

CULTURE PERTH & KINROSS

Policy on Habitual or Vexatious Complainants

1. Introduction

The Freedom of Information (Scotland) Act 2002 gives everyone the legal right to see information held by Culture Perth and Kinross (CPK), unless there is a good reason to withhold it. Likewise Culture Perth and Kinross is committed to dealing with all complaints about our services, staff, policies and procedures equitably, comprehensively, and in a timely manner. Such requests will be processed using our [Freedom of Information Policy](#) and [Complaints Procedure](#) as appropriate.

However, there may be occasions where the requests for information, complaints or grievances may be deemed vexatious or habitual (see definition below). These may involve cases where there are:

- serial requests for information, serial complaints or serial grievances about different matters – received by letter, email or voicemail/messages;
- requests, complaints or grievances that regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on such points;
- grievances that are constantly reiterated which are without substance and have no foundation;

If their persistence adversely affects our ability to do our work and provide a service to others, CPK may need to address such behaviour by restricting, suspending or terminating contact with our offices and staff.

We do not expect staff to tolerate unacceptable behaviour by complainants which causes or may cause undue stress.

Culture Perth and Kinross recognises that it is important to distinguish between people who make a number of complaints because they genuinely believe things have gone wrong, those whose behaviour may be a symptom of mental or other health problems and people who may be considered as habitual or vexatious complainants. We acknowledge that complainants will often be frustrated and aggrieved and it is therefore important to consider the merits of their case rather than their attitude.

2. Definition of a Habitual or Vexatious Complainant

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where previous or current contact with them shows that they meet one or more of the following criteria:

1. Persist in pursuing a complaint/grievance where CPK's Complaints or Freedom of Information Procedure has been fully and properly implemented and exhausted.
2. Persistently change the substance of a complaint/grievance or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint/grievance is being addressed.

3. Are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
4. Submitting repeat complaints with minor additions/variations the complainant insists make these 'new' complaints
5. Repeatedly do not clearly identify the precise issues which they wish to raise despite reasonable efforts of CPK to address their concerns, and/or where the concerns identified are not within the remit of CPK.
6. Regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what a trivial matter is can be subjective and careful judgement will be used in applying this criteria.
7. Have threatened or used physical violence towards staff at any time - this will, in itself, cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be continued through written communication received by post. All such incidences will be documented. Culture Perth and Kinross has determined that any complainant who threatens or uses actual physical violence towards staff will be regarded as a vexatious complainant and will receive written confirmation that this is the case and will inform the complainant of the action that will be taken.
8. Have, in the course of addressing a registered complaint or grievance, had an excessive number of contacts with CPK - placing unreasonable demands on staff. For the purposes of determining an excessive number, the contact may be in person, by telephone, letter, e-mail, voice messages or fax. Discretion will be used in determining the precise of number of excessive contacts applicable under this section, using judgement based on the specific circumstances of each individual case.
9. Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with the complaint/grievance. Staff recognise, however, that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. However all instances of harassment, abusive or verbally aggressive behaviour will be documented.
10. Have harassed or been personally abusive or verbally aggressive on more than one occasion towards CPK Trustees whether this has been on a face-to-face contact or at public meetings.
11. Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved and/or have impersonated any member of staff or Trustees with the objective of soliciting information for whatever purpose.
12. Make unreasonable requests or demands and fail to accept that these may be unreasonable.
13. Seeking to coerce, intimidate or threaten staff, Trustees or other people involved, whether by use of language, tone of voice or behaviour including body language

3. Actions and Restrictions

CPK will ensure that the complaint is being, or has been, investigated properly according

to our complaints procedure.

In the first instance (Stage 1), the Complaint Investigator will consult with the Complaints Manager and other Senior Staff prior to issuing a warning to the complainant. The Complaint Investigator (CI) will contact the complainant either by phone, in writing or by email to explain why this behaviour is causing concern, and ask them to change this behaviour. The CI will explain the actions that the Trust may take if the behaviour does not change.

If the disruptive behaviour continues (Stage 2), the Complaints Manager will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact us in future will be restricted. The Complaints Manager will make this decision in consultation with the Executive Management Team and inform the complainant in writing of what procedures have been put in place and for what period.

Any restriction that is imposed on the complainant's contact with us will be appropriate and proportionate and the complainant will be advised of the period of time the restriction will be in place for. In most cases restrictions will apply for between 3 and 6 months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis.

Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- Banning the complainant from making contact by telephone except through a third party e.g. solicitor/Councillor/friend acting on their behalf
- Banning the complainant from sending emails to individual and/or all CPK employees, or Trustees and insisting they only correspond by letter, delivered by post
- Banning the complainant from using CPK Venues
- Banning the complainant from accessing any CPK Venue except by appointment
- Requiring contact to take place with one named member of staff only
- Restricting telephone calls to specified days / times / duration
- Requiring any personal contact to take place in the presence of an appropriate witness
- Refusing to register and process further complaints about the same matter.
- Letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence)

When the decision has been taken to apply this policy to a complainant, the Complaint Manager will contact the complainant in writing (and/or as appropriate) to explain:

- why we have taken the decision,
- what action we are taking,
- the duration of that action,
- the review process of this policy, and
- the right of the complainant to contact the Scottish Charity Regulator (OSCR) or Scottish Public Services Ombudsman (SPSO) about the fact that they have been treated as a vexatious/persistent complainant.

The Complaints Manager will enclose a copy of this policy in the letter to the complainant.

