

**Report
to the Housing Management Sub Committee
to be hold on 22 May 2008**

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Date: April 2008

FOR APPROVAL

1.0 Subject

Outcome of consultation exercise on the new Restricted Contact Policy.

2.0 Summary

The purpose of this report is to analyse responses to the consultation exercise on the Restricted Contact Policy before being recommended for approval by the members of the Housing Management Sub Committee and ratified by the Committee of Management.

The Housing Scotland Act 2001 requires specific consultation to be carried out on policy documents when being reviewed and in particular to highlight any significant changes to those policies.

The Policy was consulted on with staff. A letter, reply sheet and copy of the draft policy document was also issued to five Registered Tenant Organisations (RTOs). The Policy was also consulted on via the Co-operative's website and through the spring 2008 edition of the Tenants Tribune newsletter. Appendix One shows the letter issued to the Residents Tenants Organisations and Appendix Two shows the article placed on the website (the Tenants Tribune article was similar).

3.0 Link to Internal Management Plan

Consultation with members supports the following objectives in the Co-operative's Internal Management Plan:

- 1a) To deliver the service to clients' satisfaction and expectations
- 2b) To develop a system for clients to communicate what they want
- 2c) To encourage the realisation of the Co-operative ethos

4.0 The Results of the Consultation

There were fifteen individual responses to the consultation exercise from the five Resident Tenants Organisations contacted; one-hundred and eleven member responses via the Tenant Tribune and no responses from the website. This represents, approximately, an overall return of 10%.

Appendix Three summarises the responses received and the comments made along with the action the Co-operative took to amend the Policy.

From the summary the following key conclusions may be drawn:-

- The vast majority of respondents agreed with all aspects of the Policy aims
- The vast majority of respondents agreed with the inclusion of the Key Elements
- The vast majority of respondents were happy with the Policy's statement on Equal Opportunities
- The vast majority of respondents agreed with how the Policy will be monitored and reported on
- The vast majority of respondents agreed that the Policy should be reviewed every three years
- The vast majority thought the Policy was clearly set out; easy to read; easy to understand and free from jargon and technical terms.

5.0 Financial Implications

There are no financial implications as a result of this report.

6.0 Risk Assessment

By carrying out consultation on policy documents the Co-operative adheres to its statutory duties and its legal obligations. It also fulfils the strategic and operational aims of its Internal Management Plan to involve members in policy formulation. There are therefore no operational or strategic risks associated with this report.

7.0 Sustainability

See Risk Assessment above.

8.0 Staffing Issues

Staff training on the Restricted Contact Policy is to be carried out in May 2008.

9.0 Equal Opportunities

A statement on the above has been appropriately included in the policy document.

9.0 Recommendations

It is recommended that the members of the Housing Management Sub Committee agree the following:-

- To approve the contents of this report
- That the changes proposed to the draft copy of the Restricted Contact Policy are accepted

- That the draft review of the Restricted Contact Policy (Appendix Four) is approved and recommended for ratification to the Committee of Management
- That the results of the consultation exercise are made available to all members via the Tenants Tribune newsletter and the Co-operative's Website.

Our Ref: CM/tf

Appendix One

Date

«Name»

«Address»

«Area»

«Town»

«Postcode»

Dear Resident Tenant Organisation Member

RESTRICTED CONTACT POLICY CONSULTATION

The purpose of this contact is to consult you about the above Policy and to get your views on this document. A copy of the Policy is enclosed for your consideration.

The Restricted Contact Policy is a new Policy. In drafting the Policy, we have consulted several documents and good practice guidance. The key documents used were:

- Performance Standards for Social Landlords and Homeless Functions – COSLA, Communities Scotland and Scottish Federation of Housing Associations (SFHA), 2006
- Raising Standards in Housing by the Scottish Federation of Housing of Housing Associations – Access to Information

You will find enclosed a questionnaire to assist you on commenting on the policy document. Please complete the areas where you feel you have comments to make and return them in the reply paid envelope provided. We would be grateful if you could do this by **4 April 2008**.

Should you wish to discuss the document prior to replying please feel free to contact either myself, Cearda McGregor or Pat Cahill, Housing Managers on 628418 between 10:00 a.m. and 3.00 p.m. Monday to Friday. If we are not available please leave your telephone number and we will contact you.

After 4 April, we will collate the replies and consider if these can be incorporated into the policy document. A report on replies received will be presented to the committee members on the Housing Management Sub Committee who are responsible for recommending approval of the document to the Committee of Management. If you provide us with your name and address, we will also reply

to you directly on the outcomes of this consultation and publish it in a future Newsletter that will be issued to all members.

