

**HEALTH AND SAFETY  
POLICY STATEMENT**

**STAFF SAFETY REGISTER PROCEDURE**

**November 2021**

**The Health and Safety Team**

## **Staff Safety Register Procedure**

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## 1. Introduction

This procedure is intended to guide Officers and members in recording incidents of violence or abuse, or other risks and in providing a system of warnings to enable them to avoid further occurrences. In doing so the procedure seeks to strike a balance between

- The duty of the Council to protect its employees' health and safety, and to prevent them suffering unacceptable behaviour by others; and
- The rights of members of the public, including especially their right to privacy.

The procedure incorporates relevant legislation and guidance including the Data Protection Act 1998 ("the Act"), the Human Rights Act 2000 and the advice of the Information Commissioner on this subject.

The vehicle used to record, store and give access to information about individuals who pose a risk to Council employees is called the Staff Safety Register, (SSR).

## 2. Outline and Scope

The use of warning markers and registers of individuals who pose a risk is common in public sector services. Most public sector organisations seek to manage the behaviour of clients and Customers in order to protect their employees' quality of life, as well as fulfilling legal obligations in respect of health and safety. The purpose of the Staff Safety Register is to provide reliable information that can be included in the risk assessment undertaken either by Staff, or their managers, before meeting a Customer. The database is a centralised tool for the use of all Council directorates, and is a way of sharing information, to authorised Staff across the entire Council.

The procedure described here deals with maintaining the Staff Safety Register database. It is only one of the tools available to protect Staff. It should be used in the context of other Council policies – in particular the Aggression in the Workplace Policy (Addendum to the Health and Safety Policy) and particular health & safety procedures – and in conjunction with other possible actions.

Note that emergency procedures and incident follow-up procedures will vary between sites and teams, and are outside the scope of the Staff Safety Register. These would cover (for example) panic alarm procedures, lists of sites or other agencies to warn by phone immediately following an incident, debriefing sessions with Staff involved in an incident.

The Staff Safety Register provides information to authorised Staff in all Council sections and departments and does not control the information used by sections to provide their own services. This will typically be much more extensive and may, legitimately, include details and items that this procedure excludes. Separate, service-specific, consideration of the data protection implications of their service is required by each Service Manager.

The SSR does not provide a warning system for all risks posed by Customers. It is just one of the items that should form part of Service Managers' risk reduction strategies.

### 3. Managing Personal Data

A label that a Customer is potentially violent, or has caused other serious problems, is a stigma that should not be unfairly applied. Indeed there is a duty to inform someone that they have been labelled, and concern about the Customer's reaction has guided some of this procedure.

The label, and the records of events leading to it being applied, may be sensitive data in the terms of the Data Protection Act 1998 (DPA). If so, disclosing it to other Officers, even within the Council, requires particular care. This procedure requires all cases to be treated according to the sensitive data requirements of the Council's Access to Information Policy.

**Selected and specified employees will be allowed access to the data which will be withheld from everyone else.** Equally everyone who needs to know must be able to find out.

Customers whose rights are infringed can take action against the Council and also, in some cases, individual Officers. Breaches of this procedure are a serious matter. Unauthorised disclosure of data from the SSR, or disclosure outside the terms of the Council's Access to Information Policy, will be treated as gross misconduct.



The Service area that has been affected and identified the Cautionary Contact will be the team that processes the entry on to the Staff Safety Register. They will follow the Policy ensuring that all areas of investigation have been carried out, confidentially and fairly.

All information that is held can be distributed as and when required, in order to uphold the fourth Data Protection Principle, that of maintaining accurate and up-to-date information. This procedure is intended to ensure that the DPA is not breached and that Customers' data is processed impartially.

## 4. Central Staff Safety Register

The names of Customers who appear on the central Staff Safety Register will be held within the 'Achieve' system. with linkages feeding into other systems within the Council e.g. Orchard, Civica and Acolaid/Uniform and will enable employees to search the database for any current notifications against a name prior to any interaction.

When using the search tool on the 'Achieve' system, a small icon, (such as a red bell or a red flag- indicating a dog), will appear next to the Customer's name. If the cursor is placed on the icon, a description of the caution appears. The icon should only remain for the duration of time on the Register.

