

Isle of Anglesey County Council

Risk of Violence Marker Policy & Procedure

Version 2.0 July 2019

About this policy

This policy sets out the Isle of Anglesey County Council's responsibilities to ensure the safety of its staff.

This procedure outlines the use of Risk of Violence (RV) Markers, their purpose and the criteria for applying an RV marker to an individual.

The Policy is supported by resources on the Council's website.

Revision history

Version	Date	Summary of changes
1.0	April 2019	
2.0	July 2019	Correction of various titles

Date of next review	
This policy will be reviewed in:	July 2020
The review will be undertaken by:	Health and Safety Team

Contact Details:

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We are happy to provide this policy in alternative formats on request. Please use the above contact details.

Mae'r ddogfen yma ar gael yn y
Gymraeg.

This document is available in Welsh.

Contents

1.0 Scope

This Policy sets out the Council's responsibilities to ensure the safety of its staff in the work environment. The nature of the work carried out by some employees means that employment situations may arise that expose them to persons or situations that may pose a risk or hazard to staff or others. Taking aggression seriously is a positive step to creating a safer working environment, and the Council will not tolerate any acts or threats of violence to its employees.

The Council has therefore set out the following procedure to deal with, record and monitor any such potential issues.

This procedure outlines the use of Risk of Violence Markers (RV), their purpose and the criteria for applying an RV marker to an individual.

This procedure is relevant to all of the Council's services.

2.0 Legislation

- Health and Safety at Work Act 1974
- Management of Health and Safety at Work Regulations 1999
- RIDDOR 2013
- Public Order Act 1986
- Protection from Harassment Act 1997
- Communication Act 2003
- Data Protection Act 2018
- General Data Protection Regulations 2018
- Freedom of Information Act 2000
- Human Rights Act 1998

3.0 Introduction and Procedure to be followed.

Section 2 of the Health and Safety at Work Act 1974 places a duty on each and every employer to take reasonable care of their health and safety, and that of others, who may be affected by their acts or omissions. Section 7 of the same Act places a duty on each and every employee. They must also co-operate with their employer as far as is necessary to enable the employer to comply with their duties under the Act.

Many work duties could lead to potentially violent situations. Some examples include:

- Staff with enforcement duties
- Social workers
- Other employees who visit / meet with a person or visit a property in relation to their duties on behalf of the Council

The Council has therefore developed this procedure, whereby an RV marker is applied to those individuals who could pose a risk of harm to members of staff who encounter them. This procedure takes into account both the rights of staff members and of individuals and ensures that all information is used in a lawful and fair way in accordance with the requirements of the Data Protection Act 2018, General Data Protection Regulation 2018 and the Human Rights Act 1998.

It is important to note that this procedure is one of a range of measures used in conjunction with the risk assessments and safe systems of work that Services have developed detailing how they manage risks in situations such as lone working.

4.0 Aim of RV Markers

The purpose of RV markers is to enable employees who are planning visits / interviews or working alone to take the necessary safety precautions to reduce the risks posed by people they may encounter in order to protect the health and safety of an employee during the course of their normal duties. They may also be used by staff who deal with announced / unannounced visitors to work sites e.g. reception staff.

The use of the information provided will be strictly managed in order to ensure compliance with the Council's duties under the provisions of the Data Protection Act 2018, General Data Protection Regulation 2018 and the Human Rights Act 1998 owing to the inherent sensitivity of the information.

5.0 Responsibilities

5.1 Chief Executive / Assistant / Deputy Chief Executive

5.1.1 The Assistant / Deputy Chief Executive makes the ultimate decision to add RV markers to an individual's record.

5.1.2 Signs the letters sent to inform individuals that they are subject of an RV marker.

5.1.3 The Chief Executive makes the ultimate decision to remove RV markers from an individual's record.

5.2 Director / Head of Service

5.2.1 Sharing any information relating to RV markers with relevant staff within their Service and ensuring that any information shared is only used in accordance with this procedure.

5.2.2 Signing letters warning individuals that their behaviour has been inappropriate.

5.3 Health & Safety Advisors

5.3.1 Investigates any Accident and Incident Form (ADIR) reports, and brings any that meet the criteria for applying an RV marker to the attention of the Assistant/ Deputy Chief Executive.

5.3.2 Informs Director/ Head of Service of RV markers added or removed from an individual.

5.3.3 Drafts letters informing individuals of an RV marker on behalf of the Assistant/ Deputy Chief Executive.

5.3.4 Reviews any RV markers and where appropriate, recommends removal of the RV marker.

5.3.5 Maintains the Risk of Violence Marker Register, records of all investigations, correspondence and decisions relating to RV markers.

5.4 Line Managers

5.4.1 Ensuring that staff members report all relevant incidents and that the Health & Safety Section receive a completed ADIR form within 10 days of the incident. They should also ensure that risk assessments and safe systems of work are in place where there is a significant or potential risk of violence to staff.

