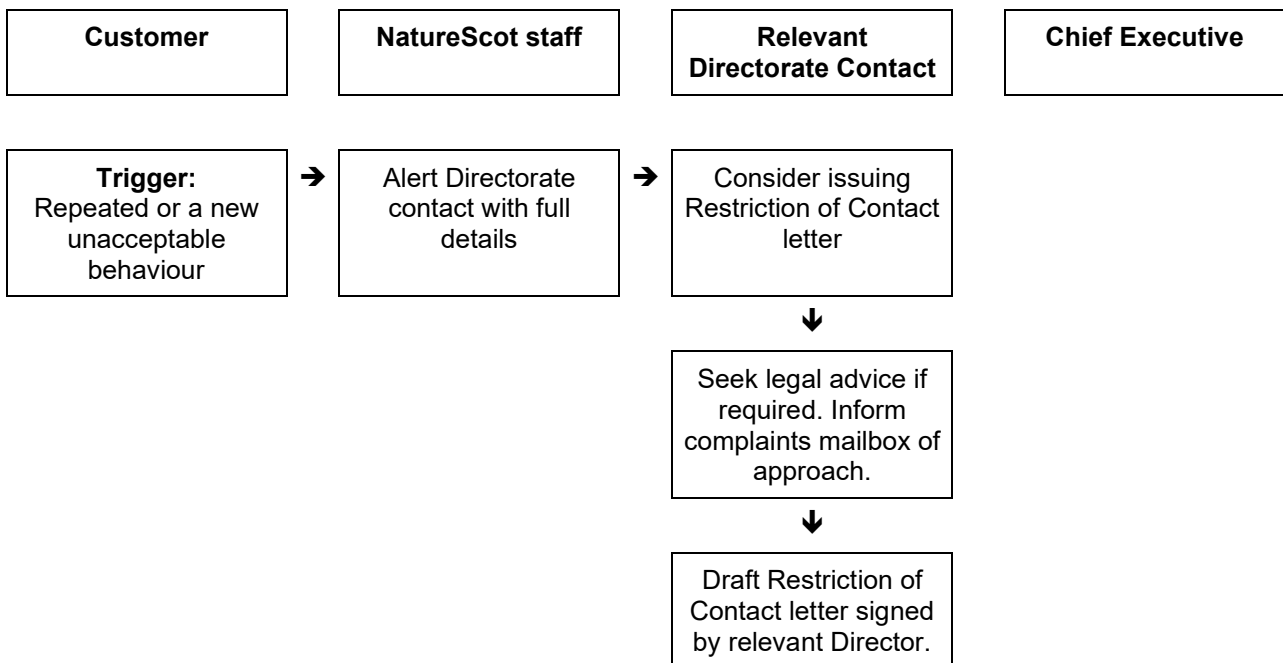
Appendix 1: Flowcharts of procedure for handling Unacceptable Behaviour

Stage 1: Preventative measures, no formal process or flowchart required

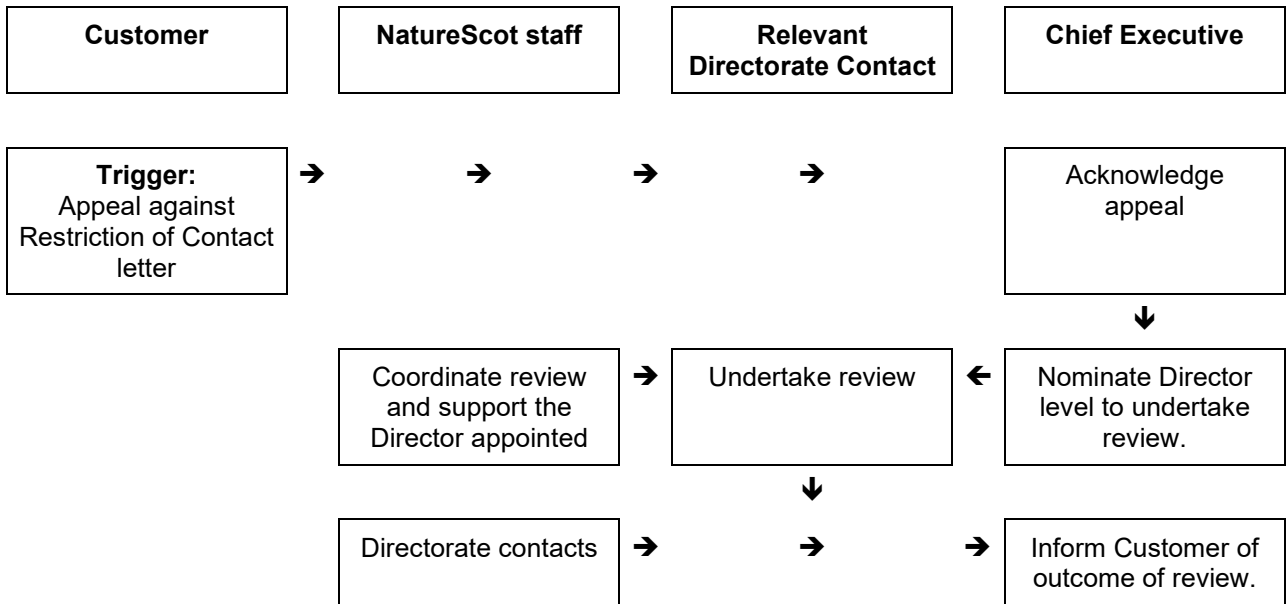
Stage 2: Issuing of a Notification letter



Stage 3: Issuing of a Restriction of Contact Letter



Stage 4: Right of appeal against issuing of Restriction of Contact Letter



Appendix 2: Template for Stage 2 - Notification Letter

Our ref:
Your ref:
If telephoning ask for:
Date:

Dear

Notification of Unacceptable Behaviour

In line with NatureScot's Unacceptable Behaviour Guidance (a copy of which is attached for ease of reference), NatureScot may take behaviour against those whom it considers to be acting unacceptably.