Icon	Reason for icon
	Customer inclusion on to Staff Safety Register
	Flag indicating aggressive animal at this address

When an Officer expects to meet a Customer, and the indicator is observed, he or she will ask an authorised person to consult the database. Where working practices are such that no person is available then Officers may contact the next available senior member of Staff, in consultation with their existing risk assessment, enabling them to act appropriately.

In some instances (i.e. employees on 24-hour call-out from home) the central database may not be accessible. In this situation, wherever possible attempt to access the SSR prior to interaction with Customer, or seek guidance from Team Leader/Manager.

## 5. Responding to the information on the Staff Safety Register

Officers, Managers and Staff with Health and Safety responsibilities, that require access to the Register, will be authorised to do so. Access is controlled by the Administrator.

An employee, in risk-assessing the planned meeting or visit, should consider the information from the Register along with anything else he or she is aware of that is relevant, and then take appropriate steps to minimize the risk to the employee. This might be as simple as informing what the Register says, or it might involve changing the venue, or sending someone else instead.

The recipient of the information must remember not to disclose the information to anyone else in turn, **(including the Customer)** and to treat sensitive and other personal data according to the Data Protection Policy.

Use the Register to inform and assist a dynamic risk assessment of the proposed meeting.
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## 6. Crime Prevention

Where any crime, including assault, is likely, the exemption under Section 29 of the Data Protection Act 1998 (DPA) may be applicable. As long as it is necessary to do so, any aspect of this procedure may be breached. The breach must be proportionate to the crime; and the crime must be likely, not merely foreseeable, or possible, or feared.

### **Section: 29 Data Protection Act 1998**

#### **Crime and taxation.**

(1) *Personal data processed for any of the following purposes— .*

- (a) *the prevention or detection of crime, .*
- (b) *the apprehension or prosecution of offenders, or .*
- (c) *the assessment or collection of any tax or duty or of any imposition of a similar nature,*

*are exempt from the first data protection principle (except to the extent to which it requires compliance with the conditions in Schedules 2 and 3) and section 7 in any case to the extent to which the application of those provisions to the data would be likely to prejudice any of the matters mentioned in this subsection.*

## 7. Adding names to the Staff Safety Register

The Service area that has been affected and identified the Cautionary Contact, will be the team that processes the entry on to the Staff Safety Register. Each nomination must be “seconded” by the nominating Officer’s Line Manager. It is suggested this is carried out within a timely manner (recommended 14 days). The purpose of this is to:

- Ensure that all relevant actions are considered. *See the Incident Reporting and Investigating Policy for full guidance.*
- Ensure objective and rational judgment throughout. It is an important quality check – do not support the nomination just to demonstrate sympathy for the victim.

“*Report an Aggressive Incident Guide*” is available via the Council’s infonet page to assist in completing an entry on to the SSR. The incident should be detailed, should describe the incident fully, and set out the objective and factual reasons why the Customer should be added.

As these are likely to be quoted directly to the Customer, it is vital that no unsupportable judgments or extraneous comments are added.

It must be thorough to enable another reader, unfamiliar with any of the Customers or circumstances, to decide what precautions to take. Once reported, the incident should be investigated within the Service; thereafter a recommendation will be made to include the individual on the SSR.

## Examples

	People	Owner of animal
<b>Injury or harm</b>	<ul style="list-style-type: none"> <li>• Assault causing injury or harm. Serious or minor; with or without a weapon</li> <li>• Rape or sexual assault</li> <li>• Assault but no injury: pushing, barging, jostling, spitting</li> <li>• Contact or touching of a sexual or dominating nature</li> <li>• Credible threat of assault. May be verbal, or implicit in body language or attitude (e.g. drawing back fist, aiming a weapon)</li> <li>• Undirected raging violence – e.g. throwing chairs – with reckless disregard for safety of others</li> <li>• MAPPA assessment of risk to Public</li> </ul>	<ul style="list-style-type: none"> <li>• Injury: dog bite; abandoned drug paraphernalia leading to needle stick etc</li> <li>• Near-accident or lucky escape; threatening dog brought under control</li> </ul>
<b>Distress or alarm</b>	<ul style="list-style-type: none"> <li>• Foul language or abuse (including that of a racist or sexual nature)</li> <li>• Non-credible threat of assault e.g. waving a weapon but without direction; or noticeably too young, small, weak, drunk etc. to carry out threat.</li> <li>• Improper suggestions or advances (e.g. of a sexual nature) whether verbal or implicit</li> <li>• Violence against property – e.g. smashing windows, overturning furniture but without risk of injury to others</li> <li>• Pornographic or violent pictures or decorations</li> <li>• Fascist or other extreme political regalia or display</li> </ul>	

