

## PFCC Decision Report

Please ensure all sections below are completed

<b>Report reference number:</b> 014/2019
<b>Classification:</b> Not protectively marked
<b>Title of report:</b> Policy for Dealing with Abusive, Persistent or Unreasonable Contact, Correspondence and Complaints
<b>Area of county / stakeholders affected:</b> All residents and stakeholders countywide
<b>Report by:</b> Pippa Brent-Isherwood (Chief Executive and Monitoring Officer) <b>Date of report:</b> 4 February 2019 <b>Enquiries to:</b> Darren Horsman (Assistant Director – Communications and Public Engagement)

### 1. Purpose of the report

To approve the updated Policy for Dealing with Abusive, Persistent or Unreasonable Contact, Correspondence and Complaints.

### 2. Recommendations

That the PFCC approves the updated Policy for Dealing with Abusive, Persistent or Unreasonable Contact, Correspondence and Complaints attached at Appendix 1.

### 3. Benefits of the proposal

The aim of the proposed policy is to deal fairly, thoroughly, expediently, impartially and transparently with abusive, persistent and / or unreasonable contact, correspondence and complaints to the office, whilst ensuring that staff are not caused undue distress and other service users and residents are not unfairly disadvantaged.

**4. Background and proposal**

Most complainants and correspondents are pleasant and straightforward to deal with. However, there is a minority of individuals who choose to pursue their complaints and / or correspondence in ways that can impede the progress of any investigation of their issue, and / or can cause significant resource implications, and indeed distress to staff of the OPFCC. The published policy for dealing with such individuals expired in February 2017, so is in need of review.

The proposed policy outlines what action OPFCC staff can take if they feel that an individual is behaving unreasonably or in a threatening, abusive, insulting or intimidating manner. It is intended to deal with those individuals who persist in making unreasonable demands of OPFCC staff through their contact, correspondence or complaints to the office.

**5. Alternative options considered and rejected**

There is no statutory requirement for the Office to have a Policy for Dealing with Abusive, Persistent or Unreasonable Contact, Correspondence and Complaints, so the Commissioner could decide not to adopt one. However, this would leave staff with either no or inconsistent guidance in the event of having to deal with unreasonable correspondents and complaints, thus exposing staff to undue stress and leaving the Office vulnerable to challenge of inconsistent treatment of individuals. This course of action is therefore not recommended.

**6. Link to Strategic Objectives**

The proposed policy supports the Commissioner in discharging his statutory duties in respect of complaints management, as well as upholding the principles of transparency set out in the Constitutions.

**7. Police / Fire and Rescue Service operational implications**

There are no operational implications for either Essex Police or the Essex County Fire and Rescue Service arising from this decision.

**8. Financial implications**

There are no financial implications arising directly from the adoption of this policy.

**9. Legal implications**

Legal advice has been sought on the drafting of the attached policy.

The policy is supported and supplemented by guidance issued by the Information Commissioner's Office (ICO) and relevant Government departments from time to time. It does not negate any of the rights individuals have to make a complaint to the OPFCC under the relevant legislation.

The OPFCC reserves the right to refer any abusive, persistent or unreasonable complainants or correspondents to its legal advisors, which may result in legal action being taken against the same.

Where material, comments or actions are grossly offensive or threatening and may be construed as an offence under the Public Order Act 1986, the Protection from Harassment Act 1997 or the Malicious Communications Act 1998, the OPFCC may involve the police or institute legal proceedings against the individual concerned.

**10. Staffing implications**

There are no staffing implications arising directly from the approval of the proposed policy. The policy aims to support staff in understanding what is (and is not) expected of them in dealing with complainants and correspondents; what options are available to them in dealing with those who may be abusive, persistent and / or unreasonable, and who can authorise these actions.

Staff needing additional support as a result of the conduct of an abusive, persistent or unreasonable complainant or correspondent should be supported by their line manager and offered a referral to Occupational Health.

**11. Equality and Diversity implications**

Staff of the OPFCC are committed to dealing empathetically with all complaints and correspondence, taking into account where relevant any disability or other protected characteristic which may make processes more difficult for certain individuals to engage in. There are times, however, when individuals attempt to pursue their complaint or concern in an unreasonable manner which may impede proper investigation of the issue and / or the normal running of the office. This policy seeks to guide staff in such circumstances.

**12. Risks**

There are no apparent risks associated with approving the attached policy.

The risks associated with not doing so are set out in section 5 above.

**13. Governance Boards**

The proposed policy was approved in principle by the OPFCC SMT on 22 January 2019.

**14. Background papers**

Appendix 1 – Proposed Policy for Dealing with Abusive, Persistent or Unreasonable Contact, Correspondence and Complaints

**Report Approval**

The report will be signed off by the OPFCC Chief Executive and Treasurer prior to review and sign off by the PFCC / DPFCC.

