

# Unreasonably persistent and unacceptable behaviour policy:

## Treating our staff with dignity and respect

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## Policy statement

The ICO is committed to providing excellent customer service to everyone who contacts us. Everyone is entitled to be treated respectfully, courteously and in a polite manner.

Where a customer raises an issue or complaint with us, they have a right to expect to be dealt with fairly and impartially. They should also receive a response which fully addresses their concerns in a timely manner.

When dealing with customers, we do not normally limit the form or amount of contact they have with us. However, as an employer, we have a duty to safeguard the health and wellbeing of our staff. The ICO does not expect its staff to tolerate abusive, threatening, demeaning or offensive behaviour either verbally or in writing. Similarly, we do not expect our staff to deal with someone who, because of the frequency of their contact, places a strain on time and resources and causes undue stress for staff.

ICO staff will respond professionally and sympathetically to all customers. Where a customer acts persistently, determinedly or assertively, they usually display this behaviour legitimately in the pursuit of a resolution to their complaint. However, there may be times when there is nothing further that can reasonably be done to assist a customer or rectify a perceived problem. In such circumstances, we recognise that there are occasions when certain investigations should be drawn to a close, if there is no reasonable way of resolving the situation to everyone's satisfaction.

The purpose of this policy is to explain the appropriate action that the ICO will take against those customers deemed to be displaying unreasonable or unacceptable behaviour which can distress our staff or strain our resources with persistent and unrealistic demands.

In dealing with customers, we recognise that our resources, including staff time, have to be used responsibly and directed where they can provide the most value. This might mean that we cannot always respond to every complaint in the manner and to the extent that a customer would choose.

## Principles

We expect our staff to be treated with courtesy and respect. We recognise that customers can at times feel under pressure, distressed or feel that they have to be determined to pursue their concerns. They can also feel angry about their situation.

The ICO will distinguish between distress, frustration, forcefulness and determination, and any of these developing into unreasonably persistent and/or unacceptable behaviours.

It is difficult to provide a strict definition of what constitutes unacceptable behaviour, but broadly

- Behaviour or language that may cause staff to feel seriously stressed, afraid, intimidated, threatened or abused, e.g. the use of language that

could be described as foul, offensive, demeaning, inappropriate and/or racist, sexist or homophobic, threats or physical violence, derogatory remarks, rudeness, harassment, inflammatory statements and unsubstantiated allegations;

- Unreasonably persistent customers who, because of the frequency or nature of their contact, place a strain on time and resources, e.g. pursuing complaints in inappropriate ways, pursuing issues which appear to have no substance or are outside of the ICO remit, or which have already been investigated and the outcome determined.

This type of behaviour can be exhibited in many different manners, including in person, on the telephone, in written or email correspondence.

When dealing with this kind of behaviour, the ICO will take into account the frequency of contact, the content of the contact, the actions we took to resolve the customer's complaint and the level of disruption caused.

Examples of unreasonable behaviour include:

- making unnecessarily excessive demands on the time and resources of staff whilst an issue or complaint is being investigated. This could include excessive telephone contact, sending emails to numerous members of staff or numerous emails to one staff member or writing lengthy, complex letters every few days and expecting immediate and comprehensive responses;
- submitting repeated issues or service complaints, after the complaints process has been exhausted. These may include additions or variations to the original service complaint which the customer insists makes the complaint worthy of being put through the full complaints process again. Such behaviour will not result in the acceptance of a new complaint;
- refusing to accept an outcome of an information rights complaint once the ICO has concluded its investigation. This may include repeatedly arguing the point and complaining about the decision and not accepting the further escalation routes open to the customer.
- insisting that the complaint should be dealt with in ways which are incompatible with standard procedure or good practice; or
- refusing to accept documented evidence as factual.

## What it means in practice

The ICO operates a zero tolerance approach to unreasonable behaviour and will protect its staff from such behaviour.