It may be difficult to distinguish between threat and abuse; however a non-credible threat is still probably regarded as unacceptable behaviour. A threat of death made by a five-year old is not credible, and should probably not be the subject of a distress warning either.

In all cases there must be objective and factual evidence that can be reported to the person and defended if necessary. Actions or words are factual; judgements or expectations are not. The purpose of this procedure is to protect Staff against the fear as well as the actuality of injury, but the events giving rise to fear must be real and objective.

## 8. Process for decision/entry onto Staff Safety Register

- If an employee is subject to an aggressive incident, then entry on to the SSR must be completed by the trained, nominated Team member within their Service.
- The incident should then be investigated and reviewed by the Service Team Leader/Manager to determine inclusion or non-inclusion of entry to the Register.
- Non-inclusion of entry onto the SSR should encourage Service to monitor Customers behaviour towards employees going forward. Service to send warning letter.
- Following Team Leader/Managers decision to include/place Customer onto the SSR, the 'Investigating an aggressive incident' guidelines (available on Infonet) should be followed to assist in submitting of entry.
- If the decision is made to send a letter to the Customer, templates are available on the SSR system to assist this process – Service Team Leader to send out.
- Once inclusion on the SSR has been confirmed then a red bell icon will be placed on the Customers name (N.B. not the address).

If an individual who is already on the SSR and is involved in further incidents, employees should make another report using the Achieve system. The information on the register is intended to be as comprehensive as possible for the purpose of conducting risk assessments. New information will be relevant at the time of review of continuing inclusion.

In this case the individual will not be informed about the new information but it may still be disclosed under a DPA Subject Access Request. So like all personal data it should still be defensible and supportable.

Report more than just violence or threats – make sure information is factual and objective.

Criteria for inclusion - do other Staff need to know about an event is the key criterion. Are they likely to experience a repetition? Could they take precautions? Is it really serious enough for the whole organisation to respond?

It follows that other criteria may be applied in deciding whether to take tenancy enforcement action, or seek an Anti-Social Behaviour Crime and Policing Act 2014 (ASBCPA) Injunction, or other response to breaches of the Aggression in the Workplace Policy (Addendum to the Health and Safety Policy).

In the instance where an individual from an outside organisation has been affected by a Customers' verbal or physical threat, then the team that it is reported to is responsible for adding an entry of incident onto the 'Achieve' system. This will then be investigated by the Team Leader to decide if the Customer is to be placed onto the Staff Safety Register.



## 9. Types of Risk

The Staff Safety Register provides information about two main types of risk:

- Harm through injury or assault, or through other risk related to property rather than a person.
- Distress as a result of unacceptable behaviour as defined by the Aggression in the Workplace Policy (Addendum to the Health and Safety Policy).

In addition other crimes, such as theft from an Officer, or criminal damage to Council property, may lead to inclusion.

Aggressive dogs fall within the inclusion scope. The owner of the animal will be highlighted as the cautionary contact. (refer to section 4)

This section describes the criteria that should apply in judging whether either (or both) of those risks should lead to inclusion on the register. They are independent of one another.

The register exists to communicate information about people that represent a risk which other Staff should prepare for, or take precautions against.

- It must include enough information to allow them to prepare.
- Information must be factual and objective and judgements must be evidence-based.

Information and opinions may be subject to challenge and it must be possible to defend the decision to include someone. Register entries must communicate effectively to other Officers and help them make rational decisions on precautions. Criteria should be drawn from other relevant policies and in particular those of Health and Safety.

Take account of both the likelihood and severity of the risk. If death might result, a very low likelihood of attack would be sufficient to justify addition. Conversely if the incidence of dangerous events is high, then a lower severity of injury or distress would be sufficient.

