

# TAX APPEALS COMMISSION

Unreasonable Complainant Conduct Policy

## 1. Introduction

The Tax Appeals Commission's "the Commission") [Customer Service Charter](#) reflects the mutual expectations of the Commission and its participants (either taxpayers, agents, representatives, experts, officials from the Office of the Revenue Commissioners or any other party to the appeal). The Customer Service Charter seeks to ensure that the Commission conforms to the highest principles of professional public service and that a professional service is provided to all participants. As stated above, participants will primarily be the appellant taxpayer but can also include representatives, tax agents, solicitors, accountants, barristers, witnesses, experts and all respondents or Revenue officials.

The Charter outlines the entitlements of individuals in their dealings with officials from the Commission. Equally, it expects that participants will give their full and necessary co-operation to enable the Commission to deliver a modern and efficient appeals process in relation to the hearing and adjudication of tax disputes, in accordance with the related legislation.

The Commission is committed to dealing with all queries in an efficient manner. It is also committed to dealing with all complaints fairly and impartially.

However, a small number of participants in the appeal process pursue their complaints in a manner where the frequency or nature of their contact with the Commission takes up unjustifiable time and resources making it difficult for the Commission to deal with their complaint and distracts staff members, in a disproportionate way, from carrying out their core functions. This participant can become an unreasonable complainant.

## 2. Unreasonable Complainant Conduct

The Commission considers that there are five types of unreasonable complainant conduct:

- A. Unreasonable persistence;
- B. Unreasonable demands;
- C. Unreasonable level of co-operation and a failure to co-operate;
- D. Unreasonable arguments;
- E. Unreasonable behaviour.

The Commission sets out the following explanations of the five types of unreasonable complainant conduct below:

### **A. Unreasonable Persistence:**

Persisting with a complaint that has already been investigated and closed by the Commission. This persistence may present itself in several ways, for example, by demanding that the complaint be looked at again by another officer after completion of the complaint and review process or statutory appeal (via the Ombudsman or Information Commissioner), or by resubmitting the same complaint as a fresh complaint.

### **B. Unreasonable Demands:**

Complainants may, for example, demand an unrealistic solution that is disproportionate to their complaint, or attempt to direct the Commission in the conduct of the investigation.

### **C. Unreasonable Level of Co-Operation and a Failure to Co-Operate:**

This may be demonstrated by a failure to clearly define the complaint, presenting large volumes of documentation in a disorganised way, changing the substance of the complaint while the investigation process is ongoing, or the withholding of information and untruthfulness. It also includes non-cooperation by the complainant with the investigation which may hinder, obstruct or delay the investigative process.

### **D. Unreasonable Arguments:**

Examples of this would include complainants placing a lot of emphasis on relatively trivial issues, advancing conspiracy theories that are unsupported by any evidence or an insistence that their version of events be acknowledged as fact despite a lack of evidence to substantiate that conclusion.

### **E. Unreasonable Behaviour:**

Examples of unreasonable behaviours (whether oral or written) include threats, physical violence, personal verbal abuse, derogatory remarks, rudeness and attempting to provoke officials into engaging in unnecessary and time-wasting argument or confrontation. It is also considered that inflammatory statements and unsubstantiated allegations can be abusive behaviour.

The Minister of State at the Department of Enterprise, Trade and Employment signed a Statutory Instrument (S.I. No. 674 of 2020) on 22 December 2020, stating one example of bullying at work to be '*blaming a person for things beyond their control*', if a pattern of instances arise. The Commission also views this as unreasonable behaviour with respect to a complainant or participants of the appeals process.

## **3. Procedure to Manage Unreasonable Complainants**

### **Telephone Calls**

Staff members at the Commission have a right to make a decision to end telephone calls if the caller is considered aggressive, abusive, offensive, intimidatory or excessively unreasonable, argumentative or confrontational. The staff member taking the call will inform the caller that his or her behaviour is unacceptable and that the call will be terminated if the behaviour continues.

### **Other Contacts**

In other cases, if the Commission considers a complainant's conduct unreasonable it will inform them why it believes this to be the case and ask them to change their behaviour. Unreasonable conduct may include one or two isolated incidents or may be the accumulation of incidents or behaviour over a period of time. If the unacceptable conduct continues or constitutes a serious risk (such as threatening a member of staff with violence), the Commission will take action to restrict the complainant's contact with our office and staff. A comprehensive written record will be maintained in each case where a complainant's conduct is considered to be unacceptable or unreasonable. This will include dates and times of contacts and a clear factual description of events. Any decision to restrict access will only be taken after the Commission has evaluated both the service given by the Commission to the particular complainant and the record of the unacceptable or unreasonable complainant conduct. This decision will be taken at Principal Officer Level and any restrictions imposed will be appropriate and proportionate.

The actions the Commission is most likely to consider are:

- Limiting contact to a particular contact channel (e.g. by letter or email only);
- Limiting contact to a named Commission official;

- Limiting the frequency and duration of telephone calls (e.g. to specified days and times and to a maximum duration);
- Future correspondence relating to the same complaint is read, acknowledged and then filed but no substantive response is given;
- Limiting access to the Commission’s public office.

In all cases, the Commission will write/email to the complainant advising them why it believes their behaviour is unreasonable and what action the Commission proposes to take. The complainant can seek a Review of the decision to deem them unreasonable and any proposed action to be taken. A request for such a Review will be undertaken by the Chairperson. The decision of the Chairperson will be final.

After a period of 18 months following the issue of the decision letter, the Commission will carry out a review of the case automatically. If there is a noticeable improvement in the complainant’s behaviour and evidence of an ability to conduct his or her affairs in a proper manner, the restrictions on contact will be re-assessed.

The implementation of this policy does not prejudice a complainant’s right to raise relevant issues under the Commission’s Complaint and Review procedures, with the Office of the Ombudsman, the Workplace Relations Commission or under the Disability Acts, where appropriate.

Regardless of the complainant’s behaviour, staff at the Commission will always act respectfully to the complainant and impartially with regard to the complaint.

This policy will be reviewed after a period of two years.

**October 2022**