

Mountain Training England

Dealing with unreasonable, unreasonably persistent and vexatious behaviour by complainants

Introduction

Mountain Training England (MTE) is committed to ensuring that it provides a quality and efficient service to all those who engage with the organisation. We are committed to dealing with all complaints in a fair, comprehensive, and timely way. Usually dealing with complaints is a straightforward process, but in a small number of cases, the way people behave can delay the investigation of their complaint or take up a lot of time.

The aim of this policy is to help us deal with unreasonable, unreasonably persistent or vexatious complaints and complainant behaviour in a fair way.

This procedure establishes what is considered to be unreasonable and unacceptable levels of contact with MTE and how instances of unreasonably persistent or vexatious contact can, and should, be handled.

The Procedure must NOT be used to impede the ability of any person to have reasonable access to MTE and the services provided. It is a mechanism for regulating their contact with the organisation.

MTE recognises that it is important to distinguish between people who make a number of complaints because they genuinely believe things have gone wrong, and people who are seeking to cause some disruption. We acknowledge that complainants will often be frustrated and aggrieved and it is therefore important to consider the merits of their case as well as the manner in which they go about their complaint.

Similarly, even though someone may have displayed unreasonable, unreasonably persistent or vexatious behaviour in the past, it cannot be assumed that their next request or complaint will lead to the same behaviours.

It should be noted that the health, safety and wellbeing of both MTE staff and volunteers will also be a factor in deciding how to respond to complainants.

This policy should only be applied in limited and exceptional circumstances and for clearly identified periods of time.

New requests from individuals who have been classified as unreasonable, unreasonably persistent or vexatious will be treated on their own merit.

1. Unreasonable, unreasonably persistent and vexatious behaviour

People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complaint being made. We do not view behaviour as unacceptable just because a claimant is forceful or determined, however the actions of complainants who are angry, demanding, persistent or vexatious may result in unreasonable demands on MTE and unacceptable behaviour towards its staff.

Unreasonable behaviour means behaviour that a reasonable person, having regard to all the circumstances, would view as unreasonable in the circumstances, regardless of what the intention of the behaviour is.

Unreasonably persistent relates to the nature or frequency of the contact with MTE, often on the same, or very similar, matters to the extent that it takes up an unreasonable and disproportionately large amount of MTE resources. This could be regardless of whether their complaint or concerns have been dealt with.

Vexatious describes someone who raises a complaint/s in order to cause annoyance/disruption and unnecessarily aggravate MTE rather than seeking to raise or resolve a grievance. This may involve making serial complaints about different matters or continuing to raise the same or similar matters repeatedly.

Some examples of behaviour and actions taken by these individuals are listed in section 3 below. It is important to note that this is not an exhaustive list.

Equality Act 2010.

Some individuals that may be considered to be unreasonable, unreasonably persistent or vexatious may be behaving because of a specific circumstance or difficulty which may be within one of the nine Protected Characteristic groupings as defined by the Equality Act 2010, such as Disability. This in itself is a broad grouping encompassing visual disability, hearing impairments, visible physical disability, or hidden disabilities such as mental ill health and neurodiverse conditions such as autism. Individuals may also present with additional vulnerabilities given the intersectionality of these groupings.

Where this is indicated as a potential reason for the behaviour exhibited, any concerns that MTE may have about a complainant's vulnerability must be raised immediately with the Executive Officer. If the complainant has what may be a range of particular needs, an advocate might be helpful to both parties.

MTE must be satisfied before taking any action as defined by this policy that the complainant's individual circumstances have been taken into account including having due regard to impacts in line with the nine protected characteristics defined by the Equalities Act 2010. These are Age, Disability; Gender Reassignment; Marriage and Civil Partnership; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation.

Based on the circumstances and behaviour of the complaint, restrictive actions will be tailored accordingly.

2. Actions and behaviours of unreasonable, unreasonably persistent and vexatious complainants

Single incidents may be unacceptable, but more often the difficulty is caused by behaviour that is time consuming to manage and interferes with proper handling of the issues raised and delivery of MTE's services. The method and frequency of contact with MTE can hinder the efficient consideration of complaints and the ability of MTE to provide a satisfactory outcome.