## 10. Risk of harm through injury or assault

Harm almost certainly means physical harm. From people, it is likely to be assault. Risk is present where a person has a history of violence or where a reasonable person would foresee assault.

An actual assault on a member of Staff will almost certainly result in inclusion on the SSR. However simply touching a person's arm, while it might be an assault in law, may not lead to inclusion if it is not seen as something that other Staff should be warned about or need to protect themselves from. However if the intention is to dominate or harass, inclusion may be required.

A credible threat of assault will almost certainly result in inclusion. A threat may be made verbally, or implied, or both. Intention is important but as this is difficult to determine it is important that an incident is discussed with a Line Manager in order to ensure objectivity as far as possible (see below for remarks on emotional reactions to events)

Verbal threat may be direct (e.g. "I'll kill you"; "I'll sort you out"; "Right, you've asked for it") or indirect.

Implicit threat may be by actions such as drawing back a fist, adopting an aggressive fighting posture, pushing into a person's "personal space", or producing/aiming a weapon.

A threat may not be credible. "I'll kill you" may not be meant as a literal threat of death. The words may be meant to convey strength of feeling rather than an intention, even if made by someone physically capable of mounting an assault. If made by a child, or from someone who is too old or frail to carry out an assault, or too drunk, then it may not amount to a risk that other Staff should make preparations for.

Whether other Staff need to know about an event is the key criterion. If an event can be seen to be out of character, unusual or unlikely to be repeated, the SSR is not a suitable response. However an initial report should be made via the 'Achieve' system, to be flagged as a Cautionary Contact, as opposed to entry on to the Staff Safety Register.

Psychological harm is possible, but is likely to result from the interaction between individuals rather than actions that other Staff might experience as well. Managers should encourage Staff to carry out their own dynamic risk assessments, as appropriate, to enable them to assess the situations prior to a potential incident occurring. Whilst the Register is a source of information it will not provide control strategies to prevent a situation.

## **11. Distress, alarm or harassment**

Behaviour, to be considered unacceptable and lead to addition to the SSR, must:

- a. Cause (or be likely to cause) distress, alarm or harassment.
- b. Constitute a breach of the Aggression in the Workplace Policy (Addendum to the Health and Safety Policy)

These have a high threshold. Distress is more serious than mere upset or hurt feelings (even if an emotional reaction is caused, such as weeping). Words or behaviour may provoke anger but that is not by itself enough to justify inclusion.

Conversely psychological trauma is more serious than distress (and would in fact be harm).

Alarm is a genuine reaction to a credible threat of assault, which would itself lead to inclusion. If a threat is not identified at the time as being credible, sometime after the event, it could still qualify as unacceptable behaviour.

Distress or alarm cannot be based on suspicion of fear. Unease, creepiness or an intuitive feeling that something is not quite right, are not sufficient no matter how strongly felt. An individual can still base actions on such feelings, but (as with anger) the Register is not the place to record them.

## **12. Intent**

Intention is an important criterion. If the intention of an act is to cause distress or alarm, even if the threat could later be seen as not credible, or there was no intention to actually carry out the threat. This is harassment. An example might be a curse or other supernatural threat. Although it is not credible, an intention to cause alarm (or even harm, if the person actually believes in such things), represents unacceptable behaviour by that person. If other Staff need to be warned about it, complete a report within the 'Achieve' system.

Care should be taken not to overreact to behaviour that may be inadvertent, perhaps because of culture or deprivation. In such cases one or more warnings may be appropriate. Remember that all sorts of small minorities exist and have quite legitimate variations from general norms.

Addition to the register can never be used for revenge or getting back at a person, or to punish them for what they've done.

### **13. Mental Illness, Equalities and Cultural Diversity**

The SSR can include no evidence of prejudice by the Council. No nomination should suggest that violence is more likely, or distress made worse, by factors associated with groups or minorities suffering social prejudice

This group also includes those from different cultural backgrounds, and or several social or educational disadvantage areas. Staff should carry out area specific training, as required, in consultation with a Line Manager. This would be the correct route to a reasonable decision, should the Customer be included on to the Register.

Mental illness by itself is not enough to justify inclusion. No evidence of prejudice against the mentally ill can be recorded, or influence a judgement about risk.

