



PERSISTENT AND VEXATIOUS CORRESPONDENTS POLICY

Equality

In accordance with the Equality Act 2010, we will make any reasonable adjustment necessary to assist those with a protected characteristic or disability to engage fully with the Commission. If you require any assistance with this document please let us know.

We are also a member of Happy to Translate (HTT) and can provide language assistance with this document or make it available in alternative formats if required upon request.



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1.0 Introduction

- 1.1 The Scottish Criminal Cases Review Commission (“the Commission”) has established a policy for dealing with what the Commission deems to be unacceptable contact by persistent or vexatious correspondents.
- 1.2 The term “correspondent” includes anyone who contacts either the Commission’s office or a member of Commission staff or Board, whether it is in person, by telephone, fax, letter or email for any case related or non-case related matters.
- 1.3 This policy sets out what the Commission deems to be unacceptable behaviour on the part of the correspondent and the action which will be taken in such circumstances when a correspondent is classified as persistent or vexatious.
- 1.4 If you have any visual impairment or other disability this procedure document can be made available in alternative formats upon request.

2.0 Policy Aims

- 2.1 The aim of this policy is to ensure that an appropriate process is in place to identify and address those correspondents which meet the definitions for persistent and vexatious correspondents and thereafter ensure that such correspondents do not impact adversely on the Commission’s resources, including its staff, active case volume and review timescales.

3.0 Definitions

3.1 A correspondent can be classified as persistent and/or vexatious for a number of reasons and this policy sets out the main definitions which act as a guide in the application of the policy. The Commission recognises that this list is not definitive and therefore will exercise its discretion and judgement in the application of the policy. A correspondent will be considered to be persistent and/or vexatious in the following situations:

- Where a correspondent makes what are considered to be unreasonable demands through the amount of information they seek, the nature and scale of service they expect or the number of approaches they make. Such demands may include demanding responses within unreasonable timescales, insisting of seeing/speaking to a particular member of staff, continuous telephone calls, letters or emails, repeatedly changing the substance of correspondence or raising unrelated concerns. Such demands are considered unreasonable if they start to impact adversely on the work of the Commission to the disadvantage of other correspondents or functions.
- Where a correspondent is considered to be unreasonably persistent in their contact or communication with the Commission as a result of them being unable to accept that no further assistance or level of service can be provided. This level of persistence may arise through disagreement with the decisions or actions taken by the Commission during the course of its reviews, refusal to accept explanations relating to what the Commission can or cannot do and continuously pursuing matters without presenting any new information.

3.2 Where demands made upon the Commission by correspondents are vexatious and/or persistent these can adversely affect the Commission's ability to deal with cases effectively and address matters with merit.

4.0 Application of Policy

4.1 Classification of a correspondent as vexatious or persistent is not likely to be a frequent occurrence and is only done so through close application of the policy. The policy will be applied depending on how a correspondent meets the definitions of vexatious and/or persistent as set out below:

4.2 Where a correspondent repeatedly telephones, visits the office, sends irrelevant documents or correspondence or raises the same issues, the Commission may decide to:

- only take telephone calls from the correspondent at set times on set days or put an arrangement in place for only one member of staff to deal with his/her calls or correspondence;
- only take correspondence in one format to be decided by the Commission;
- require that the correspondent makes an appointment to see a named member of staff before visiting the office or that he/she contacts the office in writing only;
- return any documents to the correspondent or, in extreme circumstances, advise him/her that further irrelevant documents will be destroyed; and
- take any other reasonable action that the Commission considers appropriate.

The Commission will, however, always inform the correspondent what action is being taken and why.

- 4.3 Correspondence may be considered persistent if all internal review mechanisms have been exhausted and the correspondent continues to dispute the Commission's decision relating to the matter raised. Any future contact by the correspondent on this issue must be in writing. Future correspondence is read and filed, but only acknowledged or responded to if the correspondent raises significant new information relating to the matter.
- 4.4 Where action is to be taken in accordance with the policy, this decision will be made by the Director of Corporate Services or a Senior Legal Officer. Details of the correspondent, the action considered to be persistent and/or vexatious and the Commission's subsequent course of action will be recorded in the Persistent and Vexatious Correspondents Register. The correspondent concerned will be informed in writing of the registration on the register and details of any new entries will be reported to the Board on a monthly basis for information.
- 4.5 Where a correspondent continues to contact or correspond on a wide range of issues, and this action is considered excessive, then he/she will be told that only a certain number of issues will be considered in any given period and asked to limit the focus of his/her requests accordingly.
- 4.6 Complaints submitted by a correspondent who has been registered on the Persistent and Vexatious Correspondents Policy will not be recorded or processed if they are considered to be a repeat of previous complaints or matters included on previous correspondence or are considered vexatious.

5.0 Appeal System

- 5.1 Any correspondent who has been informed that they have been recorded on the Persistent and Vexatious Correspondents Register may submit an appeal against that decision in writing to the Chief Executive, setting out his/her reasons why he/she considers the decision to be inappropriate, within 21 days of receipt of the registration notification.
- 5.2 The Chief Executive will then consider any such appeal. The decision made by the Chief Executive and the reasons for the decision will be intimated to the correspondent in writing. An appeal will normally be concluded within 2 months of the appeal being lodged.
- 5.3 If the person who has raised the issue initially is the Chief Executive then the appeal will be submitted to and considered by the Chairman of the Board of the Commission who will follow the appeal process as set out above.
- 5.4 If an appeal against a decision to register is upheld the correspondent's details will be removed from the Register and if a further correspondence has been submitted this will be considered. If the appeal is unsuccessful the correspondent's name will remain on the register.

6.0 Review

- 6.1 In order to ensure the fair and appropriate ongoing application of the Persistent and Vexatious Correspondents Policy and in addition to the Appeals System a review of the Persistent and Vexatious Correspondents Register will be undertaken by the Chief Executive

annually. Where a correspondent has not made any persistent and/or vexatious contact with the Commission within a full 3-year period, the Chief Executive, in determining that the registration criteria no longer applies, will remove the correspondent from the register and any personal data relating to the applicant on the register will be destroyed.

- 6.2 The Chief Executive will report on the outcome of the review to the Board who will monitor and oversee the application of the policy.
- 6.3 The Persistent and Vexatious Correspondents Register is not a public document and therefore all entries on the register will remain confidential. Any correspondent named on the register can at any time confirm with the Commission the status of his or her registration.

Date approved:	17 August 2012
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Date of next review:	March 2023