Examples of behaviours that are considered unreasonable, unreasonably persistent or vexatious are set out below:

- Refusing to co-operate with a complaints investigation process while still wishing their complaint to be resolved.
- Refusing to accept that certain issues are not within the scope of MTE to investigate, change or influence despite having been provided with information which explains this.
- Making numerous, repetitious, and unreasonable contact because an individual is unable or unwilling to accept or agree with a decision or approach which has been adopted by MTE despite this being fully explained to that individual.
- Insisting on the complaint being dealt with in ways which are incompatible with the MTE complaints policy and procedure or with good practice.
- Complaining about or challenging an issue based on a historic and/or irreversible decision or incident.
- Making an unreasonable number of contacts with MTE, by any means, in relation to a specific complaint or complaints.
- Persistently approaching MTE through different routes about the same issue.
- Changing the basis of the complaint / request as the issue proceeds.
- Denying or changing statements made at an earlier stage of the complaints or service process.
- Covertly recording meetings and conversations.
- Submitting falsified documents from themselves or others.
- Introducing trivial or irrelevant new information at a later stage in the complaints process.
- Raising numerous, detailed but unimportant questions and insisting they are all answered.
- Making the same complaint repeatedly, perhaps with minor differences, after the complaint procedure has been concluded and insisting that the minor differences make these into 'new' complaints.

- Refusing to accept the decision or outcome; repeatedly arguing points with no new evidence, complaining about the outcome and/or denying that an adequate response has been given.
- Adopting a 'scatter gun' approach: inappropriately pursuing the same issue with a variety of organisations.
- Making excessive demands on the time and resources of MTE with lengthy phone calls, e-mails to numerous council staff or detailed letters every few days and expecting immediate responses.
- Making unjustified complaints about MTE staff who are trying to deal with the issues, and seeking to have them replaced.
- Adopting a violent, aggressive, or threatening demeanour towards staff.
- Sending in repeated emails which contain foul language and are derogatory towards MTE with intent to cause harm or fear.
- Combinations of some, or all, of the above behaviours on at least 4 separate occasions.

Some individuals that MTE may consider to be acting unreasonably or are unreasonably persistent or vexatious complainants may be behaving as such because of a specific circumstance or difficulty e.g. mental health, behavioural disorders or neurodiverse conditions including autism, or a protected characteristic defined by the Equality Act 2010. If this is the case consideration will be given to obligations under the Equality Act 2010 and it will be considered whether the application of the policy may have an unfavourable impact on an individual, whether any impact is proportionate to a legitimate aim and whether reasonable adjustments can be made to allow the individual to engage with MTE in an appropriate way. Based on the circumstances and behaviour of the complaint, restrictive actions will be tailored accordingly.

Threatening and abusive behaviour

Some complainants may also display threatening and abusive behaviour or harassment when contacting MTE.

Verbal contact. MTE staff are not expected to tolerate verbal abuse or excessive volumes of contact either over the telephone or face-to-face. If a complainant is abusive, unreasonable, or excessively persistent either over the telephone or face-to-face, MTE staff should advise them that they are not prepared to continue if the abuse continues.

If the individual continues to be abusive, in person, or to make repeated telephone calls without giving staff adequate opportunity to respond to their concerns, staff should state *"I am ending this call"* or a meeting should be terminated, and the individual asked to leave. It is recommended that a note is recorded of all incidents, detailing what happened and the action taken with relevant details (e.g. location, date, time, witnesses).

Written contact. MTE staff members do not have to tolerate abusive and / or excessively voluminous emails, letters, or social media contacts when processing complaints or enquiries, or in general. Evidence of written contact will be collected in the application of this procedure.

3. The procedure to be followed in response to unreasonable. unreasonably persistent or vexatious complainants

Before applying this policy, MTE must be certain the behaviour or actions fall within the definition set out at section 3 and that there is evidence to support this.

As part of the assessment the following considerations should be applied:

- Previous enquiries, complaints, questions have been properly investigated and responded to.
- Any decision reached about previous cases/issues/complaints was an appropriate one.
- Communications with the complainant have hitherto been adequate and appropriate.
- The complainant is not raising a substantially new matter or providing additional evidence in relation to an ongoing matter.

