

## **9. The Southern IFCA's process for unacceptable, unreasonably persistent, or vexatious complaints**

9.1 The Southern IFCA aims to deal fairly, honestly and properly with complainants and to recognise their rights under the Human Rights Act 1998. We are committed to dealing with all complaints equitably, consistently, comprehensively, and in a timely manner.

9.2 However, the Southern IFCA also needs to ensure that other service users and officers of the Southern IFCA do not suffer any detriment from a person making unacceptable, unreasonably persistent or vexatious complaints or behaving in a threatening or demanding way.

What is an unacceptable, unreasonably persistent or vexatious complaint?

9.3 Complaints may be designated as unacceptable, unreasonably persistent or vexatious when complainants hinder the consideration of their own or other people's complaints, because of the frequency or nature of their contact with the Southern IFCA. Sometimes the situation between the Southern IFCA and a complainant can escalate and the complainant's behaviour moves from being unreasonably persistent to behaviour which is unacceptable, for example, abusive, offensive or threatening.

9.4 In general, a complaint may be seen as unacceptable, unreasonably persistent or vexatious where the complainant:

9.4.1 repeatedly pursues a complaint that appears to have no substance or that has been investigated and determined; or

9.4.2 behaves in an unacceptable or inappropriate way – for example, becoming abusive, offensive or threatening.

9.5 Specific examples of unacceptable, unreasonably persistent or vexatious behaviour are listed below. This list is not exhaustive, nor does one feature on its own necessarily imply that the complaint will be considered as being in this category. Behaviour that comes within the scope of this paragraph 9 includes where the complainant:

9.5.1 refuses to specify the grounds of a complaint, despite offers of assistance;

9.5.2 refuses to co-operate with the complaints investigation process;

9.5.3 refuses to accept a decision that issues are not within the remit of the complaints process;

9.5.4 makes repeated complaints about the staff dealing with the complaints, and/or seeks to have them replaced without specifying good reason;

9.5.5 changes the basis of a complaint as the investigation proceeds, or denies statements made at an earlier stage;

9.5.6 continually introduces new information, or raises large numbers of detailed questions of a trivial or irrelevant nature;

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9.5.7 electronically records meetings or conversations without the prior knowledge and consent of the other persons involved;

9.5.8 adopts a 'scattergun' approach, pursuing a complaint with the Southern IFCA and at the same time with other parties, or pursuing complaints with a number of different officers and/or Members within the Southern IFCA;

9.5.9 makes excessive demands on resources; for example, excessive telephoning or emailing or frequent lengthy letters, or demanding a response within an unrealistic timetable;

9.5.10 submits further complaints after the complaints process has been completed, essentially about the same issues but with additions/variations that the complainant asserts make these 'new' complaints;

9.5.11 makes it clear that the purpose of the complaint is frivolous or intended to annoy staff or disrupt the Southern IFCA's discharge of its functions;

9.5.12 refuses to accept that issues are not within the Southern IFCA's power to investigate, change or influence;

9.5.13 refuses to accept documented evidence as factual, or repeatedly makes inflammatory remarks or unsubstantiated allegations;

9.5.14 refuses to accept a decision or advice given by officers, repeatedly arguing the point and complaining about the decision; or

9.5.15 repeatedly refuses to refer a matter to another body or process as advised by officers (for example, the Local Government Ombudsman or the Information Commissioner's Office), and instead seeks to use the Southern IFCA's complaints process to resolve the matter even though he or she has been informed that this is not the correct forum for the resolution of the issue.

9.6 For the avoidance of doubt, raising legitimate queries or criticisms of the complaints process as it progresses, for example if agreed timescales are not met, should not by itself lead to someone being regarded as an unreasonably persistent or vexatious complainant.

9.7 Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it should not necessarily cause his or her complaint to be labelled unreasonably persistent or vexatious.

## Action to be taken

9.8 If the Chief Officer or his/her deputy considers that a complaint is becoming unacceptable, unreasonably persistent or vexatious, he or she may decide to warn the complainant that if their actions continue their complaint may fall under the scope of this process. However, there is no requirement to warn the complainant before designating his or her complaint as vexatious if the officer decides that it would not be appropriate to do so in all the circumstances of the particular case.

9.9 Where a complaint has been identified by the officer dealing with the complaint (the complaint handler) as being or becoming unacceptable, unreasonably persistent or vexatious, he or she will discuss the matter with Chief Officer. These officers will decide, in consultation

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whether to designate the complaint as unacceptable, unreasonably persistent or vexatious and to apply the provisions of this process.

This decision will not be taken lightly and the Southern IFCA must be satisfied that the proposed action is proportionate and necessary.

9.10 In reaching this decision officers will consider all relevant factors including whether there is another path the complainant could follow, such as an appeal process, whether procedural time frames have been followed, whether the complainant has been kept advised of any internal delays and communication with the complainant has generally been adequate, whether a meeting with the complainant would be appropriate and might assist in resolving the matter, and whether the complainant is now providing any significant new information that might affect the Southern IFCA's view on the complaint.