If a customer behaves in an unreasonable way, the ICO will follow this policy to manage such behaviour and to control or limit the contact which customers have with our staff. In some circumstances, we may have to consider placing restrictions on how and whether a customer may contact us.

If unreasonable behaviour occurs during a telephone conversation, ICO staff will explain to the caller why their behaviour is unacceptable. The caller will be given the opportunity to stop the unacceptable behaviour. If the unacceptable behaviour continues, ICO staff will inform the caller that they are ending the

telephone call and will record the reason for the termination on the appropriate ICO IT system.

If unreasonable behaviour is displayed in written correspondence, the ICO will respond in writing to the customer addressing the query or complaint in full, whilst also stating that the correspondence received is unacceptable and ask the customer to refrain from this behaviour in future correspondence. A note will be made on the ICO IT system of the unreasonable behaviour and that the customer has been asked to refrain from displaying this behaviour in future correspondence.

Following unreasonable behaviour (which may be either repeated behaviour or a one-off instance, and considered on a case-by-case basis) an ICO manager will contact the customer either by phone, in writing or by email to explain why this behaviour is causing concern, and ask them to change this behaviour. The warning will contain:

- details of when the incident occurred;
- the reasons why we consider the behaviour to be unreasonably persistent or unacceptable;
- an explanation of the effect this behaviour is having on the ICO and its staff; and
- what could happen should the behaviour continue.

We may also send a copy of this policy.

If the disruptive behaviour continues, an ICO manager may issue a reminder letter to the customer. This would advise them that, if they continue to act unreasonably, their future contact with the ICO will be restricted.

Where the behaviour is particularly serious, the ICO may decide at its sole discretion that this policy and any sanctions herein should be applied without prior warning. In that event, a manager will write directly to the customer explaining the reasons for this.

There is a range of ways that the ICO can restrict access, and the action applied depends on the nature of the behaviour.

These include, but are not limited to:

- restricting contact to one method (eg letters only), or named member(s) of staff, or particular times of day;
- accepting contact through a third party only;
- only acknowledging further correspondence where new and pertinent information is presented which has not been previously considered;
- refusing to accept further telephone calls;
- restricting the issues we will correspond on; and
- requesting the customer to enter into an agreement about their future conduct.

Any action we take will be reasonable and proportionate. It will balance the interests of the customer with the duty to protect the health, safety and wellbeing of our staff.

## ICO Service Charter policy

When the ICO applies this policy to a customer, we will write to them setting out:

- the reasons why we believe their behaviour to be unreasonably persistent or unacceptable;
- what action we have decided to take in response to this behaviour; and
- how and when we will review any decision to restrict access to us and to what subject matter this will apply.

12 months after we take the decision to apply the policy, a manager will carry out a review. They will make a recommendation to the relevant senior manager as to whether the restriction should be extended, amended or removed. They will also specify to what subject matter it will apply, eg not to re-open the original complaint if the ICO has exhausted its internal complaint review procedure for this case.

Where a customer continues to behave in such a way which is unreasonably persistent or unacceptable, we may decide to continue to restrict access to the ICO for the purpose of pursuing a previous complaint.

Where a customer has changed their behaviour to the extent that the ICO does not believe that the policy should still apply, we will amend or remove the contact restrictions.

Once we have completed this review of contact, a manager will write to the customer and advise them of what decision we reach, and why.

A customer can appeal a decision to implement this policy by asking an ICO senior manager to review the original decision to implement contact restrictions. In some cases, relations between the ICO and the customer who is being unreasonable may break down completely while complaints are still under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there may be little purpose in following some or all the stages of the ICO complaints policy. Where this occurs, early consideration of referring the matter to the PHSO should be made, as it may be prepared to consider a complaint before the complaints procedure has run its course within the ICO.

Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, the ICO will consider other options, for example reporting the matter to the police or taking legal action. In such cases, the ICO may not give the customer prior warning of that action.

We will treat new information rights complaints from those who have been dealt with previously under this policy on their own merits.