Thank you for taking time to participate in this policy consultation process.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C McGregor'.

Cearda McGregor
Housing Manager

Encs: Draft Restricted Contact Policy
Questionnaire
Reply-paid envelope

RESTRICTED CONTACT POLICY

Your chance to give your views

As your landlord, the Co-operative is seeking your views on the introduction of a new policy on restricted contact. The main purpose of the Restricted Contact Policy is to advise what the Co-operative will do in the following circumstances:

- How it will manage data it holds on individuals who have issues relating to vulnerability, challenging behaviour, and/or potentially dangerous situations
- How it defines personal and sensitive data
- When a Restricted Contact marker will be used and the how the decision will be taken
- Contacting a person when a Restricted Contact marker has been applied to their record
- How a person can appeal the decision to apply a Restricted Contact marker
- How Restricted Contact marker information will be kept
- Access to Restricted Contact marker information

Before the draft policy is fully considered by the Housing Management Sub Committee (and later ratified by the Committee of Management) you are offered the opportunity to see the policy document and to comment on it. You can do this in two ways.

Follow the links to the Restricted Contact Policy. You can then read the document and leave a response on the questionnaire that will then be e-mailed to the Housing Manager.

Or

Contact Cearda McGregor or Pat Cahill, Housing Managers on 01224 628418 between 10.00a.m. and 4.00p.m. with your response and we will write down what you have to say. If we are not available when you telephone please leave a message and we will contact you.

The deadline to do this is 4 **April 2008**.

Your views including comments on layout, presentation and how easy the Policy is to follow and understand are welcomed and necessary to

ensure your full involvement in how the Co-operative manages its business.

Once all the replies are received, a report analysing your comments will be submitted to the Housing Management Sub Committee. Advice on how to view the final Restricted Contact Policy will be issued in a future newsletter.

Thank you for your participation in this Policy review.

Appendix Three
Summary of Member/Resident Tenant Organisation on the
Restricted Contact Policy

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	YES	NO	Did not answer
Do you agree with all aspects of the aims of the Policy on Page 2?	58	1	67
2.0 Key Elements			
1. Use of the name 'Restricted Contact' marker(pg 2)	121	1	4
2. When to use a Restricted Contact marker (pg 3)	121	1	4
3. Contacting a Restricted Contact person (pg 4)	122	1	3
4. Right of Appeal (pg 4)	122	0	4
5. How Restricted Contact information will be kept (pg 4)	122	0	4
6. Access to Restricted Contact information (pg 5)	120	1	5
9.0 Monitoring, Reporting & Targets			
Do you think there is anything we could add to this list?	9	111	6
Are you happy with the Policy's statement on Equal Opportunities?	122	2	2
Are you happy with how we plan to monitor and report on how well the Restricted Contact works?	122	1	3
Do you agree that the Policy should be reviewed every 3 years	118	3	5
What do you think of the way we have written the Policy? Is it clearly set out?	120	0	6
Did you find it easy to read?	114	4	8
Did you find it easy to understand?	112	8*#	8
Is it free from "jargon" or technical terms?	113	5	8

Do you wish to make any other comments about the Policy?	See below		
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***1 respondent answered both yes and no**

1 respondent found they understood part of it so counted as both yes and no

Summary of Comments Received with Action Taken

Comment	Action Taken
I as usual find your policies well laid out and easily understood (if only life were like that)	Noted
I think your Policy is very clear to understand and it covers all the terms of tenancy. I have been a tenant for many years and I am very happy with all the things the Co-operative is doing for its tenants.	Noted.
2.1 Is 'restricted' the most appropriate word? Perhaps 'managed' or similar? As the contact with the person won't be restricted so much as more stringently managed.	Discussed the merits of member's suggestion but considered that the current title of Policy is suitable for its purpose. No change made to Policy.
(Key elements 5 & 6) would have to be monitored very strictly	Noted. Strict monitoring is integral to this policy and procedures. No further action required.
As with all confidential information would require serious monitoring.	Noted. As above.
Stated that Policy could work towards review every 2 years or even less	The majority of the Co-operative's policy documents state that policies are reviewed three-yearly unless legislation, or monitoring and reporting reveals that a change is required sooner so the capacity to review sooner is available if needed. Therefore no change to Policy made.
I think/ could it [the Policy]/ be reviewed every year along with things that have come about.	As above.
I think it [the Policy] should be reviewed every 5 years to give it a chance to prove its worth plus reduce the workload.	As above. Understand the merits of this suggestion but it is felt that three years is sufficient time for this new policy to settle in.
Please do not have all the policies	Noted. Policy review timetable should ensure that