5.4.2 Ensure that information relating to individuals with RV markers is only used in accordance with this procedure.

5.5 All Employees

5.5.1 All employees have a responsibility to ensure that they report incidents to their manager. All employees have a duty to co-operate with managers in ensuring that they adhere to control measures identified to protect their health and safety or that of others.

6.0 Procedure

A flow chart of the procedure is included in Appendix 1

6.1 Following an incident, the line manager, together with the employee, must complete an ADIR form and forward the completed form to Health and Safety Section as soon as possible and within 10 days of the incident (calendar days in accordance with the Health & Safety Policy). Further appropriate actions should be taken and may include:

- Creating or reviewing a risk assessment of the situation as required by the Corporate Violence at Work Policy.
- Ensuring a safe system of work, based on the risk assessment, is in place, effective and practical.
- Arranging a health and safety meeting to discuss possible further control measures.
- Reporting the incident to the Police and, where necessary, involving them in the health and safety meeting.

Note: Corporate Violence at Work Policy should be checked whilst considering above points.

6.2 On receipt of the ADIR, the Health and Safety Section will:

6.2.1 Input the information on to the Health and Safety Database.

6.2.2 If the incident appears to meet the criteria to apply an RV marker, the Health & Safety Advisor will investigate further with the Service involved and where necessary arrange to discuss the matter with the Assistant / Deputy Chief Executive.

6.2.3 If the Assistant / Deputy Chief Executive decides that the individual does present a current and on-going risk to Council staff, then the Health & Safety Advisor will inform all Services by e-mail. The e-mail will confirm that an incident involving violence or aggression has occurred, provide the individual's name and address, and ask that staff likely to encounter the individual during the course of their employment be notified and suitable arrangements put in place.

6.2.4 The Health & Safety Advisor will draft a formal notification letter (letter A) for the Assistant / Deputy Chief Executive to sign to advise the individual of the RV marker. Unless there are genuine and substantive reasons not to send the letter, the letter will be sent within 10 days of the Assistant / Deputy Chief Executive's decision to apply an RVM marker.

6.2.5 If the Assistant / Deputy Chief Executive decides that an RV marker is not appropriate, but that the behaviour was unacceptable, then the Health & Safety Advisor will draft a letter (letter B) on behalf of the relevant Director/Head of Service to advise the individual that their behaviour is unacceptable. Unless there are genuine and substantive reasons not to send the letter, the letter will be sent within 10 days of the Assistant / Deputy Chief Executive's decision not to apply an RV marker.

6.2.6 The justification for the Assistant / Deputy Chief Executive's decision must be clearly recorded, and retained by the Health & Safety Advisor.

6.2.7 The Health & Safety Advisor will review the RV marker within 3 months, and every 3 months until the individual is no longer considered to pose a current and on-going risk to Council staff. At that point, the Health & Safety Advisor will recommend removal of the RV marker to the Chief Executive.

6.2.8 If the Chief Executive agrees that the RV marker can be removed, the Health & Safety Advisor will draft a formal notification letter (letter C) for the Chief Executive to sign to advise the individual that the RV marker has been removed.

6.3 Non-Incident Based Information

On occasions, information regarding individuals that pose a risk or could pose a risk to members of staff may be received from an external agency (e.g. North Wales Police) that may warrant applying an RV marker. In such an event, the information should be passed to a Health & Safety Advisor who will make the necessary investigations.

7.0 Notifications to Clients Who Pose a Risk

7.1 Notification to the individual concerned with the incident, is normally essential. However, if there are genuine reasons to believe that such notification could lead to a violent reaction, then notification may be withheld. There may also be rare cases where there is evidence that notification may cause serious harm to the physical or mental health of the individual in which case notification may be withheld.

Three letter templates are available and should be sent out within 10 days of the Assistant / Deputy Chief Executive's decision in relation to a RV marker.

- Letter A – sent by the Assistant / Deputy Chief Executive to notify the individual that an RV marker has been applied against them.
- Letter B – sent by the Director/ Head of Service to warn the individual that their behaviour was unacceptable.
- Letter C – sent by the Chief Executive to notify the individual that an RV marker has been removed.

In the event that a decision is made not to inform the individual, the reason must be recorded and retained by the Health & Safety Advisor.

7.2 Appeal

If the individual does not agree with the decision to place an RV marker on their record, and wishes to appeal against the decision, they are required to write to the Chief Executive stating the reasons they disagree.

The Chief Executive will then consider the appeal and notify the individual of the outcome.

