



DRAFT
Employee Protection Policy

DRAFT

Document Control	
Prepared by:	Corporate Health and Safety
Title	Employee Protection Policy
Status	Draft
Author	Claire Dodd
File Name	Z:\Corporate Health and Safety\Employee Protection
Document Owner	Nesta Barker/Liz Dodd
Keywords	Potentially Violent Persons, Employee Protection, Visiting Officers, Lone Working
Date of Review	November 2017

Revision History			
Version	Date	By	Summary of Change
1.0	13.01.2014	C.Dodd	Creation
1.1	17.01.2014	C.Dodd	DRAFT Circulation to PVP Group for comments
1.2	25.06.2014	C.Dodd	DRAFT Circulation to CHSC for comments
1.3	27.08.2014	C.Dodd	DRAFT Circulation for ECC
1.4	20.10.2014	C.Dodd	DRAFT Circulation for Staffing Committee

Approval Signature			
Name: Nesta Barker		Date	
Name: Liz Dodd		Date	

1. Introduction

- 1.1 The council recognises that it has a responsibility to provide a safe and healthy working environment and acknowledges that this includes dealing with members of the public who are known to be or have the potential to be physically or verbally aggressive, or if there is a known hazard at a premises an employee may visit.
- 1.2 The council will endeavour to comply with the relevant legal requirements, as contained within the Management of Health and Safety at Work Regulations 1999 and other applicable legislation and with the specific guidance note (INDG69) issued by the HSE

2. Application

- 2.1 This policy is applicable to all employees who are classed as "Visiting Officers" or who deal directly with Members of the Public as part of their role.
- 2.2 The Policy covers
 - actual violent behaviour towards employees
 - serious verbal or written abuse or threats towards employees
 - environmental hazards i.e. dangerous premises or dangerous animals
- 2.3 The incidents recorded will include actual incidents involving employees or where information has been passed to the Council by a partner agency i.e. Police or Environment Agency.

3. Legal Responsibilities

- 3.1 Health and safety law applies to risks from violence, just as it does to other risks from work. The main pieces of relevant legislation are:
 - **The Health and Safety at Work etc. Act 1974 (HSW Act)**
Employers have a legal duty under this Act to ensure, so far as it is reasonably practicable, the health, safety and welfare at work of their employees.
 - **The Management of Health and Safety at Work Regulations 1999**
Employers must consider the risks to employees (including the risk of reasonably foreseeable violence); decide how significant these risks are; decide what to do to prevent or control the risks; and develop a clear management plan to achieve this.
 - **The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR)**
Employers must notify their enforcing authority in the event of an accident at work to any employee resulting in death, major injury, or incapacity for normal work for seven or more days. This includes any act of non-consensual physical violence done to a person at work.

- 3.4 Employees have responsibilities to take reasonable care of themselves and other people affected by their work activities and to co-operate with their employers in meeting their legal obligations.
- 3.5 This Policy is subject to the requirements laid out in the Legal Responsibilities which lays out the Council's duties under the Data Protection Act 1998. (Please also refer to Appendix 1 which provides specific guidance produced by the Information Commissioner's Office on data protection good practice and the use of violent markers)

4. Incident Categories

- 4.1 Incidents that are reported by employees will be recorded on a central database (please refer to section 7) the incidents will be classified under the following categories
- **Category A** - actual violent behaviour towards employees
 - **Category B** - serious verbal or written abuse or threats towards employees
 - **Category C** - environmental hazards i.e. dangerous premises or dangerous animals. (please note that this category does not include construction or demolition sites)
 - **Category D** - 3rd Party Notification i.e. information provided by external agencies such as the Police, Aspire or the Benefits Agency

4.2 Category A – Actual violent behaviour towards employees

Work related violence is defined as "any incident in which a person is abused, threatened or assaulted in circumstances relating to their work".