Chief Executive / M.O.

Sign: [Signature]

Print: P. Seawood - Greenwood

Date: 4th February 2019

Chief Finance Officer / Treasurer

Sign: [Signature]

Print: Abbey Gough

Date: 4/2/2019

**Publication**

Is the report for publication?

YES   
NO

If 'NO', please give reasons for non-publication (Where relevant, cite the security classification of the document(s). State 'None' if applicable)

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If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

**Redaction**

If the report is for publication, is redaction required:

1. Of Decision Sheet? YES  NO  2. Of Appendix? YES  NO

If 'YES', please provide details of required redaction:

.....  
.....

Date redaction carried out: .....

**Treasurer / Chief Executive Sign Off – for Redactions only**

If redaction is required, the Treasurer or Chief Executive is to sign off that redaction has been completed.

Sign: .....

Print: .....

**Chief Executive/Treasurer**

**Decision and Final Sign Off**

I agree the recommendations to this report:

Sign: ..... *[Handwritten Signature]*

Print: ..... *R.C. Hulse*

**PFCC/Deputy PFCC**

Date signed: ..... *11/2/18*

I do not agree the recommendations to this report because:

.....  
.....  
.....

Sign: .....

Print: .....

**PFCC/Deputy PFCC**

Date signed: .....



## Policy for Dealing with Abusive, Persistent or Unreasonable Contact, Correspondence and Complaints

Version Control	Version 4.0	January 2019
Reviewed by	P Brent-Isherwood	January 2019
Reviewed by	D Horsman	October 2018
Reviewed By	C Fry	July 2017
Policy owner	P Brent-Isherwood	
First Published	J Drewett	November 2012
Next Review Date	D Horsman	January 2020

**Version history:**

Version Number	Date	Reason for review	Comments
1.0	November 2012		First publication
1.0	February 2016	Update review	No amendment required
2.0	September 2017	Update review	Minor amendments
3.0	October 2018	Update review	Alignment to new IOPC guidance and clarification between vexatious complaint handling and abusive, repetitive or unreasonable contact.
4.0	January 2019	Review by the Monitoring Officer	Updated to reflect best practice within other OPCCs

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## **Introduction**

The Office of the Police, Fire and Crime Commissioner (OPFCC) for Essex is committed to dealing with all contact, correspondence and complaints equitably, effectively and in a timely manner.

The OPFCC does not seek to limit contact that individuals have with the Office, or with the Police, Fire and Crime Commissioner (PFCC) or his / her Deputy. However, there may be occasions when:

- the behaviour of an individual is such that it prevents the OPFCC from dealing effectively with their concern;
- an individual's behaviour causes harassment or distress to OPFCC staff members, and / or
- where dealing with an individual's contact, correspondence and / or complaints has significant resource implications which are not assessed to be proportionate to the nature of the concern itself.

In these cases, contact with the individual complainant may be limited or, in more extreme cases, stopped altogether.

## **Scope**

This Policy sets out the processes and procedures adopted by the OPFCC in responding to what is considered to be abusive, persistent or unreasonable contact, correspondence and complaints. It is applicable to all types of contact with the OPFCC including telephone calls and emails to, and wider contact with, the office.

It does not cover complaints made against the PFCC or the Deputy PFCC. All complaints made against the PFCC and DPFCC are managed by the Police, Fire and Crime Panel (whose website can be found [here](#)) or the police.

It also does not cover dealing with potentially vexatious requests under the **Freedom of Information Act**. The guidance from the Information Commissioner's Office on this (and on dealing with repeat FOI requests) can be found on the Information Commissioner's website at [www.ico.org.uk](http://www.ico.org.uk)

This policy is supported by national guidance including Independent Office of Police Conduct (IOPC) guidance which states that where a complaint is vexatious or repetitive, the relevant authority (in this case the OPFCC) does not necessarily have to record or investigate the complaint.

## **Definition of abusive, persistent or unreasonable behaviour**

It is important to distinguish between people who raise a number of concerns or complaints because they really think things have gone wrong, and people who are abusing channels or opportunities for communication. It must be recognised that customers may sometimes act out of character at times of anxiety or distress and reasonable allowances should be made for this.

Raising legitimate queries or criticisms of a complaints or correspondence procedure as it progresses, for example if agreed timescales are not met, should not lead to someone (or their issue) being regarded as abusive, persistent or unreasonable. Similarly, the fact that

somebody is unhappy with the outcome of a complaint or their issue and seeks to challenge it should not cause him or her to be labelled as abusive, persistent or unreasonable.

There are however times when persistence and behaviour in pursuing an issue or a complaint becomes unreasonable. This policy gives examples of when this might be the case and sets out a process for dealing with contact that is considered to have become unreasonable.

