



COMPLAINTS, COMPLIMENTS AND COMMENTS: UNACCEPTABLE ACTIONS & BEHAVIOURS POLICY

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2	Director of Government Business, Reviews and Tribunals	14 February 2017

Policy Review & Availability

This Policy is reviewed on a regular basis to make sure that its aims are being achieved. Please contact us by email at CCC@gov.gg or by telephone: 01481 717112 if you would like this leaflet in another language or format (such as large print) or if you need someone to explain the policy to you.

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Introduction

We are committed to providing a high-quality service to everyone we deal with.

Whether we have got something right, or could have done something better, we would like to hear what you think of our services and welcome all of your comments, compliments or complaints on the services that we provide to you. It is important for us to know about things that are going well or how the services that we provide can be improved.

We believe that complainants have a right to be heard, understood and respected. We work hard to be open and accessible to everyone. Should you have a complaint, our aim is to help you to resolve this as quickly as possible.

Occasionally, the behavior or actions of individuals using our service makes it very difficult for us to deal with their complaint or comments. In a small number of cases, the actions and behaviors of individuals become unacceptable because they are unreasonable e.g. they involve the abuse of States Members, our staff or our processes.

When this happens we have to take action to protect everyone involved in the workings of our organisation including all staff and States Members (“Interested Party (ies)”). We also consider the impact of the complainant’s behavior and actions on our ability to do our work and provide services to Islanders.

This Policy explains how we will approach these situations.

What actions & behaviours does our organisation consider to be unreasonable and unacceptable?

We accept that certain people may act out of character for a number of reasons, especially in times of trouble or distress. There may have been upsetting or distressing circumstances in the period leading up to a complaint being brought to our attention.

We do not view actions and behaviors as unacceptable just because a complainant is forceful or determined. In fact, we accept that being persistent may sometimes be a positive personal advantage when pursuing a complaint.

However, we do consider actions and behaviors that result in unreasonable demands on Interested Parties to be unreasonable and unacceptable. It is these actions that we aim to manage under this Policy.

Unreasonable Complainants/ Unreasonably Persistent Complainants

Complainants who behave unreasonably and unacceptably (*which may include one or two isolated incidents*), and/or are unreasonably persistent (*usually a build-up of incidents or behaviours over a longer period*) in their contacts and submission of information may impede the investigation of their complaint and can have significant resource issues for our organisation and Interested Parties. These actions can occur either while their complaint is being investigated, or once an organisation has finished the complaint investigation.

For us, *unreasonable* and *unreasonably persistent complainants* are those complainants who, because of the nature or frequency of their contacts with us, hinder our organisation's ability to provide core services and also the consideration of their, or other people's, complaints.

We distinguish between '*unreasonable complainants*' and '*unreasonably persistent*' complainants. We understand that some people may complain persistently and justifiably because they feel our organisation has not dealt with their complaint properly to date. However, some complainants may have justified complaints but may pursue them in inappropriate ways. Others may pursue complaints which appear to have no substance or which have already been investigated and determined. Their contacts with Interested Parties may be amicable but still place heavy demands on staff time, or they may be emotionally charged and distressing for all involved.

As an organisation, we are committed to dealing with all complaints fairly and impartially, and to making our complaints service as accessible as possible. But because of the nature or frequency of their contact with us, as few complainants behave unreasonably and hinder the consideration of their own or other complainant's cases and our ability to fulfill our core service functions. Below are examples of the types of actions and behaviours by complainants which we consider to be unreasonable and unacceptable.

Aggressive or abusive behaviour

We understand that many complainants are angry and/or very upset about the issues they have raised in their complaint. If that anger or upset escalates into aggression towards Interested Parties, we consider that unacceptable. Any violence or abuse towards Interested Parties will not be accepted. In such cases we may involve the Police and or consider legal action and not give the complainant prior warning.

Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether verbal or written) that may cause Interested Parties to feel offended, afraid, threatened or abused. We will judge each situation individually and appreciate individuals who come to us may be upset. However, language, images, signs which are designed to insult or degrade and to damage Interested Parties that is racist, sexist or homophobic or which makes serious allegations that individuals have committed criminal, corrupt or perverse, unprofessional conduct without any evidence, is unacceptable. We may also decide that comments aimed not at us but at third parties are unacceptable because of the effect that listening or reading them may have on Interested Parties.

