Dear Mr Clarke,

I am writing in response to your letter to us dated 28 November 2012. Your letter was passed to the Ombudsman’s Review Team as you have expressed dissatisfaction with our decision on your complaint. I am now responding to you in my capacity as Head of the Review Team. My role is to oversee complaints about our decisions. I apologise for the time we have taken to respond to you.

Your use of our correspondence

It has come to our attention that correspondence we have sent to you has been uploaded onto your website(s).

I can see that on 30 October 2012, Alice Coral emailed you to ask that her details be removed from your website. I can see that her details have not been removed and that her personal details are still searchable on the internet. While I cannot see that particular email on your website, I can see that you have subsequently uploaded emails from Alice on to the internet and therefore into the public domain.

I have taken legal advice on this matter and I must inform you that by uploading information (other than that contained within the Ombudsman’s formal decision letter of ......) supplied to you by the Ombudsman during her consideration of your complaint, you are in breach of Section 11(2) of the Parliamentary Commissioner Act 1967 which states that information obtained in the course of or for the purposes of an investigation (which includes considering whether there will be an investigation), shall not be disclosed. In addition, it is a requirement under s. 7(2) that investigations are conducted in private.

We do not treat decision letters as private as they contain the reasons for our decision, which we are required to produce under the Act.
Unreasonable Behavior Policy

Policy statement (see note 1)

1. The Ombudsman is often the last resort for customers who feel that their complaint has not been addressed and we are concerned to ensure that we have fully understood the issues which they raise with us.

2. We are committed to dealing with all customers fairly and impartially and to providing a high quality service. As part of this service we do not normally limit the contact customers have with this Office. However, we do not expect our staff to tolerate behaviour by customers which is, for example abusive, offensive or threatening, or which because of the frequency of the contact with this Office, hinders our consideration of complaints and we will take action to manage such behaviour.

3. We will make every effort to ensure that our service is accessible to all of our customers. To achieve this outcome we will make reasonable adjustments to meet the individual and particular needs of anyone who contacts us.

4. When we consider that a customer’s behaviour is unreasonable we will tell them why we find their behaviour unreasonable and we will ask them to change it. If the unreasonable behaviour continues, we will take action to restrict the customer’s contact with our Office.

5. The decision to restrict access to our Office will only normally be taken after we have considered possible adjustments to our service which may help the customer to avoid unreasonable behaviour. The decision will be taken at Director level (or above). Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:

- requesting contact in a particular form (for example, letters only)
- requiring contact to take place with a named officer
- restricting telephone calls to specified days and times
- asking the customer to enter into an agreement about their future conduct, and/or
- asking the customer to contact us through an advocate.

6. In all cases we will write to tell the customer why we believe their behaviour is unreasonable, what action we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it and we will consider any challenge under our ‘complaints about us’ policy.

7. Where despite any adjustments we have made, a customer continues to behave in a way which is unreasonable, we may have to decide to terminate contact with that customer.
8. Where the behaviour is so extreme that it threatens the immediate safety and welfare of the Ombudsman's staff or others, we will consider other options, for example, reporting the matter to the Police or taking legal action. In such cases, we may not give the customer prior warning of that action.
Such actions are also a breach of the Ombudsman’s Unreasonable Behaviour Policy, which I have enclosed for your information.

I therefore ask that you remove any content from your website(s) any information supplied to you except that contained in the decision letter of ..... This includes any audio recordings of telephone calls made to members of staff at PHSO and emails.

Should you decide not to remove such content, or if you continue to upload information in breach of the Act, then we may need to consider imposing restrictions on your contact with us. This may include, but is not limited to:-

- Terminating our contact with you and ceasing the review of your complaint.
- Suspending your dealings with us unless you provide us with a undertaking enforceable in court confirming that you will not disclose or otherwise distribute any information provided by the Ombudsman, whether that information be written, spoken or electronic;
- Restricting our ability to assist you in the future; and
- Initiating proceedings in line with 9(1) of the Act which allows us to certify actions to the High Court to be dealt with as a contempt of court. Contempt of court can result in fine and/or imprisonment.

I am sorry to have to write to you in this way and would strongly urge you to comply with this formal warning and remove the aforementioned content from your website and confirm to us that this has been done. In addition, please confirm that you will not upload or otherwise disclose any further information supplied to you by the Ombudsman.

Your complaint about our decision

Once we have received your confirmation as set out in the previous paragraph, we will look at our decision under our review process.

If you have any queries, please contact the Review Team on 0300 061 4076 or email complaintsaboutphso@ombudsman.org.uk

Yours sincerely

Suzannah Beazley
Head of Review Team

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