For the purposes of this policy, **abusive, persistent or unreasonable behaviour** is defined as:

***'manifestly unjustified, inappropriate or improper use of a formal procedure or manifestly unjustified, inappropriate or improper contact'***.

In practice, abusive, persistent and unreasonable complainants and correspondents are those who, through the frequency and nature of their contact, impede the proper and proportionate investigation of their own and / or other people's issues.

In order to assess whether a behaviour or complaint is **abusive, persistent or unreasonable**, the key question is whether the complaint or contact is likely to:

- prevent the OPFCC from dealing effectively with the concern;
- cause harassment, disruption or distress to OPFCC staff members, and / or
- create significant resource implications which are not assessed to be proportionate to the nature of the concern itself.

Features of the types of complaints and / or behaviours that this policy covers are set out below. The list is not exhaustive and is used for illustrative purposes only. It should be noted that one single feature on its own does not necessarily imply that the person or their complaint or behaviour will be considered as being abusive, persistent or unreasonable:

- a) Ongoing persistence with a complaint after being advised that there are insufficient or no grounds for the complaint or that the OPFCC is not the appropriate authority to deal with it.
- b) Refusing to co-operate with the complaints process or correspondence procedure without good reason whilst still wanting the complaint to be resolved or correspondence to be answered. Such behaviour might include failing or refusing to specify the grounds of a complaint despite offers of assistance; changing the basis of the complaint as inquiries are made; denying statements made at an earlier stage of the investigation, and / or introducing trivial or irrelevant new information during the process and expecting this to be taken into account and commented on.
- c) Refusing to accept the outcome of the complaint procedure after its conclusion, repeatedly making the same or similar complaints without following the correct statutory appeal process.
- d) Adopting false identities and / or forging identity documents in order to submit multiple requests and / or complaints.
- e) Raising large numbers of detailed but unimportant questions and insisting that they are each responded to in full.
- f) Actions that are obsessive, persistent, prolific, repetitious and / or otherwise unreasonable.
- g) Harassing or verbally abusing or otherwise seeking to intimidate staff dealing with their complaint or correspondence, by using foul or inappropriate language, by the use of threatening, offensive or discriminatory language and / or making groundless

complaints, inflammatory remarks and / or unsubstantiated allegations about those staff (the Chief Executive makes the final decision on whether a complaint is groundless).

- h) Making an unreasonable number of contacts with the OPFCC, by any means, in relation to a specific complaint or correspondence including through insistence on immediate responses to numerous and / or frequent letters, faxes, telephone calls or emails, possibly sent to a multitude of staff.
- i) Sending such a high volume of information to OPFCC staff that it places an unreasonable burden on them and impedes their ability to carry out their duties effectively.
- j) Persistent and inappropriate use of statutory processes or procedures, or unreasonably pursuing multiple lines of enquiry regarding the same issue. For example, making a complaint to the PFCC, when the same complaint has been made against Essex Police but not been upheld. In this case, the proper escalation route is the IOPC.
- k) Ongoing behaviour which suggests a campaign against the OPFCC, its staff or an individual member of staff prompted by the individual's personal views on a particular issue and / or prompted by personal animosity.

### **Dealing with abusive, persistent or unreasonable contacts, correspondence and complaints**

The OPFCC is committed to ensuring that all contacts, correspondence and complaints made by the public are dealt with effectively and promptly (see 'compliments and concerns' [here](#)).

However, if at the point of managing a contact, correspondence or complaint, the staff member considers that it is abusive, persistent or unreasonable then the following processes will apply:

#### Verbal contact

Staff are not expected to tolerate verbal abuse or excessive volumes of contact either over the telephone or face-to-face. If an individual is abusive or excessively persistent either over the telephone or face-to-face, staff should advise them that they are not prepared to continue with the call or appointment if the abuse continues.

If the individual continues to be abusive or to make repeated telephone calls to the office without giving staff adequate opportunity to respond to their concerns, staff should state "I am ending this call" and put the telephone down. If an individual is abusive during an interview or makes repeated visits to the office, demanding to be seen by staff after having been warned that this is not acceptable then the interview should be terminated and the individual asked to leave.

If an individual continues to be persistent and / or abusive on the telephone and / or in person, staff should not continue with the call or interview once the caller is identified and should notify the Assistant Director of Communications and Public Engagement, so that consideration can be given to managing the individual's contact with the office in line with this policy.

#### Written contact

Staff do not have to tolerate abusive and / or excessively voluminous emails, letters or faxes when processing complaints or enquiries, or in general. Such contact can be particularly frustrating for the recipient, can be resource intensive and at times can give cause for distress.

If a staff member receives what they consider to be abusive and / or excessively voluminous written communications from an individual, they should notify the Assistant Director of Communications and Public Engagement so that consideration can be given to managing the individual's contact with the office in line with this policy.

