

GAMBLING COMMISSION

Unreasonable Behaviour Policy

April 2015

Summary

1. The Gambling Commission (the Commission) is responsible for the regulation of commercial gambling in Great Britain, including the National Lottery.
2. The Commission is committed to dealing promptly and appropriately with all individuals and enquirers. We want to deal with people in ways that are open, fair and proportionate and this policy has been created to explain how the Commission will deal with an individual, whose conduct affects the Commission's ability to properly deal with its communications. The Commission will not normally limit the contact which individuals have with Commission employees, but it does not expect employees to tolerate unacceptable behaviour and will take action to protect them from such behaviour. If a person behaves in a way that is unreasonably persistent, unacceptable or vexatious, we will follow this policy where necessary.

Scope of policy

The Commission receives the following types of communication to which this policy will apply:

- General enquiries (including complaints about an operator)
- Enquiries from licence holders and local authorities
- Requests under the Freedom of Information Act 2000 (FOIA)
- Consumer protection complaints
- Complaints about the Commission.

Equality and Diversity

3. The Commission recognises that, in some circumstances, individuals may have a disability that makes it difficult for them to either express themselves or communicate clearly and/or appropriately.
4. Where there is an indication that this may be the case, the Commission will consider the needs and circumstances of the individual before deciding on how best to manage the situation. In such cases it is not intended that this policy shall apply.

Definitions

5. Defining unreasonably persistent or vexatious
6. The Commission defines unreasonably persistent and vexatious individuals as those who, because of the frequency, nature or content of their contacts with the Commission, hinder the Commission's consideration of other people's enquiries/complaints. The definition for vexatious and unreasonably persistent may apply separately or jointly to a particular individual.

7. Vexatious communication refers to a large volume of calls or correspondence **on the same subject**, from the same requester, who received as full an answer to their original request as possible and who is now:
 - not making a serious attempt to access information for its own sake; or
 - going over the same ground in an obsessive or abusive manner; or
 - causing disruption or annoyance to Commission employees or otherwise imposing a significant burden and impeding the delivery of the Commission's objectives – especially when the person reveals they expressly intend to cause us disruption or annoyance

8. Defining unacceptable behaviour. What is deemed to be unacceptable behaviour will often differ depending upon the individual(s) involved and their particular circumstances. Examples of unacceptable behaviour are grouped under two broad headings, as follows:
 - Aggressive, abusive or offensive language or behaviour
 - General unreasonable behaviour.

Aggressive, abusive or offensive language or behaviour

9. Commission employees have the right not to be subjected to aggressive, abusive or offensive language or behaviour, regardless of the circumstances. Anything that may cause employees not unreasonably to feel distressed, threatened or abused is considered unacceptable.

10. This may include:
 - Swearing
 - Threats
 - Derogatory comments including those based on gender, race or ethnic background
 - Shouting
 - Personal attacks
 - Presenting an intimidating and inappropriately persistent attitude.

General unreasonable behaviour

11. Some individuals may be dissatisfied with decisions that have been made or responses that have been given. In some instances, individuals may place unreasonable demands upon the Commission by, for example:
 - demanding responses within an unreasonable time-scale;
 - excessive telephone calls and/or emails
 - terminating calls with one person, but calling back to try to speak to someone else
 - persistent refusal to accept a decision or explanation
 - refusing to accept that issues are not within the remit of the Commission to investigate, change or influence (e.g. something that is the responsibility of another, separate organisation)
 - introducing trivial or irrelevant new information which the individual expects to be taken into account, or raising large numbers of detailed but unimportant questions and insisting they are fully answered

- changing the basis of a complaint as the investigation proceeds and/or denying statements
- refusing to cooperate with the complaints procedure whilst still expecting the complaint to be resolved
- insisting on speaking with certain employees and making unnecessarily excessive demands on time and resources of them
- submitting repeat complaints/enquiries after the complaints process/enquiry has been completed/fully responded to, essentially about the same issues, with additions/variations which the individual insists are “new” matters that should be looked at further
- attending Commission premises without a prior appointment and demanding to see a Commission employee.

12. The above examples are not exhaustive and one single feature on its own will not necessarily mean a person will automatically be dealt with under this policy

Handling arrangements

Telephone calls

13. If an individual persistently calls to discuss an enquiry or complaint or to make further complaints and this is proving time consuming and disruptive, employees are entitled to ask the complainant to put their concerns in writing and to terminate the conversation. It is also acceptable for staff to terminate a telephone conversation if an individual behaves in an unacceptable way e.g. by being abusive or aggressive during the conversation.
14. Employees will, whenever possible, warn a caller that they intend to terminate the call – and the reason why - in order to give the caller an opportunity to moderate their behaviour.
15. It is essential that a formal contemporaneous record is made of any calls that are terminated and these may be reviewed if the decision to terminate the call is challenged. Although the Commission does not routinely record telephone calls, it may, on certain occasions begin to record a call for training and monitoring purposes, if the content of the call becomes abusive, aggressive or inappropriate. A decision may be made to record all calls received from a particular individual (who will be notified if that is the case).