Incidents recorded under this category could include

- where an employee of the Council has been physically assaulted by a member of the public
- there is physical abuse of employees personal property i.e. cars or homes
- there is a serious intention to cause harm e.g. a chair may be thrown at a member of staff but misses them
- where there is a violent friend or associate present that displays violence towards employees and there is a significant likelihood that they will be present when dealing with a member of the public

4.3 Category B - Serious verbal or written abuse or threats towards employees

Entries recorded under this category could include

- an incident of serious verbal or written abuse or threats of physical violence aimed at employees
- where verbal or written abuse are likely to be carried out and could turn into physical violence
- threats by email

- threats posted on a website
- where there is a threatening or abusive associate who could carry out the threats
- incidents of inappropriate nature (including actual and/or gestures) relating to gender, sexual orientation, race, age and or disability
- sexual harassment (physically or by email)

4.4 Category C – Environmental Hazards

Environmental Hazards can be summarised as “incidents” where a hazard has been reported at a property which raises a significant risk to the safety of employees. These “incidents” may not be obvious or easily avoided.

Entries recorded under this category could include

- dangerous animals
- structural defects
- poor house/ garden conditions
- filthy or verminous
- substances hazardous to health e.g. asbestos

4.5 Category D – 3rd Party Notification

3rd party notification refers to information provided by external agencies such as the Police, Aspire or the Benefits Agency. Incidents could not have affected our employees directly but a decision has been made that there is a credible risk to our officers.

5. Recording and Reporting Incidents

5.1 All incidents should be recorded by employees on the Corporate Violence / Bullying Incident Report Forms (see Appendix 2). As much information as possible should be included in the report form to enable a comprehensive review to be undertaken to ensure that the incident can be dealt with appropriately and sufficient control measures can be put into place.

5.2 Additional information that could be entered onto the form may include

- The apparent mental stability of the individual
- Any threatening activities, incidents or behaviour they have or are alleged to have committed
- If this has been notified from an external agency
- If necessary, the Corporate Health and Safety Officer may require the employee involved to supply a more detailed written account of the incident.

5.3 The forms can be directly input on to Target 100 or forms can be downloaded from the E-Voice Health and Safety Pages. It is noted that some employees may complete one of the other incident forms e.g. near miss, depending on the nature of the incident; these will be assessed by the Corporate Health & Safety Officer to determine if they need to be included on the database.

- 5.4 Once the forms have been uploaded onto Target 100, an alert will be sent to the Corporate Health & Safety Officer via email.
- 5.5 Incidents that fall into Category A **MUST** be reported to the police by the employee.
- 5.6 If an incident falls under Category B, it is at the discretion of the individual employee as to whether they contact the police, if required they can contact the Corporate Health and Safety Officer for advice.
- 5.7 HR can offer advice and support for individuals who have been affected by an incident i.e. counselling or signpost them to more specialised support.

6. Incident Review and Classification

- 6.1 On receipt of a Corporate Violence / Bullying Incident Form the Corporate Health and Safety Officer and Audit Manager will
- review the data logged in the form
 - categorise the incident (A,B,C or D)
 - make a decision as to how the person involved in the incident should be handled.
 - enter the incident onto the database
 - if appropriate, they will ensure a warning marker is allocated to the relevant database(s) (A,B,C or D) and issue a letter to the customer (see Appendix 3).

7. Incident Database

The Incident Database is a computerised database that contains names and/or addresses of persons who have displayed violent or abusive behaviour towards employees of Newcastle-under-Lyme Borough Council (or details of dangerous animals at those addresses).

7.1 Recording of addresses/individuals

- 7.1.1 Once the incident has been reviewed and classified, the Corporate Health and Safety Officer will enter this onto the Database which will create a warning marker.
- 7.1.2 When a decision is made to include details of an individual on the Incident Database, the Corporate Health and Safety Officer will ensure:
- the relevant details are recorded on the database;
 - appropriate violent marker warning 'flags' are set up on the relevant databases;
 - relevant employees are alerted by email;
- 7.1.3 Individuals whose details have been placed on the database are notified in writing using the letter template at Appendix 3. However, in cases where it is

believed that notifying the individual about the information held would in itself create a substantial risk of a violent reaction from them, it may be decided that they are not notified. This decision must be confirmed with the council’s Audit Manager and Monitoring Officer.