Unreasonable and Persistent demands

A demand becomes unreasonable and unacceptable when it starts to (or when complying with the demand would) impact substantially on the day to day work of Interested Parties.

Examples of actions grouped under this heading include but are not limited to:

- repeatedly demanding responses within an unreasonable timescale,
- insisting on seeing or speaking to a particular Interested Party (ies) when that is not possible,
- repeatedly changing the substance of a complaint or raising unrelated concerns.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about Interested Party (ies) who are trying to deal with the issues, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements he or she made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various organisations or other people
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous Interested Party(ies), or detailed letters every few days, and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations the complainant insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.

An example of such impact would be that the demand takes up an excessive amount of Interested Party(ies) time and in so doing disadvantages other complainants and prevents their own complaint from being dealt with quickly. It may also prevent Interested Party (ies) from providing core services to Islanders.

Unreasonable levels of contact by the Complainant

Sometimes the volume and duration of contact made to our organisation by an individual causes problems. This can occur over a short period, for example, a number of calls in one day or one hour. It may occur over the life-span of a complaint when a complainant repeatedly makes long telephone calls to us or inundates us with copies of information that has been sent already or that is irrelevant to the complaint.

We consider that the level of contact has become unreasonable and unacceptable when the amount of time spent talking to a complainant on the telephone, or responding to, reviewing and filing emails or written correspondence impacts on our ability to deal with that complaint, or with other people's complaints and our core public service functions.

Unreasonable refusal to co-operate by the Complainant

When we are looking at a complaint, we may need to ask the individual who has complained to work closely with us. This can include agreeing with us particular aspects of the complaint we will look at (if, for example, the complaint includes several unrelated issues); providing us with further information, evidence or comments on request; or helping us by summarising their concerns or even completing a form or a document for us.

Sometimes, an individual repeatedly refuses to cooperate with us and this makes it difficult for us to proceed. We will always seek to assist someone if they have a specific, genuine difficulty complying with a request. However, we consider it is unreasonable behaviour to make a complaint and then not respond to our reasonable requests.

Examples of actions or behaviors grouped under this heading include, but are not limited to:

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a particular complaints procedure e.g. where procedures and remedies are set out in legislation/ decisions made under statutory or regulatory provisions and appeals processes; e.g. Data Protection legislation ; or they have a right of appeal before a Tribunal (e.g. Tax Tribunal); or they can take legal action and we think it is reasonable for them to do so ; Personnel matters (such as employment or disciplinary issues); complaints about States Members etc.
- Repeatedly arguing points with no new evidence.
- Refusing to accept the decision in relation to the complaint.

Unreasonable use of the complaints process by the Complainant

We accept that Individuals with complaints about a service or action or lack of action undertaken by our organisation have the right to pursue their concerns and to complain more than once if subsequent incidents occur.

However, we consider this contact to be unreasonable when the effect of the repeated complaints is to harass, or to prevent our organisation from pursuing a legitimate aim or implementing a legitimate decision. We consider access to our complaints system to be important and it will only be in exceptional circumstances that we would consider such repeated use is unacceptable – but we reserve the right to do so in such cases.

Examples of actions or behaviors grouped under this heading include, but are not limited to:

- Refusing to accept the decision in relation to the complaint.
- Submitting repeat complaints with minor additions/variations that the complainant insists amounts to 'new' complaints.

Warnings of our possible actions against a complainant

In most cases when we consider a complainant's behaviour to be unreasonable and unacceptable we will explain why and ask them to change it.

We will also warn them that, if the behaviour continues, we may take action to restrict their contact with our offices. In some circumstances, where the safety of Interested Parties is at risk, a warning may not be possible.

Examples of how we manage a complainant's aggressive or abusive behaviour

The threat or use of physical violence, verbal abuse or harassment, defamatory remarks towards and about Interested Parties is likely to result in a termination of all direct contact with the complainant. We may also report incidents to the police. This will always be the case if physical violence is used or threatened. In such cases we may not give the complainant prior warning.

Interested Parties will end telephone calls if they consider the complainant caller to be aggressive, abusive or offensive. Interested Parties have the right to make this decision, to tell the complainant caller that their behaviour is unacceptable and end the call if the behaviour persists.

We will not respond to correspondence (in any format) that contains statements that are abusive to Interested Parties or contains allegations that lack substantive evidence. Where we can, we will return the correspondence. We will explain why and say that we consider the language used to be offensive, unnecessary and unhelpful and ask the complainant sender to stop using such language. We will state that we will not respond to their correspondence if the action or behaviour continues.

In extreme situations, we will tell the complainant in writing that their name is on a 'no personal contact' list. This means that we will limit contact with them to be through a third party or a specific team within our organisation; most likely the Government Business and Review, Tribunals Unit (GRBTU), through use of the email address CCC@gov.gg (Complaints, Comments and Compliments @gov.gg). All correspondence from the complainant may be re-routed (automatically in the case of E-mails through our IT systems) to the third party or specific team. Consideration will be given as to how best deal with meetings with the complainant.

Examples of how we deal with other categories of unreasonable behaviour by a complainant

We have to take action when unreasonable behaviour impairs the appropriate discharge of Interested Party (ies)' roles and duties. We aim to do this in a way that allows a complaint to progress through our process. We will try to ensure that any action we take is the minimum required to solve the complaint, taking into account relevant personal circumstances including the seriousness of the complaint and the needs of the individual.

Actions we may take against a complainant

Where a complainant repeatedly phones, visits the office, raises repeated issues, or sends large numbers of documents where their relevance isn't clear, we may decide, depending on the particular circumstances, to take *one or more* of the following actions:

- limit contact to telephone calls from the complainant at set times on set days.
- restrict contact to a nominated person who will deal with future calls or correspondence from the complainant.
- meet the complainant in person, by prior appointment only.
- restrict contact from the complainant to writing (in some cases prescribing post or email only).
- Exclude or restrict further consideration of a particular subject matter on which the complainant has already been provided with a response by our organisation.
- return any documents to the complainant or, in extreme cases, advise the complainant that further irrelevant documents will be destroyed.

* Acknowledge receipt and place on file future correspondence received from the complainant but not engage further with nor respond to the complainant unless it contains material new information. A designated officer will be identified who will read future correspondence.

- take any other action that we consider appropriate, including instructing the police or our legal advisers.

Where we consider continued correspondence on a wide range of issues to be excessive, we may tell the complainant that only a certain number of issues will be considered in a given period and we ask them to limit or focus their requests accordingly.

Unreasonable Complainants/ Unreasonably Persistent Complainants

In most cases, unreasonable complainants and unreasonably persistent complainants will be subject to the following action by our organisation:

- Acknowledge receipt and place on file future correspondence received from the complainant but not engage further with nor respond to the complainant unless it contains material new information. A designated officer will be identified who will read future correspondence.

This is most likely in cases where the complainant has already been deemed to be an “unreasonable complainant” or a “persistently unreasonable complainant” by other bodies within our organisation but complains to another or others.

However, in exceptional cases, we also reserve the right to refuse to consider a complaint or future complaints from an individual on the basis that they have acted in an unacceptable and unreasonable way, including persistently. We will take into account the impact on the individual and also whether there would be a broader public interest in considering the complaint further. We will always tell the complainant what action we are taking and why.

The process we follow to make decisions about unreasonable behaviour by a complainant

Any Interested Party who directly experiences aggressive or abusive behaviour from a complainant has the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this Policy.

Interested Parties employed by our organisation (all staff) should report all instances of aggressive or abusive, threatening behaviour from complainants to the Director of Human Resources.

With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact with our organisation are only taken after careful consideration of the situation by the Chief Operating Officer, in liaison with other officers and States Members as appropriate in each individual case. In certain circumstances, the Chief Executive may also need to be involved in this decision. Wherever possible, we will give a complainant the opportunity to change their behaviour or action before a decision is taken. The Policy and Resources Committee will also be informed of all decisions.

How we tell a complainant about our decisions

When an Interested Party makes an immediate decision in response to offensive, aggressive or abusive behaviour, the complainant is advised at the time of the incident.

When a decision has been made by the Chief Operating Officer or in his absence the Chief Policy and Strategy Officer, a complainant will always be given the reason in writing as to why a decision has been made to restrict future contact, the restricted contact arrangements and, if relevant, the length of time that these restrictions will be in place. This ensures that the complainant has a record of the decision. The Policy and Resources Committee will also be informed of all decisions.

The process for appealing a decision to restrict contact

It is important that a decision to restrict contact can be reconsidered. A complainant can appeal a decision to restrict contact. If they do this, we will only consider arguments that relate to the restriction. An appeal could include, for example, a complainant saying that:

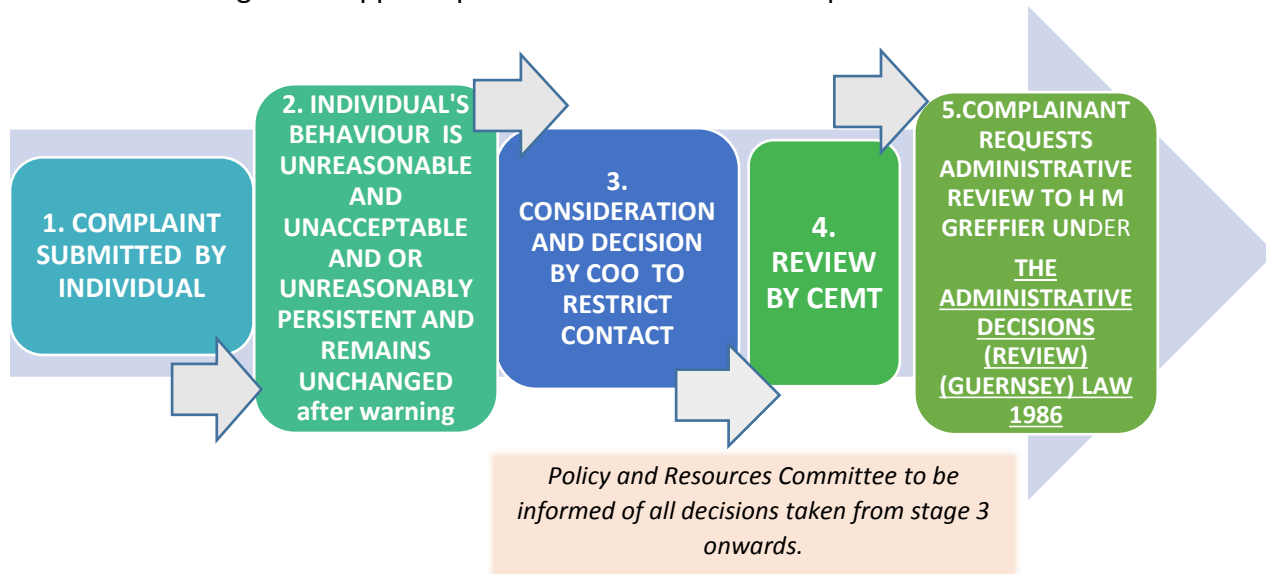
- their actions were wrongly identified as unacceptable;
- the restrictions were disproportionate;
- or that they will adversely impact on the individual because of personal circumstances.

Members of the Chief Executive's Management Team (CEMT) who were not involved in the original decision will consider the appeal. They have discretion to cancel or change the restriction as they think best. They will make their decision based on the evidence available to them. They must advise the complainant in writing that either the restricted contact arrangements still apply or a different course of action has been agreed.

CEMT may review the restriction periodically (for example every six months) or on further request after a period of time has passed. Each case is different. They will explain in the letter setting out the restriction what review process will be in place for that restriction and in what circumstances they could request this be reconsidered.

Should the complainant remain dissatisfied, having exhausted the appeal processes under this Policy, further review may be available under the **Administrative Decisions (Review) (Guernsey) Law 1986**. Please contact HM Greffier in the first instance: HMgreffier@gov.gg.

A table showing the appeal process available to complainants is shown below:



How we record and review a decision to restrict contact from a complainant

We record all incidents of unacceptable actions by complainants. Where it is decided to restrict complainant contact, an entry noting this is made in the relevant file and on appropriate computer records. Each quarter a report on all restrictions will be presented to the CEMT so that they can ensure the policy is being applied appropriately. A decision to restrict complainant contact as described above may be reconsidered either on request or on review.

New complaints from people whose behaviour has previously been deemed unreasonable will be treated on their merits. Restrictions imposed in respect of an earlier complaint will not automatically apply to a new matter.