#### Applying the policy

If it is agreed that the behaviour does fit within this policy, the Assistant Director of Communications and Public Engagement will inform the person involved that this behaviour is unacceptable. The person will be contacted, in writing wherever possible, to explain why this behaviour is causing concern, and to ask them to change this behaviour. Wherever possible, they should be provided with a copy of this policy. They will also be notified of the actions that may be taken if the behaviour does not change.

If the behaviour continues, the matter will be referred to the OPFCC Chief Executive, who will then decide whether to limit contact from the individual and to what extent. Any restriction that is imposed on contact with OPFCC will be appropriate, proportionate and subject to review. It must be kept in mind that, where the investigation of legitimate correspondence or a genuine complaint is ongoing, there will need to be some continuing contact with the complainant or correspondent.

Before deciding whether the policy should be applied and what action to take, the relevant officer should satisfy themselves that:

- The original complaint or correspondence is being, or has been, properly investigated and responded to;
- Any decision reached in this regard is / was an appropriate one;
- Communications with the individual have hitherto been adequate and appropriate;
- The complainant or correspondent is not raising a substantially new matter, or providing additional evidence in relation to an ongoing matter.

Any restrictions applied should offer a proportionate and appropriate response to the particular issues that the complainant or correspondent brings. The kinds of restrictions which may be imposed are:

- (i) Limiting contact to a specific mailbox or one named member of staff
- (ii) Placing time limits of telephone conversations and meetings
- (iii) Restricting the number of telephone calls that will be taken from the individual each day / week
- (iv) Only accepting email or written correspondence from the individual
- (v) Only accepting telephone contact through a third party e.g. solicitor / advocate / councillor or friend acting on behalf of the individual
- (vi) Offering to facilitate mediation between the complainant / correspondent and the relevant member(s) of staff and / or the Commissioner
- (vii) Indicating that no further correspondence will be responded to unless substantially new matters are raised. Such information will be read and placed on file but no further action will be taken in response to it
- (viii) Requiring any personal contact to take place in the presence of a witness

- (ix) Deleting any abusive posts, tweets or other communication submitted via social media after being recorded. Any further abuse of such forms of communication may result in the individual's social media accounts being blocked.
- (x) Blocking the individual's e-mail address so that emails from this address are not received by the OPFCC. This should only be done in extreme cases after all other avenues have been exhausted.

Where the decision is taken to apply such restrictions, the individual will be written to, detailing the reasons for the decision; what action the OPFCC is taking, and when the decision / restriction(s) will be reviewed. This decision will be shared with all staff in the Office, all of whom will be empowered to deal with that individual as determined by the Chief Executive. The decision may be amended at a later date, and further restrictions applied, if the individual continues to behave in a way which is unacceptable.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of staff and / or their families, or cause the recipient of the behaviour to feel threatened or alarmed, the OPFCC may consider other options, for example reporting the matter to the police or taking legal action. Where material, comments or actions are grossly offensive or threatening and may be construed as an offence under the Public Order Act 1986, the Protection from Harassment Act 1997 or the Malicious Communications Act 1998, the OPFCC may involve the police or institute legal proceedings. In such cases, the OPFCC may not give the individual prior warning of that action, and reserves the right to share any relevant communication with the police and / or to suspend all contact with the complainant / correspondent whilst legal advice is sought.

If the employee subject to abusive, persistent or unreasonable contact, correspondence or complaints is the Chief Executive, or where there is a conflict of interest for the Chief Executive (for example, because the individual is known to them personally, or the CEO has already been involved in dealing with them), the application of the policy will be considered and, if necessary, applied by the PFCC or the DPFCC, who will nominate another member of staff to keep the application of this policy under review.

Records will be retained by OPFCC Chief Executive of all cases assessed to be abusive, persistent or unreasonable, including the action that has been taken in relation to these cases and the review dates.

### **Right of appeal**

If the behaviour is related to a complaint, the complainant has the right to appeal to the IOPC (for contact details, please see [here](#)).

### **New issues**

Even where an individual may have behaved in a manner that is abusive, persistent or unreasonable in the past, it must not be assumed that any future contact from them will also be unreasonable. Any new issues or complaints raised by individuals managed under this policy will be treated as new and reviewed on their individual merits. Any imposed restrictions will not apply to substantially new matters, although the individual may be reminded not to repeat behaviours which led to those restrictions.

## Review process

The status of an individual judged to be abusive, persistent or unreasonable will be reviewed by the Chief Executive no less than every six months. The individual will be informed of the result of this review, and if the decision to apply this policy to them has changed, been extended or lifted. Where restrictions are lifted, immediate consideration will be given to re-introducing them should the behaviour which led to the original restrictions return.