7.1.4 All measures have been taken to ensure that information will be held securely and processed in accordance with the requirements of the Data Protection Act (Guidance attached at Appendix 1).

7.1.5 We will utilise information held by the Council to validate names and addresses (during the retention period) to ensure that information provided to Visiting Officers is maintained and up to date.

7.2 Record Retention

Once an individual or an address has been placed on the database, it will be reviewed for accuracy on an annual basis by the Corporate Health & Safety Officer and the Audit Manager to decide whether the entry should be retained or reviewed. Consideration will be given

- the original level of threat of violence;
- how long ago this was;
- the previous and subsequent behaviour of the individual;
- any intelligence/circumstances where it is considered a risk to employees remains

7.2.1 Retention Period

Category	Incident Type	Retention Period
A	actual violent behaviour towards employees	5 years (*) (**)
B	serious verbal or written abuse or threats towards employees	3 years(*) (**)
C	environmental hazards i.e. dangerous premises or dangerous animals	5 years(*) (**)
D	3 rd Party Notification i.e. information provided by external agencies such as the Police, Aspire or the Benefits Agency	5 years(*) (**)

(*) Details will remain on the database where it is determined that a credible risk to staff still exists.

(**) Where an incident contains a number of Incident Categories, the more serious incident will determine the retention period.

Once the retention period expires, entries onto the database will be reviewed thereafter annually to determine if a credible threat still exists and the entry remains on the database.

7.1 Access to the Database

- 7.2.1 No employees other than the Corporate Health and Safety Officer, the Head of Environmental Health Services and the Audit Manager will have access to the database for the purposes of adding/deleting entries;
- 7.2.2 'Front line' employees dealing with customers at The Guildhall and Kidsgrove Town Hall will have view of warning flags in relation to individuals and addresses;
- 7.2.3 Employees dealing with service requests allocated to them via the various databases and/or who are required to visit an address or interview an individual, will have view of warning flags in relation to individuals and also access to the full incident record for that individual, including their address and other individuals at the address who are recorded on the database;
- 7.1.4 Access to the additional data held on the database will be via eVoice and will be strictly controlled by username activated access permissions determined by the Heads of Service in consultation with the Corporate Health and Safety Officer and "Audit Manager and Monitoring Officer";
- 7.2.5 For services/sections where staff do not have access to CRM, access will be via their nominated administrator.

7.3 Disclosure

- 7.3.1 Details contained on the database may be disclosed to the police and other partner organisations as appropriate and only when there is good reason to do so. Any decisions concerning the disclosure of information will lie with the "Audit Manager and Monitoring Officer".

7.4 Communication of Information to Visiting Officers

- 7.4.1 If an incident is decided to warrant recording, on saving the incident, a flag is setup in the relevant database to alert users where appropriate. An email to alert relevant individual staff members will automatically be dispatched, a generic warning letter will be printed with appropriate information, and the data will be entered onto to the Employee Protection database.
- 7.4.2 Once a flag has been assigned to a premises / person, staff will be alerted in 2 ways:
 - 1. If the staff member is front facing, a discreet pop-up will appear on their screen indicating that there is information relating to the address exists on the Employee Protection Register.

2. If the staff member is a service request recipient, at the bottom of the request will be a warning field which is populated if a marker exists.

7.4.3 Staff will be able to check the details of the warning markers via a secure page on E-Voice. Staff who have previously been identified as having an interest in PVP markers will be allowed to view a page with a listing of entries within the catalogue. From here, they will be able to see specific details. Any users who do not have permissions will be referred to the Corporate Health and Safety Officer or Head of Environmental Services. Access to the intranet pages will be at the request of Heads of Service, at which point a user's logon would be added to an access control list.

