

# Frivolous, Vexatious and Abusive Complaints Policy

## Introduction

The investigation of complaints against registered health and care professionals is an important part of the work of the Health and Care Professions Council. As the HCPC's primary objective is to protect the public, it is vital that all complaints are properly considered on their merits, regardless of their nature or source.

In making complaints to the HCPC, most people act entirely reasonably. Occasionally, complainants may act inappropriately towards Fitness to Practise Department (FTP) employees and this can arise from a variety of causes, including:

- acting out of character at a time of stress, anxiety, or distress;
- a medical condition or mental illness which makes effective communication difficult without giving the appearance of being aggressive;
- the use of prescription or other drugs which cause similar effects;
- a learning difficulty which hinders positive formal social communication.

FTP employees are trained to make reasonable allowances for a complainant's<sup>1</sup> behaviour and to understand that it does not, of itself, mean that a complaint is unjustified. However, a small minority of people make complaints that are vexatious, in that they persist unreasonably with complaints, make complaints other than genuinely to resolve a concern or act in a manner which, even after making allowances for the cause of their behaviour, is inappropriate and unacceptable.

Vexatious complaints are not only distressing for the FTP employee who must deal with them, but are time consuming and unnecessarily divert valuable HCPC resources from their true purpose; public protection. Therefore, it is important that such complaints are properly identified and managed.

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<sup>1</sup> Complainant for these purposes means both those who are making a complaint about a health and care professional and complainants in the wider sense, including those who may be subject to a complaint and are abusive, frivolous or vexatious.

## **Frivolous or Vexatious complaints**

In identifying frivolous or vexatious complaints, FTP employees must be careful to distinguish between complainants who are raising genuine concerns and people who are simply being difficult. This can be achieved by recognising that:

- complainants may often be aggrieved, frustrated or have other reasons for their behaviour and, therefore, that the focus must be on careful consideration of the merits of the case rather than the attitude of the complainant; and
- every complaint must be considered on its merits and, even if someone has made a vexatious complaint in the past, it must not be assumed that any other complaint they make will also be vexatious.

The need to consider every complaint on its merits cannot be over-emphasised. However, a complaint may be regarded as vexatious where the complainant:

- persists in pursuing a complaint which has already been investigated by the HCPC and provides no new and material information;
- seeks to prolong contact by continually changing the substance of a complaint or by continually raising further concerns or questions whilst the complaint is being addressed;
- fails to clearly identify the substance of a complaint or the precise issues which may need to be investigated, despite reasonable efforts by the HCPC to assist the complainant to do so;
- complains solely about trivial matters to an extent which is out of proportion to their significance;
- makes excessive contact with the HCPC or seeks to impose unreasonable demands or expectations on resources, such as responses being provided more urgently than is reasonable or necessary.

## **Handling vexatious complaints**

The management of vexatious complaints can be very time consuming but, to a large extent, must be a matter of professional judgement for the FTP employee concerned, taking advice from their line manager or the relevant Head as appropriate. The HCPC is not obliged to meet a complainant's unreasonable demands, for example, by answering every single point in an unreasonable letter. However, in some cases it may be worth devoting time to trying to resolve the matter at an early stage rather than seeking to draw the matter to a close and then having to spend even more time enforcing that decision.

The most difficult vexatious complaints to deal with are those where the complaint is slightly different from the original complaint, but about the same broad area of activity. A careful decision will have to be made as to whether or not the matters are sufficiently different to justify being considered as a new complaint.

Equally, if a complainant keeps making complaints about different matters, each complaint should be considered in the usual manner unless they are about entirely trivial matters.

In cases where it is decided that a complaint is vexatious, the matter may be closed with the consent of the Director of Fitness to Practise<sup>2</sup>. This is not a power that should be exercised lightly or frequently. In the event that it is, the complainant must be informed in writing of the decision and advised that the HCPC will not enter into any further correspondence about the matter.

### **Disruptive Telephone Complaints**

If a complainant persistently calls to discuss a complaint or to make further complaints, and this is proving time consuming and disruptive, it is reasonable for the FTP employee concerned to ask the complainant to put their concerns in writing and to terminate the conversation.

It is also perfectly acceptable for an FTP employee to terminate a telephone conversation if a complainant displays an unacceptable level of abuse or aggression during the conversation.

In either case the employee should remain polite and, wherever possible:

- provide the complainant with the opportunity to modify their behaviour, by informing the complainant that unless they do so, the call will be terminated; and
- warn the complainant that, if the call is terminated, the HCPC may no longer accept telephone calls from the complainant and will only deal with them in writing.

If a call needs to be terminated as a result of the complainant's conduct, the FTP employee should do so politely and make a file note of what occurred.

With the consent of the Director of Fitness to Practise, the complainant may be informed in writing that the HCPC will no longer accept telephone calls from them and will only deal with the complainant in writing.

### **Abusive complainants**

People under stress or who are feeling angry or upset may react in an abusive or aggressive way to the person with whom they are dealing. However, a balance must be drawn between the ability and desire to assist a complainant and what can reasonably be achieved in the circumstances.

The HCPC is committed to maintaining a working environment in which threatening, abusive, humiliating or offensive behaviour is not tolerated. It is not appropriate that FTP employees should be faced with verbal aggression or abuse. A robust approach must be adopted in any case where a complainant subjects a FTP employee to:

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<sup>2</sup> or, in the Director's absence, by the Head of Case Management or another person nominated by the Director.

- harassment, intimidation or verbally aggressive behaviour such as excessive swearing or foul language;
- personal abuse such as offensive sexual or racial remarks or offensive remarks about a person's disability;
- threats or use of physical violence.

The personal safety of the HCPC employees must never be compromised. Meetings should always be brought to an end in circumstances where the complainant becomes aggressive, abusive or displays or a high level of distress.

So far as possible, the decision by the HCPC to end a meeting should be explained clearly and politely, so that the complainant does not feel that they are being dismissed or their complaint ignored. Unless it is clearly inappropriate to do so, they should also be informed that it may be possible to continue the conversation at a future meeting when they are less distressed.

In any case where a meeting is terminated because of the conduct of the complainant, the FTP employee should make a file note of what occurred and bring the matter to the attention of the Director of Fitness to Practise. The Director will review the case and may decide that personal contact with the complainant is to be discontinued. In that event the Director will inform the complainant in writing that the complaint may only be pursued further by written correspondence.

If correspondence is predominantly abusive or threatening, it is acceptable not to reply to it and simply leave the correspondence on file with a note explaining why a reply has not been sent. All such correspondence should be brought to the attention of the Director of Fitness to Practise, who will review the case and may decide to respond to the complainant explaining that the tone of their correspondence is unacceptable and that no further correspondence will be entered into unless the complainant amends their tone. In extreme cases, for example, where there are direct and credible threats towards an individual, the Director may refer the correspondence to the police.

Violence or threats of violence are unacceptable and will not be tolerated by the HCPC. Other than in the most exceptional of circumstances, any assault on a member of HCPC staff in course of their duties will be reported to the police.

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