<p>reviewed at the same time</p>	<p>policy reviews are spread out over the calendar year.</p>
<p>The information held by Tenants First regarding the restricted contact person is important to ensure the safety of staff and others from harm and to reduce risks. Information should be shared on a 'need to know' basis with others such as the police, SW, GPs etc. to reduce risks/dangers.</p>	<p>Noted and information sharing referred to in Section 3.7 of the Policy. No further action required.</p>
<p>I understand the Data Protection Act but if there are people known to physically/verbally abuse people, or be aggressive towards others, and also those who abuse substances, should members in the area not be made aware? Having 2 young children I feel this is important to prevent trouble.</p>	<p>It is reasonable to expect members of the Co-operative and public to be concerned about people who are a threat or potential threat to others. However, the Data Protection Act 1998 is very clear about how information held on an individual can be managed. The Co-operative is legally unable to provide this information to others, unless it is permitted to do so within the terms of the Act. If it does provide information unlawfully this can lead to civil or criminal proceedings against the Co-operative or a member of its staff. It is important to remember that the number of members held on the Restricted Register is very small and not all members with a Restricted Contact marker will be considered dangerous or a threat. Other categories of people such as those deemed vulnerable may also be listed on the register. No change to Policy made.</p>
<p>Whilst I understand the policy is aimed at the health and safety of mainly Co-operative staff or contractors, surely it makes sense such information is also shared with immediate member neighbours of a person of 'Restricted Contact' does our health and safety not count? Could the Co-operative provide information on how members can check such registers elsewhere if they are unable to provide the details.</p>	<p>As above. The Co-operative may at times be aware of other registers that its members are listed on. But for the reasons stated in comment above, would be unable to pass this information on. Other agencies holding such registration lists will be bound by same data protection regulations as the Co-operative and would, generally, be unable to pass this information on to the public.</p>
<p>Concerned advising individual reason why each person is on register to</p>	<p>For monitoring purposes within the Housing Management Team information collected will be</p>

sub committee could lead to person being identified. Should <u>total</u> amount issued for different reasons be used instead e.g. aggression/verbal abuse/health etc.	recorded by geographical and local authority area and kept securely, but the information reported on to the Housing Management Sub-committee etc. for statistical purposes will be expressed as an overall figure and not broken down in to geographical or local authority areas. Full confidentiality will be maintained at all times. Policy updated to make this clearer at section 6.
Don't understand – too business like for aging people.	Noted.
Make doubly sure that all information is secure. We hear that sensitive information can leak out and become public knowledge.	Noted. Section 3.6 of Policy states that information will be securely held electronically. We will ensure the Restricted Contact procedures are also clear about need for security of information.
There should be a section policy stating that the Co-operative will take legal action against tenants' consistently threatening abuse towards staff.	Agreed and added to Policy.
The other reason could be – score them off or hold onto person/persons the Policy for future happening.	Unclear what this suggestion means but would be unable to remove members from the Co-operative's membership without due cause.
... I think it (the Policy) is quite easy to read – but some parts are difficult to understand but what I have understood I have answered (and enjoyed filling it up).	Noted.
Do not agree with political beliefs or opinions if they are outwith the laws of the <u>UK</u> .	Noted but considered a personal view and therefore Policy not updated.
But remember whatever race or creed we must all abide by this Country's law.	Noted and considered a personal view.
Now knowing this action is necessary, by what % is it so?	Agreed. Additional bullet point added to section 6 - numbers of members on the Restricted Contact list expressed as a %.
Although necessary surprising for 'TF' to use this action.	Noted.
There should be no exceptions.	Noted.
Use the name 'Restricted Contact' marker with care.	Agreed. Policy updated at section 1.0 and 3.2 to strengthen that Restricted Contact marker will be used with care.
If I was someone who had a	The Restricted Contact Marker procedures will

<p>Restricted Contact marker I would like to be informed immediately as to why or what I was guilty of. Then I would be able to change or state the whys and wherefores. Give the person a chance to explain why or what they have done.</p>	<p>provide the timescales for contacting members and will include initial contact taking place within 24 hours of decision being made.</p>
<p>Contact Restricted Contact person – inform them of a visit so they can have someone with them.</p>	<p>Agreed. Policy updated at section 3.4 with information suggested. Procedures will also include this information in more depth.</p>

DRAFT

Tenants First Housing Co-operative

Restricted Contact Policy

Approved:

Next Review Due:

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1. Policy Aims

The Co-operative's staff sometimes come into contact with members and customers who have issues relating to vulnerability, challenging behaviour and / or potentially dangerous situations. In these circumstances the Co-operative may record information for future reference. This Policy aims to set out how the Co-operative will manage the data that it holds on such individuals.