8 Risk Assessment

8.1 The council will endeavour to comply with the relevant legal requirements, as contained within the Management of Health and Safety at Work Regulations 1999 and other applicable legislation and with the specific Approve Code of Practice (L21) and guidance notes (INDG69) issued by the HSE.

8.2 In particular the following rules and procedures will be applied in relation to this area and associated work activities -

- An assessment of the risks relating to work related violence faced by employees must be carried out for all relevant work activities or situations.
- An assessment of risks relating to visiting officers which could have the potential to cause harm to an employee
- Management and employees at all levels will be encouraged to take work related violence seriously. It must not be accepted as "part of the job".

8.3 The Council will adopt suitable measures to minimise exposure of employees to work related violence.

8.4 All employees who could be affected by work related violence must receive adequate and suitable information, instruction and training to assist them in recognising signs of aggression and situations that could result in violence and how to avoid or deal with them. Further support and advice can be sought through HR.

8.5 Risk assessments on properties or individuals where there is a potential of exposure to verbal or physical aggression or an environmental condition that could cause harm to the employee should be undertaken.

8.6 Examples of persons at risk (although not exclusive) could be

- Visiting Officer – to a public or private premises
- Customer Services Agent

- Enforcement Officers – inviting members of the public into the civic offices for interviews
- Employees involved in cash transactions.
- Employees representing authority.
- Employees working alone

8.7 Risk Assessments are recorded and monitored on Target 100. Please refer to the Lone Working Policy – Appendix 1.

9 Responsibility of Employees

9.1 Employees have a responsibility to protect the health, safety and welfare of themselves and others.

9.3 Employees should familiarise themselves with the Employee Protection Policy and database, associated documents and ensure that they adhere to the requirements of the Policy and service specific Risk Assessment

9.4 All employees are required and encouraged to report to their manager/supervisor any incidents of work related violence or concerns regarding environmental conditions regardless of the circumstances

9.5 Homeworkers are not exempt from the requirement to comply with this policy.

9.6 A good practice guide for visitor officer / public safety can be located in the Lone Working Policy – Appendix 2.

9.7 There may be the occasions where employees could find that allegations are made against them by Members of the Public whether this be about their behaviour/conduct. If whilst carrying out their duties, employees feel that a complaint or allegation could be made against them, they should record the details of the incident as soon as possible and report this to their line manager. These could subsequently

10. Responsibility of Line/Business Manager or Head of Service

10.1 Employees dealing with members of the public or visiting private or public premises cannot be subject to constant supervision, however it is still an employer's duty to ensure they are healthy and safe at work. Supervision and training can help to ensure that employees understand the risks associated with their work and that the necessary health and safety precautions are carried out.

10.2 The extent of supervision required depends on the risks involved and the ability of the employee to identify and handle health and safety issues. Employees new to a job, undergoing training, doing a job that presents special risks, or dealing with new situations may need to be accompanied at first.

10.3 The level of supervision required is a management decision, which should be based on the findings of a risk assessment; the higher the risk, the greater the

level of supervision required. It should not be left to individuals to decide whether they require assistance.

- 10.4 Ensuring that all work-related hazards are identified, suitable and sufficient risk assessment undertaken and appropriate control measures put into place and undertake monitoring and review of risk assessments.
- 10.5 Employers should ensure that employees who have been victims of, or otherwise affected by, work related violence will receive support, counselling, legal advice or other assistance from the council as is necessary to assist them in their recovery.

11 Non-Compliance

- 11.1 Any infringement of these rules by an employee may result in appropriate disciplinary action, which will be dealt with in accordance with the Council's disciplinary procedure.

12. Review

- 12.1 The Council will monitor the effectiveness of this policy and its general compliance within the organisation.
- 12.2 It is the responsibility of all managers/supervisors to ensure that their staff are aware of the content of the policy and to monitor compliance.
- 12.3 Any problems or complaints from staff on the operation of the policy should be raised in the first instance with their line manager. If it is not resolved then the Council's grievance procedure should be referred to.
- 12.4 This policy will be kept up to date and amended accordingly to reflect any changes in response to revised legislation and applicable standards and guidelines. Trade Unions and health and safety representatives will be consulted regarding any substantive changes.

