



Oifig an Choimisinéara Teanga

Unreasonable Complainant Conduct Policy

Policy to deal with Unreasonable Conduct from Complainants

1. Introduction

The role of An Coimisinéir Teanga was created under the aegis of the Official Languages Act 2003 to monitor the compliance of public bodies with their statutory obligations under the Act. Oifig an Choimisinéara Teanga was established as a statutory independent office under the same legislation to support An Coimisinéir Teanga in the fulfilment of his/her functions. An Coimisinéir Teanga investigates any valid complaint where it is believed that a public body has failed to comply with their duties under the Act, under any regulation made under the Act, under any language scheme which is confirmed with public bodies under the Act. In addition, An Coimisinéir Teanga may investigate any valid complaint where non-compliance is alleged in respect of a provision of any other enactment which relates to the status or usage of the Irish language.

An Coimisinéir Teanga is also required to advise public bodies regarding their obligations under the Act as well as advising the public in respect of their language rights under the 2003 Act. The Official Languages (Amendment) Act 2021, which was enacted in December 2021, augmented the Official Languages Act 2003 and extended the public's language rights. A series of new provisions in the amended legislation are being implemented on a phased basis.

In our dealing with complainants it is an essential element of the work of the Office to explain the basis of our decisions clearly and comprehensively and to set out, when necessary, the reason why a complainant's line of argument or a complainant's preferred outcome may not be tenable. Although the vast majority of the Office's interactions with the public are respectful and reasonable Office staff understand that some complainants can be stressed as they make complaints in respect of public bodies. All members of staff understand that managing such interactions is an integral part of their work.

However, this does not mean that there is an expectation that staff will accept complainant behaviour which is insulting, aggressive or threatening. This also includes behaviour which results in disproportionate expenditure of time and resources due to the frequency of contact with the Office, expenditure which would be more effectively directed towards other complaints and investigations. This issue is of utmost importance when resources are at a premium. Sectoral research demonstrates that approximately five per cent of Ombudsman Office interactions with the public could be classified as unreasonable complainant behaviour.

2. Unreasonable Complainant Conduct

This type of behaviour can be classified as unreasonable complainant conduct and can be identified according to the following behaviours:

- a) Unreasonable Behaviour (on the telephone or when present in person): Unreasonable behaviour includes speech or behaviour which is rude, vulgar, inappropriate or belligerent, violent threats, attacks on Office staff and threats to self-harm.
- b) Unreasonable Demands: There is an expectation of an unrealistic or disproportionate solution or approach. This includes multiple demands to investigate issues which do not relate to our function, which have no statutory basis, seeking a resolution which is disproportionate or unrealistic or seeking to direct the Office/An Coimisinéir Teanga in respect of the conduct of the investigation.
- c) Unreasonable Persistence: Persistence with a complaint that has already been investigated and completed by the Office, often following the internal appeal stage. The persistence may be manifested in different ways: for example, insisting that the complaint be looked at again by another officer (following completion of appeal process), re-framing the complaint to present it as a fresh complaint, or persevering with an argument that has earlier been addressed.
- d) Unreasonable Lack of Co-operation: Persistent presentation of a complaint in a disorganised manner. Examples include not identifying the complaint clearly, presentation of often unnecessary voluminous material while expecting almost instantaneous responses, transforming the complaint midway through the investigation process, and (occasional) dishonesty in the statement of facts. The complaint may already have been raised with the public body with insufficient opportunity afforded to the body to supply a response.
- e) Unreasonable Arguments: Examples include exaggerating issues, presenting irrelevant and/or unreasonable arguments, placing too much emphasis on trivialities, insisting that the complainant's version of events be accepted as fact where there is no objective evidence to support this view, obstinately refusing to consider counter-arguments, being guided by unfounded conspiracy theories and/or

by desire for revenge or retribution against another person or public body.

3. How Shall We Manage Such Conduct?

When we consider that a complainant's behaviour is unreasonable we will tell them why we find their behaviour unreasonable and we will ask them to change it. Where it might be of assistance, we will consider possible adjustments to our service which may help the complainant to avoid unreasonable behaviour into the future. If the unreasonable behaviour continues, we could take action to restrict the complainant's contact with the Office. The decision to restrict access to the Office will only normally be taken after we have reviewed the service given by our Office to the particular complainant. The decision will be taken at Office Director level, following consultation with other senior managers in the Office. An Coimisinéir Teanga shall be kept informed at each stage of the process.

Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:

- a) requesting contact/communications in a particular form (e.g. by electronic mail or by postal communication only)
- b) requiring contact to take place with a named officer
- c) restricting telephone calls to specified days and times
- d) restricting access to the Office
- e) asking the complainant to enter into an agreement about their future conduct, and, ultimately
- f) terminating all contact with the complainant where the behaviour shows no signs of abating (this decision will be taken at Office Director level)

In all cases, we will write to tell the complainant why we believe their behaviour is unreasonable and what action we propose to take. However, where the behaviour is so extreme that it threatens the immediate safety and welfare of the Office staff, we will consider other options, for example, reporting the matter to An Garda Síochána. In such cases, we may not give the complainant prior warning of that action. Regardless of the complainant's behaviour, our staff will act respectfully to the complainant and impartially with regard to the complaint.

Recording Complainant Unreasonable Behaviour

All instances of unreasonable complainant conduct will be recorded on an incident form. The appropriate Director shall sign completed incident forms and they shall be retained on a specific file. Appropriate officers shall have access to the file to ensure that staff adhere to any such restrictions that have been imposed regarding identified complainant contact with the Office.