Within the context of this Policy the Co-operative also aims to:-

- Provide a high quality housing service that meets the needs of all its members and customers
- Ensure that the data it holds is accurate and kept in a secure location
- Ensure that when applying 'Restricted Contact' markers, it is done with care at all times with members and customers information managed fairly, responsibly and in an appropriate manner
- Assess the risks and take steps to avoid and control them to minimise the danger to the health and safety of staff whilst in the workplace
- Ensure that staff recognise and understand their responsibilities to take reasonable care of themselves and other people affected by their work
- Fully comply with the data protection principles listed in the Data Protection Act 1998, Human Rights Act 1998 and Health & Safety Act 1974, and other relevant legislation when dealing with members and customers

2. Objectives

The approval of this Policy supports the following objectives contained in the Co-operative's Internal Management Plan:-

- 1f) to enhance and maintain the quality of the environment, security and health of members
- 1h) to ensure sustainability on the provision, management and maintenance of the housing stock

3. Scope of Policy

3.1 'Restricted Contact' marker

The term Restricted Contact marker will be used to describe a manual file or computerised record containing personal data for the purpose of alerting staff to a situation or circumstance that they should be aware of when dealing with that individual. This is necessary to minimise potential risk to staff or others and prevent unwarranted distress to the relevant individuals.

Restricted Contact markers are commonly used in the social housing sector to indicate many situations, not just those relating to violent or aggressive circumstances. Some examples are given below:-

- The individual has been the subject of abuse
- A request has been made that only male or only female officers may visit
- Visits should only be in pairs.
- There are environmental hazards – sharps known to be left in a property etc.
- Actual violence towards staff
- Threatening physical violence
- Excessive verbal abuse
- Verbal aggression or intimidation
- Risk to staff because of substance abuse
- Risk of personal harm

3.2 When to use the Restricted Contact marker

The use of Restricted Contact markers will be done with care at all times and when used will relate to and take account of specific provisions of the Data Protection Act which are:-

- The data subject should be informed that a Restricted contact marker has been applied, the reasons why, to whom this information may be passed and when the situation will be reviewed
- Individuals have the right to make a subject access request
- All 'Warning Markers' should be reviewed on a regular basis with any decisions fully recorded
- Personal data shall not be kept for longer than is necessary

When using Restricted Contact markers, for any reason, they must comply with the requirements of the Human Rights Act 1998 and the Data Protection Act 1998. Failure to comply with these Acts can lead to criminal and/or civil proceedings that may result in a staff member or the Co-operative facing prosecution, and/or damages being awarded to the person affected by such failure.

The Health and Safety at Work Act places a duty on the Co-operative to take reasonable steps to ensure the health, safety and welfare of all its employees and any other persons who may be affected by the Co-operative's responsibilities. Therefore, the introduction of a Restricted Contact marker onto an individual's record must be fully justified. In doing this, when a Restricted Contact marker is being considered, a balance of the person's rights to respect for their privacy against other statutory responsibilities (such as protection of others from harm) will be made and recorded before authorising its use.

Where a member consistently demonstrates abusive, threatening or aggressive behaviour towards staff or other members the Co-operative will pursue legal action against that member using the Co-operative's Antisocial Behaviour and Harassment Policy.

3.3 Personal & Sensitive Data

In managing the use of Restricted Contact markers, particular attention will be paid to the eight principles of the Data Protection Act, and in particular the principles relating to personal and sensitive data. Personal data includes data which identifies an individual as being potentially violent or vulnerable. Sensitive data is data defined within the eight categories of the Data Protection Act, which are:-

- Racial or ethnic origin
- Political opinions
- Religious beliefs, or beliefs of a similar nature
- Membership of a trade union
- Physical or mental health or condition
- Sexual life
- The commission or alleged commission by them of any offence
- Any proceedings for any offence committed or alleged to have been committed by them, the disposal of such proceedings or the sentence of any court in such proceedings

3.4 Contacting a Restricted Contact person

The person who has a Restricted Contact marker placed on their record will be quickly informed, in writing, of the decision made, the reasons why, how often the information held will be reviewed and to whom the information can be passed. The person will be given the opportunity to meet with staff to discuss the matter further and will be able to invite someone to accompany them at the meeting if they wish.

The only exception to this would be where there is reason to believe there would be increased risk of physical violence to staff if the person were to be informed of the Restricted Contact marker or where there was an ongoing investigation by a statutory body, for example, the Police.

