

West Suffolk Council – Customer Alert List Policy

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1. Introduction

1.1 Under the Health & Safety at Work Act 1974 (HSWA) employers have a duty of care to their staff to protect them in the workplace. A Customer Alert List (CAL) is 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. The Council maintain a register of names and addresses of these individuals to disseminate information known only to one group of staff through the authorities, including Anglia Revenue Partnership, so that staff are aware of the potential dangers when meeting these people.

1.2 The first data protection principle requires that information must be processed lawfully, fairly and in a transparent manner in relation to the individuals. This means that a decision to put an individual on the CAL 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 clear and established policy and review procedure.

1.3 Our lawful basis for processing in regards to the CAL is: Article 6 (d) - processing is necessary in order to protect the vital interests of the data subject or of another person. In regards to special category information our lawful basis is: Article 9 (g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

1.4 The above Data Protection articles are further underpinned by the Data Protection Act 2018 Schedule 1 – Special Categories of Personal Data and Criminal Convictions etc. Part 2 – Substantial Public Interest Conditions, states: there is a requirement for an appropriate policy document when relying on conditions in this Part 5 (1) except as otherwise provided, a condition in this Part of this Schedule is met only if, when processing is carried out, the controller has an appropriate policy document in place.

1.5 The Service Manager (Health & Safety) will update the CAL on a regular basis, with advice from the Data Protection Officer on how the CAL should be managed.

2. Why individuals are placed on the CAL

2.1 Individuals are placed on the CAL after a General Reporting Form (signed or countersigned by a senior officer) has been received by the Service Manager (Health & Safety) and any subsequent investigation has been completed. The investigation will cover:

- Any threatening actions, incident or behaviour they have or are alleged to have committed; or
- The apparent mental stability of an individual

If the investigation shows the individual is deemed to pose a serious enough risk to staff then s/he is placed onto the CAL. When deciding whether to put an individual onto the register the Service Manager (Health & Safety) or designated representative, will take into account:

- The nature of the threat
- The degree of violence used
- Whether or not the incident indicates a credible risk of violence to staff

The CAL consists of the names and addresses, the reported information/notes and the reporting officer details and advice for individuals who fall into the following categories:

- They have assaulted an officer of the Council or a member of that officer's family
- They have threatened to assault an officer of the Council or a member of that officer's family
- The Council has received information from a reputable source (usually the police) that extreme care should be taken when dealing with an individual
- They have made unfounded allegations of a serious nature against an officer of the councils
- They have caused damage to property

3. Under what circumstances are individuals informed or not?

3.1 For the processing of information relating to the individual being placed on the CAL to be lawful, fair and transparent, they should normally be informed as to why their behaviour was unacceptable and how this has led to them being added to the CAL. They should be told:

- The nature of the threat or incident that led them to being placed on the CAL
- Who we may pass this information onto
- When we will review the decision

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 this case it may not be sensible to inform the individual. However, this decision will be made on a case-by-case basis taking into account, in particular, the impact on third parties – the decision should be documented in the notes column of the CAL along with who made it.

3.2 Data Subject Access Request. The Data Protection Act gives individuals the right to make a request to access the personal information held about them. In most circumstances, you should reveal the fact that there is an entry on the CAL for them, although in many cases the individual should already have been informed. However, there may be rare cases where the councils will need to consider whether:

- Revealing the existence of the CAL entry

- Revealing the information in the CAL entry; or
- What the individual may infer from the existence of the CAL entry may actually cause serious harm to the physical or mental health, or condition of that individual or third party.

4. Right of Appeal

If after being informed, an individual may wish to appeal the decision to add their information to the CAL, they can do this by writing to the Service Manager (Health & Safety), if still not satisfied it will be dealt with as a Step two complaint in accordance with our complaints procedure. If the individual is still unhappy with the decision, they have a right of appeal to the Information Commissioner's Office.

5. Who the information is shared with (internal and external)

5.1 Where there is good reason for providing the information to another organisation, for example to alert them to a potential risk to their staff, this will be justified even though the original purpose of the CAL (and the lawful reason to process) is to protect the data subject or another person (in this case our own staff). The Service Manager (Health & Safety) – as the senior officer responsible for the CAL – will determine sharing of information, on a case-by-case basis, where there is a credible risk that an unlawful act, such as an assault will occur. The sharing of this information, who with, when and why, should also be documented in the CAL.