8.0 Criteria for Applying a Risk of Violence Marker

Consistency of decisions to identify individuals as being potentially violent is important so that only those individuals who present a real risk have a RV marker against them

An RV marker will normally only be applied against an individual if there is clear evidence of one of the following type of behaviours against a Council employee, together with a belief of a current and on-going risk to Council staff:

- Actual physical assault
- Keeping a member of staff against their will
- Credible threat of violence

- Evidence of sharps
- Evidence of a dangerous animal

Information relating to an individual who has a previous conviction for a violent or sexual nature received from an external agency (e.g. North Wales Police) should be passed to a Health & Safety Advisor. The Health & Safety Advisor will make the necessary investigations and, where the individual is likely to pose a risk to a Council employee, they will discuss applying an RV marker with the Assistant / Deputy Chief Executive.

An RV marker will not normally be applied where the behaviour, although unacceptable, is:

- considered to be uncharacteristic and occasioned by some traumatic event in their lives e.g. the death of a close relative
- not seen as intentional e.g. actions caused by their confusion, dementia, disorientation or their inability to reason in terms of their surroundings or situation.

Applying an RV marker following an incident of verbal abuse will be at the discretion of the Assistant / Deputy Chief Executive.

The balance of interest falls to reduce potential risk of harm to employees.

9.0 Retaining, Sharing and Security of Information

In order that the Council complies with the Data Protection Act 2018 and General Data Protection Regulation 2018, the Council will only use such information for the approved purpose – protection of the health and safety of employees by forewarning them that they are dealing with a potentially violent individual.

9.1 Documentation must not be disclosed to unauthorised persons and must be destroyed as soon as the data is no longer required for the protection of staff. Any paper files on individual cases should be kept securely and marked Official Sensitive. Electronic information should be password protected and e-mails marked Official Sensitive.

9.2 The RV marker will be retained for a minimum of three months, but will then depend on the level or threat of violence in the original incident, the length of time since the incident, the previous and subsequent behaviour of the individual and whether it was likely to have been a 'one-off'. For example, where the individual was suffering an unusual amount of stress due to a particular set of circumstances, it may be considered that it is possible that the individual will not become violent again.

9.3 Information must only be shared with those employees likely to encounter the individual and then only to ensure the safety of staff.

9.4 The information shared will be limited to the name and address of the individual

and only a very brief summary of the incident. In order to comply with the fifth data protection principle that personal data be kept no longer than necessary, it is important to decide how long an individual will remain a threat and ensure that people are not identified as being potentially violent when no threat remains.

9.5 The Assistant / Deputy Chief Executive will determine on a case by case basis whether to transfer information about individuals with an RV marker to other organisations, either in response to a direct request, or by volunteering the information. The transfer will only take place if the Assistant / Deputy Chief Executive is satisfied that there is evidence that there is a credible risk that an unlawful act, such as an assault, will occur to a member of staff or individual linked to that other organisation. The transfer of information will be subject to the following conditions:

9.5.1 The receiving organisation must confirm that it will process the information in accordance with the requirements of the Data Protection Act 2018 and General Data Protection Regulation 2018.

9.5.2 The information will only be transferred to a senior officer of the receiving organisation.

9.5.3 Where the Council has resolved not to notify the individual concerned that they have an RV marker, this fact shall be communicated to the receiving organisation who will be required to respect that decision and not to disclose that fact save as required by law or with the prior written consent of the Council.

9.5.4 Where the Council has notified the individual concerned of the RV marker, it shall also notify them of the transfer unless there are specific aspects related to the receiving organisation that would provide justification for withholding notification.

9.6 The disclosure of information shared to persons having no entitlement to that information is a breach of confidentiality. Such a breach will invariably be treated as a serious matter and be subject to disciplinary action.

9.7 Where new threats have been made or individuals with RV markers applied against them move address, or are known to reside at other locations, this information must be shared.

10.0 Data Protection

The Council's Data Protection Policy can be found on the website.

Information relating to RV markers on individuals will constitute 'personal data' under the provisions of the Data Protection Act 2018. It is also likely to fall within the definition of 'sensitive personal data' which is subject to stringent conditions as to its use and retention. This procedure has been designed to ensure compliance with the Act.

Individuals have the right under the Act to make a subject access request. Then the fact that an RV marker has been added to the individual's record may have to be revealed notwithstanding that the data controller may have previously decided not to advise the individual of the fact. However, this will be dealt with on a case by case

basis.

11.0 Defamation

Defamation is defined as the publication of false or derogatory statements about a person without lawful justification. This can include headline descriptions or categories ascribed to individuals.

It is therefore very important that all information held in relation to individuals that have an RV marker is limited to information forwarded in good faith and an honestly held belief that the individual poses a particular threat to staff, and can be justified in order to protect the safety of employees.

12.0 Relevant Documents

- Violence at Work Policy
- Corporate Guidance – Violence at Work
- Letter A Template - Notification of a Risk of Violence Marker
- Letter B Template – Unacceptable Behaviour
- Letter C Template – Notification of Removal of a Risk of Violence Marker