If a professional opinion that a person's condition is such that there is a risk then that would be reason for inclusion. In the absence of such an opinion, (likely because of patient confidentiality), there must be other credible evidence before a person can be added – in other words, the illness will not be a factor. The risk of prejudice is too great.

### **14. MAPPA Warnings**

The Probation Service prepares a risk assessment of violent offenders about to be released from prison. The assessment (Action Plan) is shared with partner organisations through "MAPPA", Multi-Agency Public Protection Arrangement meetings. The information cannot be recorded directly because of the Probation Service's restrictions. Instead the register will record the level of risk (1 – 3 in ascending severity) assigned by MAPPA. MAPPA guidance is very clear about the need for joint working and the duty to cooperate in managing high risk offenders in the community. This runs alongside ensuring the Action Plan for working with the offender includes the completion of an internal risk assessment. This notes any necessary actions promoting the safety of Staff members.

### **15. Age: Children, young and old people**

Age is not a factor for or against inclusion; however, it may affect the judgement of risk. Threats made by young children may be less credible than those made by adults. Equally old or frail people may make threats that could not be carried out. Other actions may be appropriate – for example, discussing a child's behaviour to its parents.

Age will also be relevant at review. Young people must be allowed to be rehabilitated and may be removed more quickly than adults.

## **16. Informing a person of inclusion on the Staff Safety Register**

Within the 'Achieve' System, there are a number of template options for the affected area to use when writing to the Customer, informing them that they have been placed on the SSR.

The contents of the letter should include the following;

- Date of placement on the Staff Safety Register,
- The reason why,
- How they can appeal (and the procedure on how to do that)
- When the decision will be reviewed.
- Additional information/agreements or any other specific facts relating to the affected area can also be included.

It will be brief and will only identify the Council Officer writing the letter and an appeal contact name.

Informing the Customer is required by Data Protection Act, The First Principle. This ensures fair processing of personal data. Since the Customer will not have consented to the maintenance of the Register, they must be made aware that it is taking place and the reasons why.

In exceptional circumstances the letter may be withheld, if there is a reasonable likelihood that the Customer, or Council Officers, or anyone else may be harmed as a result of it. This action is permitted, however, only to be undertaken in exceptional situations – this information must be documented in the Cautionary Contact entry.

It follows that other criteria may be applied in deciding whether to take tenancy enforcement action, or seek an Anti-Social Behaviour Crime and Policing Act 2014 (ASBCPA) Injunction, or other response to breaches of the Aggression in the Workplace Policy (Addendum to the Health and Safety Policy).

Typically Customers must be told that they have added to the Register, but there should be no increased risk to Council Staff from taking this action.

## **17. Right of appeal against inclusion on the Staff Safety Register**

The appeals procedure will take place as follows:

- The Customer will have 28 days to write to the Team Manager, (refer to name given in initial letter of inclusion) asking for an appeal to be carried out.
- The Team Manager will then have 10 working days to respond.
- If the Customer is to then be removed from the Register as a result of the appeal, then a letter will be sent from the Team Manager to the Customer explaining that their appeal was successful.
- If the Customer is to remain on the SSR then the Team Manager will respond with a letter to the Customer explaining that their appeal was unsuccessful and listing the reasons why.
- In the event of a 'Team Manager' being unavailable to respond to the appeal, a senior, appropriate Deputy will reply in their absence.

## 18. Review of names on the Staff Safety Register

An automatic message is flagged when the set period, for a member of the public on the SSR, has ended. The Team Leader of the affected area, associated with the Cautionary contact entry, alongside the relevant Senior Member from the appropriate Team, will carry out a review and assess and consider whether their name should be removed. The decision will be reviewed in consultation with relevant Officers if any objection is made. The Systems Administrator will be advised of any markers on the database of cases to be removed. If a decision is made to retain a Customer on the SSR, part of the review process will be to check their address details are still correct.

It will be a breach of this procedure to retain Staff Safety Register markers, or to maintain a separate Potentially Violent or SSR list. Since such a breach could lead to action against the Council by the Customer, it will be regarded as a serious disciplinary offence.

Information Commissioner Guidance is that the Customer should be informed when the review will take place. Names should not remain indefinitely.