Appendix 1 –



Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

Data Protection Good Practice Note

The use of violent warning markers

This guidance explains to those working with the public how best to manage the use of violent warning markers.

Employers have a duty of care to their staff to protect them in the workplace. Violent warning markers are a means of identifying and recording individuals who pose, or could possibly pose, a risk to the members of staff who come into contact with them. We understand that, in practice, a flagged piece of text is attached to an individual's file. These markers should be used very carefully and should contain the reasons for identifying individuals as being potentially violent. They are likely to record information relating to:

- the apparent mental stability of an individual; or
- any threatening actions, incidents or behaviour they have or are alleged to have committed.

This means personal data, and often sensitive personal data, will be included in a violent or potentially violent warning marker and so must comply with the Data Protection Act 1998 (the Act).

Compliance with the Act - fairness

The first data protection principle requires that the processing must be fair and lawful. This means that a decision to put a marker on an individual's file must be based on a specific incident or expression of clearly identifiable concern by a professional, rather than general opinions about that individual. The individual should pose a genuine risk and the decision should be based on objective and clearly defined criteria and in line with a clear and established policy and review procedure. The criteria should take into account the need to accurately record any incident.

For consistency, you should make sure a senior nominated person in the organisation is responsible for making these decisions. Decisions should be reviewed regularly. When making a decision this person should take into account:

- the nature of the threat;
- the degree of violence used or threatened; and
- whether or not the incident indicates a credible risk of violence to staff.

For the processing to be fair, you should normally inform individuals who have been identified as being potentially violent soon after you make the decision to add a marker to their record. It should be part of your procedure to write to the individual setting out why their behaviour was unacceptable and how this has led to the marker.

V2.0
21.12.06

You should tell them:

- the nature of the threat or incident that led to the marker;
- that their records will show the marker;
- who you may pass this information to; and
- when you will remove the marker or review the decision to add the marker.

There may be extreme cases where you believe that informing the individual would in itself create a substantial risk of a violent reaction from them. For example, because of the nature of the incident or the risk to another individual. In these cases it may not be sensible to inform the individual as described earlier.

If this is the case, you must be able to show why you believe that by informing the individual of the marker there would be a substantial risk of further threatening behaviour.

You should make all decisions on a case-by-case basis and keep records.

Compliance with the Act - processing conditions

The Act states that you should not process personal data unless you can meet one of the conditions in schedule 2 of the Act, and for sensitive personal data, one of the conditions in schedule 3.

As employers have a duty of care towards their staff, for example, under health and safety legislation, the appropriate schedule 2 condition to allow processing of information in markers is that processing is necessary to comply with any legal obligation imposed on the data controller (which in this case would be the employer). The appropriate schedule 3 condition is that processing is necessary to comply with any legal obligation imposed on the data controller in connection with employment.

The individual's rights

The Act gives individuals the right to make a subject access request. In most circumstances, you should reveal the fact that there is a violent warning marker on the individual's record. Although, in most cases, you should already have informed the individual. However, you should make this decision on a case-by-case basis and consider any other individuals (third parties) that may be included in the information. For more information about this, please see our guidance 'Subject access requests involving other people's information'.

There may be rare cases where you will need to consider whether:

- revealing the existence of the marker;
- revealing the information in the marker; or
- what the individual may infer from the existence of the marker;

may actually cause serious harm to the physical or mental health or condition of that individual. In these cases, you must get specialist advice from health and data protection professionals. For some of these cases there may be relevant statutory instruments that modify the provisions in the Act that relate to the individual's rights (see note 1).

Requests from individuals to stop processing their personal information

Section 10 of the Act gives individuals the right to require you to stop processing their personal information if this is likely to cause them substantial and unwarranted damage or distress. If an individual gives you a section 10 notice relating to a violent warning marker then you should be aware that you may ultimately have to justify creating the marker in court.