Where a complainant continues to behave in a way which is unacceptable (Stage 3), the Complaints Manager, in consultation with the Chief Executive and Chair of the Board, may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

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

4. New Complaints from Complainants who are treated as Habitual or Vexatious

New complaints from people who have come under this policy will be treated on their merits. The Complaints Manager will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. We do not support a “blanket policy” of ignoring genuine service requests or complaints where they are founded.

The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on our contact with him or her, will be recorded and notified to those who need to know within Culture Perth and Kinross.

5. Review

The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Complaint Manager after three months and at the end of every subsequent three months within the period during which the policy is to apply.

The complainant will be informed of the result of this review if the decision to apply this policy them has been changed or extended.

6. Right to Appeal

If an individual categorised as a habitual or vexatious complainant is not satisfied with the decision reached they may appeal the decision and request that it is reviewed by the Chief Executive and Chair of the Board who will convene a panel to review the decision. Such a request for a review may only be received once in any six month period. Notice of the decision to review the decision will be given, as far as is practical, within 15 working days of receipt of the request.

The review panel may:

- Uphold the decision; or
- withdraw the categorisation of a person as habitual or vexatious; or
- amend the strategy being applied to that person.

If the panel considers it appropriate to withdraw the status of habitual or vexatious complainant, normal contact with the complainant and application of Culture Perth and Kinross’s complaints procedure will be resumed. Notice of the review panel decision will be supplied to the person or persons within 5 working days of the panel meeting.

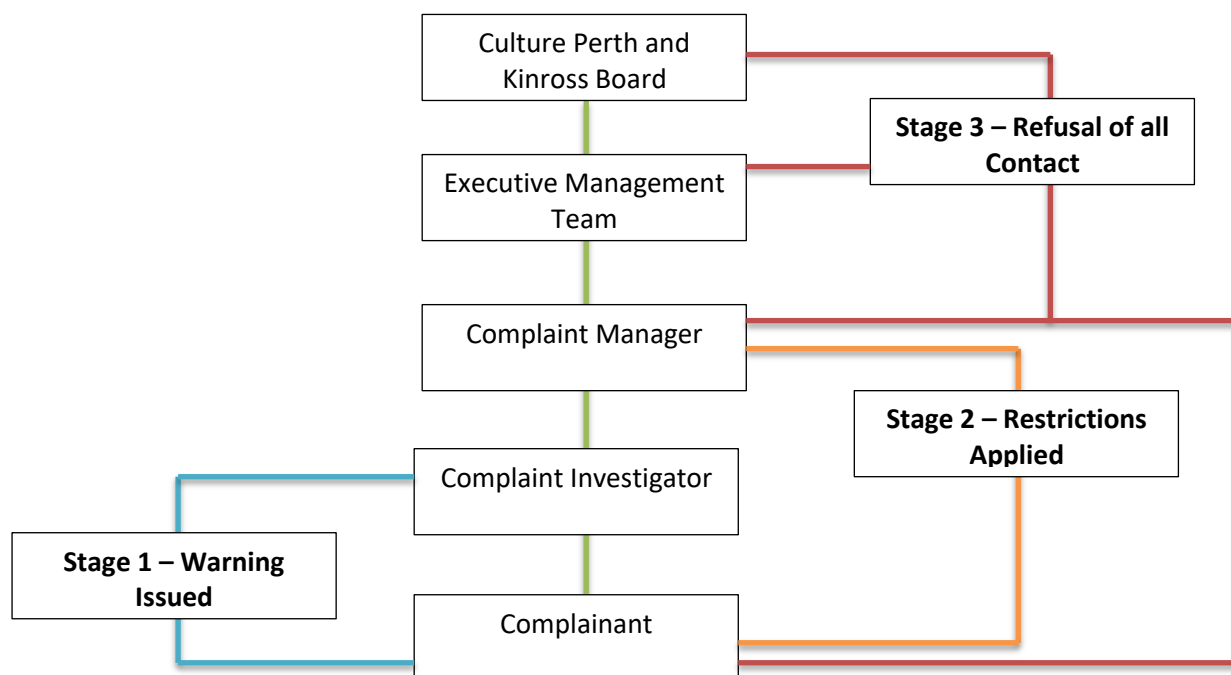
7. Record Keeping

Adequate records will be retained by the Complaint Manager of the details of the case and the action that has been taken. The Complaint Manager will retain a record of:

- The name and address of each service users who is treated as ‘habitual or vexatious’
- When the restriction came into force and ends
- What the restrictions are
- When the service user and departments were advised

The Culture Perth and Kinross Board will be provided with an annual report giving information about service users who have been treated as vexatious/persistent as per this policy.

8. Habitual or Vexatious Complainant Decision Making Process



Further Information / Contacts

Culture Perth and Kinross Complaints Policy can be found at <https://www.culturepk.org.uk/about-cpk/feedback-and-complaints/>

Culture Perth and Kinross is a registered Charity and as such you can raise a complaint or concern with the **Scottish Charity Regulator (OSCR)** at <https://www.oscr.org.uk/about-charities/raise-a-concern> or by calling **01382 220446**

The **Scottish Public Services Ombudsman (SPSO)** is the final stage for complaints about councils, the National Health Service, housing associations, colleges and universities, prisons, most water providers, the Scottish Government and its agencies and departments and most Scottish authorities. They can be contacted on **0800 377 7330** or at <https://www.spsa.org.uk/>