The duration that Customers remain on the Staff Safety Register will depend on the continuing need to protect Staff. The Line Manager/Team Leader should review the SSR approximately every six months – however review is not the same as removal.

## 19. Informing other organisations

In some cases the Council may have a duty to Staff of other organisations, including those of Partners and Contractors.

### **Section 3 Health and Safety at Work Act 1974:**

*It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby or not thereby exposed to risks to their health or safety.*

There is a duty to protect a Contractor's employees. This duty will be fulfilled by the Client Officer managing the specific contract. The Client Officer will mark relevant records in their databases and schedules used to manage the contract. As work progresses, if a Customer is deemed eligible to be placed onto the Register, the Client Officer/Contractor will be informed, by the relevant Team placing the marker. A risk assessment will be completed jointly by the Client Officer and the Contractor's Manager to decide what (if any) precautions are required.

**As little of the data from the Register as possible is to be transmitted to the Contractor. It is to be made clear that any information that is disclosed is for the purpose of the risk assessment only.**

It is the responsibility of the Client Officer to confirm that a health and safety duty exists in relation to each contract. Where it does not, the provision below in relation to Partners applies.

The duty may not extend to employees of partner organisations where Heads of Service are responsible for deciding what action to take. The following questions should be considered:

- What is the extent of the Council's duty under the Health and Safety at Work Act?
- Is the partner acting on the Council's behalf (although not under contract) or on its own?
- Does the partner organisation have a Staff warning procedure which controls the use of the data as well as the Harlow Council procedure?
- What is the function of the Partnership? Does it involve Harlow Council employees and partner employees both coming into close contact with the public? Harlow Council has no responsibility for anything that happens in respect of the partner's non-Partnership functions.
- How close is the Partnership between the two organisations? Is it sufficiently close to create a duty? Some Staff may work very closely with colleagues in other organisations (e.g. Kier Harlow and Veolia) but many Partnerships are far less personal.
- Are there any other factors which would affect the Council's legal liability?

If a crime (such as an assault) is an imminent threat the section 29 exemption (see section 6) of the Data Protection Act may apply. This permits the disclosure to anyone of whatever information is needed to prevent that crime taking place. The crime must be likely, not just a possibility.

If an accident or incident occurs and a RIDDOR, (Reporting of Diseases, Dangerous Occurrence Regulations 2013), is required to be carried out then section 30 exemption of the Data Protection Act (DPA) may apply.

If it is intended that the Contractor or partner will record data about the Customer, then they must be informed of that intention, and the Contractor or partner will take on its own obligations under DPA to tell them what data is held, ensure security, review etc.

Heads of Service (or their appropriate appointed Deputy) should seek advice from the Corporate Information Manager, Health and Safety Officers and Legal Services as appropriate.

## **20. Legal Implications**

The purpose of the Register is to fulfil the Council's duties under the Health and Safety at Work Act 1974. In addition its use in respect of unacceptable behaviour is intended to facilitate, and be conducive to, any and all of its functions as provided in S 111 of the Local Government Act 1972.

The processing is therefore lawful, and in fulfilment of functions conferred by law, as required by the First Data Protection Principle (See Schedules 1, 2, and 3 of the Act).

## **21. Maintenance of the Staff Safety Register**

The SSR will take the form of a database held within the 'Achieve' system recording all the necessary information about those accepted for inclusion. It will also contain data needed for the review process and for maintenance purposes.

Use of the SSR is subject to Council ICT and disciplinary measures (i.e. access cannot be transferred to anyone else without appropriate permission).

The SSR will also record events including later occurrences of violence. Other fields will include the date added, date informed, and review date, and other notes relevant to the administration of the Register.

Maintenance data will include a record of the nominating Officer and the confirmation by their Line Manager. This will not be provided to anyone outside the Council. Dates of inclusion and review, and of archived data in the case of those removed, will also be recorded.

The Health and Safety Team are responsible for the management of the Register.

The System Administrator is responsible for the SSR database, design, functionality, relevant training and production of quarterly statistic reports.

Reference to the Health and Safety Team or System Administrator includes all Staff with duties relevant to this service, including those covering leave or other absence of a nominated party.

The Systems Administrator will keep a list of authorised users of the Staff Safety Register 'Achieve' service database.