9.11 The Chief Executive Officer and the complaint handler may also decide to take some or all of the following actions:

9.11.1 direct that contact should be directed to and will only be accepted by a named individual;

9.11.2 direct that the means or manner of contact should be restricted (e.g. letter only);

9.11.3 place time and frequency limits on telephone conversations and personal contacts;

9.11.4 require any personal contacts to take place in the presence of a witness;

and/or

9.11.5 refuse to register and process further complaints about the same matter.

9.12 Any restriction that is imposed on the complainant's contact with the Southern IFCA will be appropriate and proportionate and the complainant will be advised of the period of time that the restriction will be in place for. In most cases restrictions will apply for six months but in exceptional cases this period may be extended. In such cases the restrictions will be reviewed on a six monthly basis.

9.13 Once a decision on the complaint has been made, officers may, with the agreement of the Chief Executive or Deputy, write to inform the complainant that further letters on the same subject will be read and placed on file, but will receive no acknowledgement or response. Officers will also explain to the complainant what action has been taken and why, how long any restrictions will last and at what intervals they will be reviewed, and the complainant's right to refer the matter to the Local Government Ombudsman.

9.14 Where a complaint has been designated as unacceptable, unreasonably persistent or vexatious, officers will endeavour to keep this information as confidential as possible, but it may become necessary to disclose this information to others both internally and/or to third parties including the Local Government Ombudsman, the Information Commissioner's Office or the Police.

9.15 If the complainant makes a complaint about a new issue this should be treated on its merits, and a decision will need to be taken on whether any restrictions that have been applied before are still appropriate and necessary.

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9.16 Where a decision has been taken to restrict a complainant's contact with the Southern IFCA, he or she may request a review of this decision. A panel consisting of either the Chief Executive, together with a member of staff at Senior Management level who has not previously been involved with the complaint, will consider the matter and determine whether or not to uphold the original decision.

9.17 There is no absolute right to a review of a decision to restrict contact with a complainant or other invocation of the provisions of this process. For example, in circumstances in which the panel consider that it would not be appropriate for a review to take place, or where no suitable members of staff are available to conduct it, or where the relationship between the complainant and the Southern IFCA has broken down to the extent that there is no possible resolution to the complaint that will satisfy both parties, it will be inappropriate to conduct a review. In these circumstances the complainant will be advised of his or her right to refer the matter to the Local Government Ombudsman.

### Threatening and difficult behaviour by the complainant

9.18 Aggression can be other than physical assault. There are times when staff feel threatened, intimidated or bullied by the language or behaviour of a complainant. This may include written language in the form of letters or e-mails. The Southern IFCA expects staff to be treated courteously and with respect.

9.19 If staff feel threatened or distressed by a complainant they will report their concerns, and the reason for those concerns, to their manager. The manager will report the incident using the appropriate departmental process and will consider:

9.19.1 writing to the complainant requiring no repetition of the behaviour and if necessary setting conditions and restrictions for further contact with staff;

and

9.19.2 whether to report the incident to the Police.

### Telephone

9.20 If staff consider during a telephone conversation that a caller is becoming aggressive and/or offensive they will inform the caller that they will terminate the conversation unless such behaviour ceases. If the behaviour continues the member of staff will put down the receiver, terminating the call. A note will be placed on file of the reason for terminating the call. Staff will respond to repeated calls, and to any calls that do not comply with any restrictions placed on a complainant in accordance with paragraph 9.11 above, in the same way.

Repeated calls can be harassment which should, after consultation with a senior officer, be reported to the Police.

### Face to face

9.21 Examples of threatening or difficult behaviour may include:

9.21.1 the person shouts very loudly and makes demands to see the officer they hold responsible (consideration should be given to any possible hearing impairment);

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9.21.2 threats are made to members of staff trying to be helpful;

9.21.3 the language used to staff is abusive and upsetting;

9.21.4 the person refuses to leave until their problem is resolved; and/or

9.21.5 their continued presence causes disruption/distress to other visitors in the reception/general office area.

9.22 Such difficult situations can sometimes be resolved by being patient, remaining calm, listening and identifying exactly what the problem is. If it is not possible to resolve the situation staff may:

9.22.1 ensure another member of staff is present (telephone another office to request assistance if only one member of staff is on duty);

9.22.2 remain behind the desk or counter;

9.22.3 explain clearly that they are unable to help any further but will pass on details of their complaint to the relevant person, and ask the complainant to leave the premises;

9.22.4 telephone a senior manager to ask for further assistance if necessary;

9.22.5 if the complainant refuses to calm down or to leave seek assistance, where appropriate;

9.22.6 write up a clear account of exactly what has happened as quickly as possible after the incident has occurred, listing those present at the time, signing and dating the document and passing copies to their manager, the Deputy Chief Officer, and a member of the Human Resources team; and/or

9.22.7 contact the Police.