NatureScot has decided that your behaviour, as set out in Annex 1 to this letter, is unacceptable.

This letter is a formal notification that NatureScot requires you to cease the specified unacceptable behaviour with immediate effect.

NatureScot will retain details of this notification for a period of three years. If no further instances of the specified unacceptable behaviour are recorded during this notification period, the notification will expire.

However, NatureScot reserves the right to take further behaviour in accordance with NatureScot's Unacceptable Behaviour Guidance, if you continue to carry out the specified unacceptable behaviour.

Yours sincerely

For and on behalf of NatureScot

Annex 1 – Details of specified unacceptable behaviour

Date	Description of Unacceptable Behaviour	NATURESCOT Location

Appendix 3: Template for Stage 3 – Restriction of Contact Letter

Our ref:
Your ref:
If telephoning ask for:
Date:

Dear

Restriction of Contact

This letter refers to the formal notification dated [xx mmmm yyyy], in terms of NatureScot's Unacceptable Behaviour Guidance.

The formal notification stated that NatureScot reserved the right to take further behaviour in accordance with the Guidance, if you continued to carry out the specified unacceptable behaviour.

NatureScot has recorded further instances of the unacceptable behaviour during the notification period and has now determined that Stage 3 of the Unacceptable Behaviour Procedure should be invoked. Annex 1 to this letter contains details of the unacceptable behaviour in question.

The Director of [] has considered the nature of these further behaviour and has determined that the following sanction(s) should be imposed for a specified period of time.

[DETAILS OF RESTRICTION]

Restriction of contact –

[TIME PERIOD THAT RESTRICTION OF CONTACT WILL REMAIN IN FORCE]

Under the terms of the NatureScot Unacceptable Behaviour Procedure, there is a right of appeal against the imposition of restrictions of contact under Stage 3 of the procedure.

If you are not satisfied with the terms of the sanctions stated above, you can apply in writing to NatureScot to request that a Stage 4 Appeal be carried out by the Chief Executive.

A copy of NatureScot Unacceptable Behaviour Procedure accompanies this letter.

Your unique reference number is XXXXXX. Please quote this in any future contact with NatureScot about your complaint.

If you have any queries in the meantime please contact NatureScot at the details above.

Yours sincerely

DIRECTOR
For and on behalf of NATURESCOT

Annex 1 – Details of specified unacceptable behaviour

Date	Description of Unacceptable Behaviour	NATURESCOT Location

Appendix 4: Template for Stage 4 – Restriction of Contact: Appeal Decision Letter

Our ref: CORXXXXX
Date:

Dear

Restriction of Contact: Appeal Decision

This letter refers to the formal notification dated [xx mmmm yyyy], in terms of NatureScot's Unacceptable Behaviour Guidance and your response dated [xx mmmm yyyy] which we have treated as an appeal.

[Name] sent you a copy of the NatureScot Unacceptable Behaviour Procedure on [xx mmmm yyyy]. From this you will have noted our stage four process. My [] Director, [Name], has now reviewed the restriction.

In accordance with Stage 4 of our Unacceptable Behaviour guidance, [Director's name] commission has been to consider the correctness or otherwise of the restriction and not the original complaint made to us nor to our decision to close a complaint.

The basis for the Stage 3 restriction being applied, as advised in [Name] letter of [xx mmmm yyyy], in summary is:

- Excessive correspondence, repeating the same points
- Unreasonable level of resource required to respond

[Name] advises me that having reviewed the record of contacts and exchanges between you and this organisation he has reached the following conclusions:

- **Volume/scale of correspondence** – the demands you have made of our staff meet the test of being excessive, both in number of requests and the scale of information requested. This is evidenced by the number of emails you have sent and the extent of some of these communications.
- **Repetition and response expectations** – within the significant numbers of emails that we have received from you, you have also repeated the same question multiple times with unrealistic expectations as to timescale for NatureScot to respond or acknowledgment that we have already responded, albeit not with an answer with which you agree.
- **Resource requirement** – the amount of time taken thus far to respond to your many questions, including researching the background to some of the issues raised, has far exceeded the time spent on other enquiries and has impacted unreasonably on our ability to carry out our work, including responding to requests and applications from others.

Based on this assessment I am satisfied that the application of the restriction previously advised by [Name of Director at Stage 3] was correctly evidenced and applied.

Therefore it remains NatureScot's position that for an initial period of [] from [xx mmmm yyyy] we will not enter into any further correspondence with you on the issue of [], unless deemed by us to be a legitimate complaint on a new unrelated matter. All correspondence received will be read, filed and acknowledged, but such acknowledgement shall not respond to the content of your communication.

If you are unhappy with this response you have the right to ask the Scottish Public Services Ombudsman (SPSO) to review my decision. You can contact them on Freephone 0800 377 7330 or go to their website www.spsa.org.uk or write to them at Freepost SPSO.

Yours sincerely

Chief Executive