Passing the information to other organisations

From a legal point of view, the appropriate schedule 3 condition for processing mentioned earlier will not cover disclosing the marker information to other organisations, as the condition relates to a legal obligation on the employer for their own staff, not other organisations' staff. However, where there is a good reason for providing the information to another organisation, for example, to alert them to the potential risk to their staff, this will be justified even though no Schedule 3 condition obviously applies. In these cases, our focus is on whether the processing is justified and not unfair.

The senior nominated person in the organisation should determine this on a case-by-case basis where there is a credible risk that an unlawful act, such as an assault, will occur. They should only provide the information to an individual of a similar level in the other organisation.

If you pass the information on to another organisation, you should inform the individual, unless that would be a serious risk to the person or another individual as described earlier. If you review the marker and decide to change or remove it, you should then inform the other organisations you previously sent the information to.

Retention

The fifth data protection principle states that personal information should not be kept longer than necessary. You must make sure violent warning markers are removed when there is no longer a threat. This should be part of the standard review procedure. The retention period is likely to depend in part on:

- the original level or threat of violence;
- how long ago this was;
- the previous and subsequent behaviour of the individual; and

Note 1

SI 2000 No. 413 'The Data Protection (Subject Access Modification) (Health) Order 2000'

SI 2005 No.467 'The Data Protection (Subject Access Modification) (Social Work) (Amendment) Order 2005'

V2.0

21.12.06

Appendix 2 –

Newcastle Borough Council
PRO EC Personal



NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

Assessor		Violence / Bullying Incident Report Form	
Department / Location		© 2008 Business Safety Systems Ltd	
Date and Time of Incident			
Reference number			
Employee Reporting The Incident		Person Completing This Report	
Name		Name	
Job / Position		Job / Position	
Department		Department	
What activity were they engaged in at the time of the incident?		Assailant	
Witness		Name	
Name		Job / Position	
Job / Position		Department	
Department		Address	
Address		What activity were they engaged in at the time of the incident?	
What activity were they engaged in at the time of the incident?		Other relevant details	
About The Incident			
What happened? Give an account of the incident, including any relevant events leading to the incident.			
What was the outcome? Injury / verbal abuse / anti-social behaviour / damage to personal property			
Details of action taken			
Any other relevant information			
	Yes	No	
Have the police been informed of the incident?			
If the police were informed please give the crime reference number			
Is this incident RIDDOR reportable (see background information - RIDDOR regulations)			
Have risk assessments and safe systems been reviewed following the incident?			
Supervisor checked			

Appendix 3 –

Our ref:

Your ref:

Date:

Dear

I am writing as a result of the recent time/s that you:

- Approached Newcastle-under-Lyme Borough Council via the Guildhall/Reception
- Approached Newcastle-under-Lyme Borough Council via telephone
- Used an amenity provided by Newcastle-under-Lyme Borough Council
- Were visited in your own home in connection with council matters
- Were visited at your place of business in connection with council matters
(delete as appropriate)

You will recall that on *(insert date)* you subjected one of the council's employees to physical abuse and/or threats of violence. The member of staff was obliged to:

- Terminate the telephone conversation/appointment
- Terminate the visit
- Call for assistance or for the police
(delete as appropriate – also include details of any other relevant incidents)

You have right to expect the best service from Newcastle-under-Lyme Borough Council and we will try to provide that service politely. In return we expect the same from you.

We reserve the right to ask anyone who abuses us, verbally or physically, to leave the premises. Abusive phone calls may be terminated. We will support staff who are subjected to aggression or violence and take legal action against perpetrators.

We also recognise that from time to time people need to complain to the council about the services they receive. A copy of our Complaints Procedure is available to you on request.

In view of the incident/s outlined above, I regrettably feel that I would have no alternative but to take further action if such behaviour were to be repeated.

I must also notify you that as a result of the incident, your details have been recorded on the council's Incident Database and your records marked to this effect.

Please contact me if you have any queries, but I must stress that any further similar incidents may result in police action and/or the council seeking an injunction via the courts.

Yours sincerely