- All known equality and health needs have been considered and any reasonable adjustments made (expert advice may be obtained where necessary).
- Whether the complainant has been advised that they have exhausted our systems and we are considering applying this policy to any future communications from them.

NB. It may not be appropriate to apply this policy when a reasonable complaint has not been investigated or if there is an open complaint investigation (unless the complainant's behaviour is such as to cause distress or harm to staff).

Decision to apply the policy. The Executive Officer or Chair of the Board will be responsible for making the decision that a complainant is considered to be behaving unreasonably or is unreasonably persistent or vexatious. It can be good practice to seek the views of a colleague, particularly when issues are complex, and a more independent or different viewpoint could assist in the decision-making process.

Issue a Warning Letter. Once the decision has been made to apply this policy, a warning letter will be sent to the complainant advising them that their issues have been fully addressed and any future contact on the same issue will be dealt with under the unreasonable, unreasonably persistent, and vexatious procedure by limiting the complainant's contact (see below).

In extreme or rapidly escalating cases, it may be necessary to immediately impose restrictions to ensure the safety of staff members without issuing a warning letter. This is a decision which will be taken by either the Executive Officer or Chair of the Board of Directors. Where the behaviour is so extreme that it threatens the immediate safety and welfare of MTE's staff, other options will be considered - for example, reporting the matter to the Police or taking legal action.

Issue a notification letter to confirm application of the policy. If the warning letter does not result in changes to behaviour a notification letter to confirm the application of the procedure will be sent from the Executive Officer or Chair of the Board of Directors.

This letter will specify the nature of the restrictions that will apply to contact by the complainant with MTE. It will also specify the time period during which those restrictions will have effect.

Restrictions on Contact. Any restrictions will be appropriate and proportionate to the nature of the complainant's contacts with MTE at that time. Restrictions may range from 6-12 months duration, as appropriate.

The following is a summary of the types of restriction which may be used:

- Limiting the complainant to one medium of contact (telephone, letter, email etc.).
- Requiring the complainant to communicate only with a named employee.
- Requiring any contact to take place in the presence of a witness.
- Banning a complainant from MTE's premises.
- Where relationships have broken down, requesting that the complainant uses an appropriate advocate to act and contact MTE on their behalf.
- Involving the police in cases where MTE believes that the complainant has committed a criminal offence (for example, harassment, assault on staff or criminal damage), where assault is threatened, or where the complainant refuses repeated requests to leave MTE premises.
- Letting the complainant know that MTE will not reply to or acknowledge any further contact from them on the specific topic of that complaint.
- There may be a time limit before we will accept any new complaints and which may then be considered on their own merits. However, if those new complaints relate to the same or similar issues previously responded to, they will not be investigated further.

A review will be undertaken shortly before the end of the period to which the restriction(s) applies, and a decision taken, using available evidence, as to whether the restriction(s) should be lifted or continue for a further specified period. If the decision is that the restriction(s) is to continue, the reasons and timeframe will be detailed in writing.

Restriction(s) will automatically end if the reasons for the restriction(s) have ceased. The review will be conducted by the Executive Officer or Chair of the Board of Directors.

Right of Appeal. If the complainant feels that the decision for restricted contact with MTE as an unreasonable, unreasonably persistent, or vexatious complainant is unfair or incorrect, they can request Board of Directors review the decision. This review will be undertaken by Directors who have not been involved in the case. If confirmed there will be no further opportunity to challenge it or further appeal.

Monitoring and Review. Reports on all cases will be provided to the MTE Board highlighting key information about instances where this policy has been invoked. This policy will be reviewed as necessary.

4. Links to other policies

Unreasonable, unreasonably persistent, or vexatious behaviour by a complainant may amount to bullying or harassment. All MTE staff have the right to be treated with respect and dignity in the workplace. Depending on the circumstances of each case, there may be links or reference made to MTE's bullying and harassment policy, health and safety policy, staff code of conduct or similar staff guidance documents, information governance policies/guidance and disciplinary procedure.

Policy adopted by MTE Directors on: April 2, 2024

Next policy review date: