

Vexatious Complaints, Enquiries, Unreasonable and Abusive Behaviour Policy

This policy deals with service complaints/enquiries which HSENI staff consider vexatious or repetitive, and behaviour which we deem as unreasonable. It has been developed taking into account the Information Commissioner's (ICO) guidance under the Freedom of information Act 2000.

1. Vexatious or repetitive complaints/enquiries

1.1 We sometimes receive complaints/enquiry which can be deemed 'vexatious' or 'repetitive'. Some of these complaints can be costly to handle; or responding to them may be a disproportionate use of our staff's time.

1.2 Deciding whether a complaint/enquiry is vexatious requires us in each case to take into account the context and history of the complaint/enquiry. We will consider whether the complaint/enquiry is likely to cause unjustified distress, disruption to the service we offer or irritation. In particular, we will consider the following issues:

- Could the complaint/enquiry fairly be seen as obsessive?
- Is the complaint/enquiry harassing or causing distress to staff?
- Does the complaint/enquiry appear to be designed to cause disruption or annoyance?
- Does the complaint/enquiry lack any serious purpose or value?

1.3 The concern we will address is whether a complaint/enquiry is vexatious in terms of the effect of the request on us and not whether the applicant is personally vexatious.

1.4 By its ordinary meaning, the term 'vexatious' refers to activity that "is likely to cause distress or irritation, literally to vex a person to whom it is directed".

1.5 For a complaint/enquiry to be vexatious, we will consider whether there is a proper or justified cause for it. We will not only examine the complaint/enquiry itself, but also its context and history. That context may include other complaints/enquiries made by the applicant to us (whether complied with or refused), the number and subject matter of the complaints/enquiries, as well as the history of other dealings between the complainant and ourselves. The effect a complaint/enquiry will have may be determined as much, or indeed more, by that context as by the complaint/enquiry itself.

1.6 We will take into consideration the following factors (which are not an exhaustive list) when determining whether a complaint/enquiry is vexatious:

- where the complaint/enquiry requests information which has already been provided
- where the nature and extent of the complainant's correspondence with us suggests an obsessive approach to disclosure

- where the tone adopted in correspondence by the complainant is confrontational and/or haranguing and demonstrates that the purpose is to argue and not really to obtain information
- where the correspondence could reasonably be expected to have a negative effect on the health and well-being of our staff
- where the complaint/enquiry, viewed as a whole, appears to be intended simply to re-open issues which have been disputed several times before, and is, in effect, the pursuit of a complaint/enquiry by alternative means
- where responding to the complaint/enquiry would likely entail substantial and disproportionate financial, administrative and/or operational burdens for us
- where it is not a one-off complaint/enquiry, but a case of the same complaints/enquiries having been made repeatedly, or where on repetition, the particulars of the complaints/enquiries have been varied making it difficult to know exactly what the complainant is seeking and making it less likely that the request can be satisfied

1.7 No single one of the above factors would lead to a finding, by itself, that a complaint/enquiry was vexatious. However, based on the strength of the various factors, taken together with the history and context of a complaint/enquiry, a complaint/enquiry may be deemed vexatious by the HSENI.

1.8 It is important of course that all complaints/enquires from a single source should not be deemed vexatious just because some may have been so previously. This is particularly the case if, on the face of it, the complaint/enquiry seems to be specific, stand alone and straight forward. However, it is entirely appropriate and necessary, when considering whether a complaint/enquiry is vexatious, to view that complaint/enquiry in context - if, say, the complaint/enquiry is part of a wider grievance against the HSENI and is, for example, inextricably linked to an individual's quest to hold the HSENI to account for perceived shortcomings.

1.9 Complaints/enquiries can sometimes become a vehicle for individuals to try to reopen previous issues. Although we recognise that people are not always satisfied with the responses they receive, the raising of complaints/enquiries is not a panacea for problems that have not been resolved through other channels. Continued complaints/enquiries after the underlying complaints/enquiries has been addressed, go beyond the reasonable pursuit of resolution.

2. Unreasonable Behaviour

2.1 The HSENI understands that people may act out of character in times of distress or due to frustration. We do not view behaviour as unreasonable just because a complainant is forceful or determined. HSENI staff make reasonable allowances for complainants' behaviour.

2.2 However, sometimes the situation between a complaint/enquiry and the HSENI staff can escalate and the behaviour of the complainant becomes unacceptable, for example becoming

abusive, aggressive or threatening. Such abusive, aggressive, threatening or vexatious complaints/enquiries are in the very small minority but we sometimes find ourselves in the position where we need to restrict or bring to an end communication and access to our premises or staff.

2.3 Our staff have the right to undertake their work free from abuse, threats and harassment, or vexatious and repetitive complaints/enquiries. We expect our staff to be treated with courtesy and respect. The HSENI has a duty to protect the welfare and safety of staff and considers that violence, threats or abuse towards staff is unacceptable. Staff are also expected to treat complainants with courtesy, respect and fairness.

2.4 Complainants who harass, or have been abusive, aggressive or threatening on one or more occasions towards our staff - or their families or associates - directly or indirectly, will be considered unreasonable.

2.5 Any threats or acts of violence will cause direct contact with the complainant to be discontinued. Violence includes behaviour or language (written, oral, or in tone or otherwise) that may cause staff to feel afraid, threatened or abused. Examples of unacceptable behaviour includes but not exclusively threats, verbal abuse, derogatory remarks, rudeness, racist, sexist, homophobic, transphobic, disablist or other harassment based on personal characteristic or obscene remarks, repeatedly demanding disciplinary action be taken against staff, and where complainants are known to have recorded meetings or telephone conversations without consent.

2.6 We also consider that inflammatory statements and unsubstantiated allegations can amount to abusive behaviour.

2.7 Furthermore, HSENI staff will bring to an end phone calls if the caller is considered aggressive, abusive or threatening. The complainant will first be told that we consider their language offensive or their behaviour unacceptable, and will be asked to stop using such language or behaviour.

2.8 If an officer considers behaviour to be unreasonable they are advised in the first instance to refer it to their manager who may seek advice and guidance before determining future contact with the complainant, be that by telephone, in person, or electronically.

2.9 Where complaints/enquiries are deemed vexatious, the complainant will be notified in writing that no further correspondence will be entered into on the matter in question. The HSENI will initially keep one form of contact open so that there is not a 'blanket ban' on contact for any individual.

2.10 Where unreasonable or abusive behaviour is determined, the complainant will be notified in writing that no further contact will be undertaken, and this will apply to all HSENI contacts. A copy of this policy will be included and, if and where appropriate, a no-contact period specified. If further contact is necessary, the complainant will be informed that it will be made through a Director or their nominated officer/s. A decision to restrict contact will be reconsidered if the complainant subsequently demonstrates more reasonable behaviour.

2.11 If you disagree with a decision made by the HSENI to regard your behaviour as unreasonable, you can challenge it. Please refer to our Complaints/enquiries Policy.

2.12 All incidents of harassment or aggression will be documented and referred to senior staff. In appropriate circumstances these matters may be referred to the police and the HSENI may consider taking appropriate legal action against the complainant, if necessary, without prior warning.