



Managing Unreasonably Persistent and Vexatious People

Introduction

IOSH serves many customer groups. On the whole, customers act responsibly, courteously and reasonably, however, on occasion some customers stray beyond what would be classed as acceptable behaviour in a professional relationship.

Purpose

The Managing Unreasonably Persistent and Vexatious People business rule provides the framework for how IOSH will deal with people it perceives to be behaving in an unreasonably persistent or vexatious manner.

The business rule is a public document that will be referred to where a person's behaviour is in danger of becoming either unreasonably persistent or vexatious to try to encourage them to modify their behaviours.

If behaviours are not modified, then the business rule will be applied at the discretion of a director of IOSH or of IOSH Services Limited (ISL).

The business rule will be applied to protect the wellbeing of staff, volunteers, members or members of the public who may be affected by the actions of an unreasonably persistent or vexatious individual, in relation to IOSH or its undertakings.

Scope

The business rule will be the responsibility of the Head of Customer Service and Experience to monitor and update.

It will be a tool for Directors of IOSH or ISL to deploy as they see fit, and as determined by the situation and the attitude and behaviours of the subject(s).

Once applied, any sanction must be adhered to until the pre-determined review date.

Failure to follow the sanction may result in further action through the most relevant process for the nature of the behaviour or the position of the individual concerned (e.g. Code of Conduct).

Roles and responsibilities

Head of Customer Service and Experience – Business rule owner

Any IOSH or ISL Director – Business rule applier

Any correspondent who is behaving in an unreasonably persistent or vexatious manner, as determined by any IOSH or ISL Director – Business rule subject

Applying the Managing Unreasonably Persistent and Vexatious People Business Rule

Unreasonably persistent and vexatious people can take a lot of time and energy to manage. Ensuring tools are in place to both set expectations, drive behaviour change and apply sanctions if required, is a key part of managing any business, and IOSH is no different.

On the whole, the customers of IOSH and ISL behave reasonably and professionally. However, occasionally people can become unreasonably persistent or, more worryingly, vexatious.

This business rule sets out the definition for both states, the characteristics by which a person may be classified as either and the sanctions that can be applied, including the escalation to other disciplinary processes should they be required.

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Initial steps

Wherever and whenever possible the application of the business rule must be the last resort, as the analysis and application of restrictions can, in themselves, be stressful for all parties.

An early conversation, in writing or verbally (and confirmed in writing) with a correspondent who is beginning to display either unreasonably persistent or vexatious traits in their dealings with the Institution, may be time well spent, as it allows the person to reflect and take stock before more official and restrictive action is taken. This can happen at any point in an interaction, and can be conducted by any person, as it is an informal and reasonable action to protect all parties.

Where these conversations are had, they must be recorded to ensure they can be referenced in future should any sanctions or further investigation be required.

When determining whether a person is to be subject to the business rule the following sections outline some of the factors to inform the decision.

Unreasonably Persistent People

The following information has been adapted from the Local Government and Social Care Ombudsman service for England.

Definition

An unreasonably persistent person can be defined as someone who:

- Repeatedly contacts the organisation, hindering delivery of service or resolution of complaints
- Pursues complaints that have no substance
- Pursues complaints that have already been investigated and determined
- Places an unreasonable demand on staff time.

Behaviours

Some examples of unreasonably persistent behaviours are:

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaint investigation process.
- Refusing to accept that certain issues are not within the scope of a complaint procedure.
- 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 staff who are trying to deal with the issues and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various people.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous staff, or detailed correspondence 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.

Sanction

Any actions taken should be proportionate to the nature and frequency of the complainant's current contacts. The following options may be suitable, taking the complainant's behaviour and circumstances into account. The objective is to manage the complainant's unreasonable behaviour in such a way that their issues can be dealt with promptly, without further distractions. Options include:

- Placing limits on the number and duration of contacts with staff per week or month.
- Offering a restricted time slot for necessary calls.
- Limiting the complainant to one medium of contact (telephone, letter, email etc).
- Requiring the complainant to communicate only with one named member of staff.
- Requiring any personal contacts to take place in the presence of a witness and in a suitable location.
- Refusing to register and process further complaints about the same matter.

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Vexatious People

Where unreasonably persistent people may be well intentioned in their pursuit of an outcome, vexatious people are not. The term vexatious is recognised in law and means 'denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant'.

In the case of IOSH, a vexatious person may be raising a baseless complaint against another or against the institution to cause a distraction, to challenge someone's credibility or to gain position or favour with another individual.

Where these behaviours and motivations are suspected, the individual will be subject to the sanctions as outlined for unreasonably persistent behaviour, whilst their actions are investigated through the institutions formal disciplinary channels, as vexatious behaviour falls under the remit of the Members Code of Conduct, as it displays a lack of integrity.

Application of sanctions

The sanctions for both unreasonably persistent or vexatious behaviours can be applied at the discretion of a director of IOSH or IOSH Services Limited (ISL).

The decision must be made following the collation and review of evidence, which, if appealed must be made available to the subject of the sanction.

The sanctions will be applied with a defined review period of no more than three months, or until the outcome of a complaint or other process is known, whichever is sooner.

If the subject of the sanction is already in a disciplinary process or is the subject of an investigation, the owner of that process will be informed of the decision to apply sanctions.

Should a sanction be applied, all IOSH staff will be informed and the relevant database record will be updated to indicate that a current sanction is in place. This is not publicly accessible information.

IOSH Correspondent

Should the subject wish to appeal, they can do so by writing to the Chief Executive of IOSH, within 15 working days of the sanctions being applied.

The appeal must state clearly why the subject feels the application of the sanction is unreasonable or unfair, and how its application is of detriment to their dealings with IOSH.

The Chief Executive can commission a third party to undertake a review of the sanctions based on the appeal or can reject the appeal.

Should a review find that the sanctions were applied correctly they will remain in place.

If the sanctions were applied incorrectly, the matter will be referred to the relevant director to review and identify an alternative route for resolution.

The decision of the Chief Executive for any outcome is final.

IOSH Services Limited (ISL) Correspondent

If sanction has been applied to a correspondent of ISL, further action may include restrictions on the licences available or termination of the training contract.

This is at the discretion of the Director of ISL.

Any appeal on the application of sanctions will be dealt with by the ISL Director.

Accessibility

The business rule is available on the IOSH website and can be referred to during any correspondence or during a complaint, should the behaviours of a party warrant it.

The application of the business rule is a last resort – it is expected that all people will correspond with IOSH and ISL in a professional and courteous manner at all times, engaging openly in any processes and accepting any decision that may be reached.

IOSH and ISL will endeavour to treat all correspondence and complaints fairly and transparently and in line with the published policies and business rules.

Review

This business rule is subject to review on 4th December 2021

Version Control

V	Last amended	Author	Reason for amendment	Review date
1	4 th Dec 2020	MR	First draft	
2	7 th Dec 2020	MR	Post review by Governance Manager	
3	12 th Jan 2021	MR	Post review of SLT	

Business rule document information

Business rule owner	Head of Customer Service and Experience	Business rule contact	Matt Rockley
Related operational policies	IOSH Complaint Business Rule IOSH Member Code of Conduct IOSH Volunteer Code of Behaviour		
Relevant legislation and standards			