3.5 Right of Appeal

Any person who has a Restricted Contact marker applied has the right to appeal the decision taken and to call for the Co-operative to cease the processing of such data, which is in the individual's opinion, likely to cause them unwarranted and substantial damage or distress.

It is recognised that if the Co-operative fails to comply with a person's written notice to cease the processing of personal data, that person may make an application to Court. Therefore, the Co-operative will take all reasonable and practical steps to ensure the accuracy and fairness of all entries.

3.6 How Restricted Contact information will be kept

A central register of vulnerable or potentially dangerous persons will be securely kept electronically to ensure that only those who need to know have access to the information recorded. The maintenance of the Register will be the responsibility of a senior member of staff.

3.7 Access to Restricted Contact information

Only those staff who are likely to come into contact with an individual who has a Restricted Contact marker on their record will have access to that specific information.

The Co-operative may share Restricted Contact markers with other organisations including the Co-operative's contractors if there is a justifiable and defensible requirement for such information. Minimum information only will be shared and on a strictly 'need to know' basis. This applies also to requests from third parties. All decisions taken on the information provided will be recorded in the Register.

Individuals will have the right of access to any information held by the Co-operative.

4. Training

The Co-operative, through its Internal Management Plan, is committed to training and developing staff and Committee/Board members so that they have a good knowledge of the procedures and systems in place for managing members and customers who have issues relating to vulnerability, challenging behaviour, and/or potentially dangerous situations.

5. Equal Opportunities

The Co-operative will ensure that in implementing its Restricted Contact Policy it will not unfairly discriminate against any individual, household or group on the grounds of gender, gender identity or marital status, on race grounds, or on the grounds of disability, age, sexual orientation, language or social origin, other personal attributes, including beliefs or opinions such as religious beliefs or political opinions.

Disabilities and issues affecting other minority groups will only be recorded in the Restricted Contact Register where the disability or issue has an affect on the management of the tenancy.

6. Monitoring & Reporting

The Co-operative has a legal duty under the Data Protection Act to review on a regular basis any Restricted Contract markers applied to a person's record to ensure that the information is accurate and up to date.

The Restricted Contact Register will be monitored on a quarterly basis. Where the individual has been placed on a Statutory Register the review date will be that of the expiry date on that Statutory Register.

When reviewing the Register, where there is justification for retention of the Restricted Contact marker on a person's file, the reason for this will be recorded and the marker kept in place. Sufficient justification would be recorded instances of contact where similar concerns have been made or behaviour exhibited. In all other cases the Restricted Contact marker will be removed and the person notified in writing without delay.

Although specific details about a member's name, address and reason for placing a Restricted Contact marker will be recorded by geographical and local authority are, only statistical information for the Co-operative as a whole will be reported on annually to the Co-operative's Housing Management Sub Committee. Full confidentiality will be maintained. Below is the information that will be reported on:-

- The number of people on Register
- The reason why each person is on Register
- The numbers of people who had not been advised in writing that they were on the Register with an explanation as to why not
- The number of people removed from Register
- The number of appeals received
- The number of requests received from a third party for information on a person on the Register
- The number of members on the Restricted Contact list expressed as a %

7. Policy Review

This Policy will be approved by the Housing Management Sub Committee and ratified by the Committee of Management. It will be reviewed every three years

unless amendment is prompted by a change in legislation, or monitoring and reporting reveals that a change in policy is required sooner.

8. Legal Framework

In approving and implementing the Restricted Contact Policy the Co-operative aims to comply with the relevant legislation and statutory documents, of which the main ones are:-

- Data Protection Act 1998
- Human Rights Act 1998
- Freedom of Information (Scotland) Act 2002
- The Health & Safety at Work etc. Act 1974

9. References

- Performance Standards for Social Landlords and Homeless Functions – COSLA, Communities Scotland and Scottish Federation of Housing Associations (SFHA), 2006 :-
 - Guiding Standards: GS1.2 Policies and Procedures
 - Activity Standards: 1.1 Access to Housing; 1.4 Housing Support Needs; AS1.9 Antisocial behaviour; AS1.10 Estate Management
- Raising Standards in Housing by the Scottish Federation of Housing of Housing Associations – Access to Information

10. Related Policies/Documents

- Restricted Contact Procedures
- Health & Safety Manual
- Customer Care Policy
- Data Protection Policy
- Antisocial Behaviour & Harassment Policy
- Openness & Confidentiality Policy
- Internal Management Plan
- Scottish Secure and Short Scottish Secure Tenancy Agreement