5.2 If information about an individual is passed to another organisation, the individual should be informed, unless that would be a serious risk to the person or a third party as described earlier. If this information is reviewed, changed or removed from the CAL then the other organisations which received this information should also be informed so they can also review, change or remove the information from their systems.

6. Access controls to the information

6.1 Internal – Access to the information on the CAL is restricted by permissions authorised by the Service Manager (Health & Safety)

6.2 External – The Service Manager (Health & Safety) should only pass on information to someone of a similar level in external organisations. Organisations receiving the information should ensure:

- They have adequate systems in place to secure the information
- It is only shared with staff who may come into contact with the individual
- It is not shared with any other organisation without the permission of the West Suffolk Council The Service Manager (Health & Safety)
- Systems on which the information is stored have the ability to amend or delete the information as required

7. How information on the CAL is retained, reviewed and ultimately disposed of.

7.1 The fifth principle under Data Protection states: information which permits identification of data subjects should be kept for no longer than is necessary. Information on the CAL will be reviewed regularly to ensure it is removed when the individual is deemed to no longer be a threat. The review will be carried out by the Service Manager (Health & Safety) annually, or sooner if new information concerning an individual comes to light. The retention period for individual case is likely to depend in part on:

- The original level of threat or violence
- How long ago this was
- The previous and subsequent behaviour of the individual; and Whether or not the incident was likely to have been a 'one-off'. For example, where the individual was suffering an unusual amount of stress to a particular set of circumstances

The Service Manager (Health & Safety) will inform any organisation, who the information was shared with, to amend their records accordingly. If information concerning an individual is to be disposed of it will be done in accordance with the Council's Record Management Guidance. The lawful basis on which the Council process this information will be documented in the Record of Processing Activities.

8. Level of decision maker

8.1 The Service Manager (Health & Safety), in his absence his deputy (with Assistant Director approval), will update the CAL on a regular basis, with advice from the Data Protection Officer on how the CAL should be managed. The Service Manager shall also be responsible for:

- Who goes on the CAL
- Who the information is shared with
- Ensuring any organisation which receives the information has adequate access controls in place to protect the information
- Ensuring any organisation which receives the information is updated of any changes to the individuals' situation or status

9. Staff Training

9.1 It is the responsibility of all Service Managers to make staff aware of this framework and where necessary:

- Incidents and incident reporting
- Their duty to report all violent and threatening incidents or professional expressions of concern or potential violence
- The name of the person they should report the incidents to
- The senior person who makes the decisions about the CAL
- Staff responsibility to check the CAL before visits or interviews

9.2 Incidents and Incident Reporting. If it is believed by a member of staff that a member of the public poses a threat and is being redirected from one service to another, it is imperative that the staff in that service are forewarned of such a threat by the quickest possible means (face-to-face or telephone).

If it is believed that the member of public concerned poses a potential threat to Council staff in the future and their name is not on the CAL, the Service Manager (Health & Safety), or representative, should be notified immediately by phone.

All incidents must be reported promptly (General Reporting Form). The Service Manager (Health & Safety), or representative, will investigate high risk incidents with relevant managers/supervisors and staff.

The police must be summoned if a member of staff is physically attacked.

If the incident is serious (e.g. a physical assault is involved) and the member of staff is traumatised, the team leader / service manager should immediately inform the Service Manager (Health & Safety) who will advise on the support to be provided to the member of staff involved. The Council will provide professional counselling in appropriate cases.

The Crown Prosecution Service will normally prosecute offenders where there is sufficient evidence. Following serious incidents, where the CPS takes no action, the case will be referred to the Service Manager (Legal Services). Provided that there is sufficient evidence, which may lead to a reasonable chance of success, the authority will undertake a private prosecution on behalf of the member of staff who has been assaulted (where appropriate). To assist in this process, the Service Manager (Health & Safety) will normally arrange for the taking of statements from staff and witnesses, in addition to any statements taken by police.