Requests and complaints in writing

16. As with telephone calls, no employee has to tolerate unacceptable behaviour received in writing. Where there is a legitimate request for information contained within the communication, on the first instance such correspondence is received, the employee should provide the information (if it is reasonable to do so) but at the same time warn the individual that their conduct is considered to be offensive and will not be tolerated in the future. If the employee feels that the communications received are so unreasonable that

it prevents them from responding, the matter should be escalated to a Director to make a decision on whether it is appropriate to invoke the policy at that stage.

17. Where no legitimate information is being requested, it is not necessary to respond to an abusive email or letter. However, it would be good practice to issue a warning that the conduct is considered to be offensive and will not be tolerated in the future.

Considering a contact restriction

18. Where possible the Commission will use existing escalation processes to manage the contact with an individual. However where persistent or vexatious contact continues, it may be appropriate to put certain restrictions in place when individuals demonstrate unacceptable behaviour. This may limit communications to a single channel i.e. via email or telephone, to a nominated individual within the Commission or by managing contact with the help of an advocate. The purpose of the advocate is to represent, where necessary, the views and interests of the person making the complaint. They may offer support and gather information to allow the complainant to make informed choices. An advocate may be a friend or representative.
19. The precise nature of the unacceptable behaviour, action taken, and the length of any restriction imposed should be appropriate and proportionate to the nature and frequency of the individual's contact with the Commission at that time. This will be decided on a case by case basis and can only be enacted with the agreement of a Director or Programme Director who has not had any previous contact with the individual or conduct of the matter in question.

Representations about a proposed contact restriction

20. Before making a decision to restrict contact, the Commission will, if it has not already done so, contact the individual to outline the behaviour that has been deemed by the Commission to be vexatious/unreasonably persistent and/or unacceptable and explain why the behaviour is causing the Commission concern. The Commission will explain that consideration is being given to impose contact restrictions unless behaviour significantly alters, and the individual is permitted to respond to this before the final decision is taken, with any comments or representations they want to be considered. The final decision on whether to impose contact restrictions will be taken 10 working days after the notification letter has been sent. While consideration is being given as to any restrictions all contact from the individual should be through a single point of contact.

Imposing a contact restriction

21. In cases where an individual does not demonstrate a change in behaviour after being given notice of the Commission's intention to impose contact restrictions, a decision will be taken by a Director or Programme Director, to take action to restrict contact with the individual concerned. Although every case will be assessed on its individual facts, the following is a list of possible actions:
 - Limiting an individual to one means of contact e.g. email correspondence only

- Placing time limits on telephone contact/agreeing to the number of contacts that the Commission will reasonably accept (for example one call in the morning/afternoon of a particular day in the week)
- Restricting access to the Commission by only accepting correspondence through a designated officer (details of which will be provided to the individual in question)
- Where a decision on a complaint has been made and there are no further enquiries to pursue, a complainant may be informed that further correspondence that the Commission receives will be read and placed on file, An acknowledgement will generally be sent.
- In extreme cases, a decision may be taken to terminate all contact with an individual. This step will only be taken with the express written approval of the CEO.

22. The above list is not exhaustive and as each case is determined on its own merit, restrictions will be tailored to the required circumstances at the discretion of the Director/Programme Director.
23. The Commission reserves the right, where an individual's behaviour is so extreme that it threatens the safety and welfare of its staff, to consider other options outside of the scope of this policy, for example reporting the matter to the police or taking legal action. If this is deemed necessary, the Commission may choose not to provide an individual with prior notice of the action that is intended.

Lifting a restriction

24. If the Commission makes a decision to apply restricted access, it will write to the individual concerned with a copy of this policy and will explain:
- Why the decision has been taken
 - How it affects their future contacts with the organisation
 - How long any restrictions will last
 - What the complainant can do to have the decision reviewed.
25. The status of a person judged to be unreasonable/vexatious under this policy will normally be reviewed by the Commission's General Counsel, or their nominated deputy, after six months, and at the end of every six months within the period during which the policy is to apply. Other arrangements may be put in place but must be agreed by the General Counsel and the CEO.
26. The outcome of this review will only be reported to the person concerned if the decision to apply the policy has been altered.

Record Keeping

27. The Commission will keep accurate and up to date records of all persons who fall within the scope of this policy. Records will include details of the case, the action that has been taken and the reasons why the action was deemed appropriate and proportionate.
28. The records will also retain information including the name and address details, the date on which a restriction was imposed, the nature of the restrictions and the date the

restrictions were lifted. Once a restriction has been lifted, the Commission will retain this information for a period of 6 years. All information will be stored appropriately in line with the Data Protection Act.

Complaints procedure

In the event that an individual feels that they have been unfairly treated, they are entitled to ask their local Member of Parliament to refer the matter to the Parliamentary and Health Service Ombudsman, whose address can be found at www.ombudsman.org.uk.

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