

Unreasonable Complainant Conduct Policy

Office of the Ombudsman Policy for Dealing with Unreasonable Complainant Conduct

Introduction

The primary function of the Office of the Ombudsman is to receive and process complaints made about the administrative actions of certain public bodies. In dealing with complainants, we require our staff to explain comprehensively and clearly the reasoning behind our decisions and why, where relevant, a complainant's argument or preferred outcome is not tenable.

While, in the majority of cases our complainants interact with the Office in a restrained and reasonable manner, we fully appreciate that some are particularly stressed when pursuing complaints against public bodies and that, from time to time, this stress will show in how they interact with this Office. Each member of our staff knows that managing such interactions is an intrinsic part of the job.

However, this does not mean that we expect our staff to tolerate behaviour by our customers that is abusive, offensive, threatening or, due to the frequency of contact, accounts for a disproportionate amount of time and resources that could be spent more effectively dealing with other complaints and investigations. This issue is particularly acute at a time where resources are at a premium.

Unreasonable Complainant Conduct

This type of behaviour is classified as unreasonable complainant conduct and can be identified as comprising:

- **Unreasonable Persistence:** Persistence with a complaint that has already been investigated and closed by the Ombudsman's Office, often after internal appeal. The persistence may be manifested in different ways; for example, insisting that the complaint be looked at again by another officer (following completion of appeal process), re-framing the complaint to present it as a fresh complaint, or persevering with an argument that has earlier been addressed.
- **Unreasonable Demands:** An outcome or approach is expected that is unrealistic or disproportionate. Examples include repeated demands for investigation of a matter that is outside remit, seeking a remedy that is disproportionate or unrealistic, or trying to direct the Ombudsman as to how to conduct the investigation.
- **Unreasonable Lack of Co-operation:** Persistent presentation of a complaint in a disorganised manner. Examples include not identifying the complaint clearly, presentation of often unnecessary voluminous material while expecting almost instantaneous responses, transforming the complaint midway through the investigation process, and (occasional) dishonesty in the statement of facts.
- **Unreasonable Arguments:** Examples include exaggerating issues, presenting irrelevant and/or unreasonable arguments, placing too much emphasis on trivialities, insisting that the complainant's version of events be accepted as fact where there is no objective evidence to

support this view, obstinately refusing to consider counter-arguments, being guided by unfounded conspiracy theories and/or by desire for revenge or retribution against another person or public body.

- **Unreasonable Behaviour:** Unreasonable behaviour includes threats of violence, abuse of the Ombudsman's staff, rude or aggressive conduct, and threats of self-harm. Our documented experience shows that approximately five per cent of our interactions with our complainants can be classified as unreasonable complainant conduct.

How We Will Manage Such Behaviour

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. Where it might be of assistance, we will consider possible adjustments to our service which may help the customer to avoid unreasonable behaviour into the future.

However, if the unreasonable behaviour continues, we will take action to restrict the customer's contact with our Office. The decision to restrict access to our Office will only normally be taken after we have reviewed the service given by our Office to the particular customer. The decision will be taken at Senior Investigator 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 (letters only)
- requiring contact to take place with a named officer
- restricting telephone calls to specified days and times
- restricting access to the Office
- asking the customer to enter into an agreement about their future conduct, and, ultimately
- terminating all contact with the complainant where the behaviour shows no signs of abating (this decision will be taken at Director General level)

In all cases, we will write to tell the customer why we believe their behaviour is unreasonable and what action we propose to take. However, 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 Garda Síochána or instigating legal action. In such cases, we may not give the complainant prior warning of that action.

Regardless of the complaint's behaviour, our staff will act respectfully to the complainant and impartially with regard to the complaint.

Recording Instances of Unreasonable Complainant Conduct

All instances of unreasonable complainant conduct where the provisions of the Office's Unreasonable Complainant Conduct Policy have been invoked are recorded on an incident form. Completed incident forms will be signed by the appropriate Senior Manager and forwarded, for retention, to the Head of Corporate Services.

The customer's name and contact details, together with details of any actions to restrict the customer's contact with the Office that have been imposed, will be included in an Incident Log. The Incident Log will be available to appropriate staff members for the purpose of ensuring adherence to any such restrictions that have been imposed.