

Policy for handling unreasonably persistent enquiries

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1. Introduction

The National Archives is committed to providing excellent customer service to everyone who contacts us. Everyone is entitled to be treated respectfully, courteously and in a polite manner. When a user raises a complaint or enquiry with us, they have a right to expect to be dealt with fairly and impartially, and to receive a response which fully addresses their concerns in a timely manner.

The purpose of this policy is to provide a tool for The National Archives when considering whether enquirers are displaying unreasonably persistent behaviour, and to explain the appropriate actions that The National Archives will take in this instance.

The National Archives handles thousands of enquiries a year. While it will only be in exceptional cases that enquirers are deemed to be unreasonably persistent, it is desirable for robust audit purposes to have established guidance in this area.

No enquirer should be treated as unreasonably persistent without prior agreement from the Quality Manager and responsible Director/s.

2. Who does this policy apply to?

- 2.1 The policy applies to all enquirers who contact us.
- 2.2 The term 'enquirer' is employed in its widest sense within this policy to encompass people or organisations who use any of our services, whether writing, emailing, telephoning or accessing The National Archives' live chat service. Contact via social networks or digital platforms are also covered by this policy.
- 2.3 This policy does not apply to requests which are being considered under the Freedom of Information Act 2000. Requests which may be vexatious will be considered using the ['Guidance on vexatious or repeated requests made under the Freedom of Information Act 2000'](#) document. This policy also excludes requests arising under the Re-Use of Public Sector Information Regulations 2015.

3. Determining unreasonably persistent behaviour

- 3.1 Deciding whether an enquirer is being unreasonably persistent requires judgment, taking into account all the circumstances of the case. There is no standard definition of unreasonably persistent, however the Information Commissioner's Office have produced [guidance](#) for the similar circumstances of "vexatious requests", when considering requests made under the Freedom of Information Act 2000. This guidance provides a useful framework that can aid the consideration process, and has been adapted to meet the needs of this policy:
 - Could the enquiries fairly be seen as excessive or the accusations unfounded?
 - Is the enquirer harassing the organisation or causing distress to staff?
 - Does complying with the enquirers' requests impose a significant burden in terms of expense and distraction (e.g., frequent, overlapping requests; no obvious intent to obtain information; futile or frivolous requests; scattergun approach)?
 - Is the contact designed to cause disruption or annoyance?
 - Does the enquiry lack any serious purpose or value?
- 3.2 An individual enquiry may not be unreasonable in isolation but in context it may form part of a wider pattern of unreasonably persistent behaviour, e.g. a wider dispute or the latest

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in a lengthy series of overlapping requests or other correspondence. In order to determine whether an enquirer is unreasonably persistent, it is necessary to look at both the context and the history of the communications between The National Archives and the enquirer, as well as the particular enquiry or contact that has triggered consideration of invoking this policy. This may include correspondence the requester has had with other business areas, including requests for information handled by the Freedom of Information Centre. It is likely that a pattern of behaviour over a period of time may trigger an assessment as much as a particular enquiry.

- 3.3 Individuals may act out of character when frustrated or unhappy with our service. There may have been upsetting or distressing circumstances leading up to contact with The National Archives. We do not consider behaviour that is forceful or emotional to necessarily be unacceptable.

However, the actions of individuals who are angry, demanding or persistent may result in unreasonable demands on The National Archives or unacceptable behaviour towards staff. It is these actions that we may consider unacceptable and aim to manage under this policy. The key question for The National Archives must be whether continued correspondence or transactions with the enquirer is likely to cause disproportionate or unjustified distress, disruption or irritation to either staff or the organisation. There are three main actions that could be deemed unacceptable:

3.3.1 **Aggressive or Abusive Behaviour**

Unacceptable behaviour is not limited to acts of aggression. It also includes behaviour or language (whether oral or written), the impact of which is to cause staff to feel fearful, threatened or abused.

Examples of behaviours grouped under this heading include threats, personal verbal abuse (including the use of sexually-explicit language) and derogatory remarks. We also consider that inflammatory statements and unsubstantiated allegations can be abusive behaviour. Where the behaviour is extreme or it threatens the immediate safety and welfare of staff, we will consider other options, for example reporting the matter to the Police or taking legal action. In such cases, we may not give the individual prior warning of that action.

3.3.2 **Unreasonable Demands**

Members of the public may make what we consider to be unreasonable demands on The National Archives through the amount of information they seek, the nature and scale of service they expect or the number of approaches they make. What constitutes an unreasonable demand will depend on the circumstances, the seriousness of the issues raised and the impact on individual members of staff and/or the functioning of The National Archives.

Examples of actions grouped under this heading include: demanding responses within an unreasonable time-scale, insisting on speaking to a particular member of staff, continual phone calls or letters, repeatedly changing the substance of a request or enquiry, or raising unrelated concerns.

3.3.3 **Unreasonable Persistence**

We recognise that some enquirers will not or cannot accept that The National Archives is unable to assist them further in their enquiry. Enquirers may persist in disagreeing with the action or decision taken in relation to their enquiry or contacting The National Archives persistently about the same or similar issue(s).

Persistent actions will be considered unacceptable when they take up what a Director regards as being a disproportionate amount of time and/or resources.

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3.3.4 Other

See Appendix A for expanded criteria of an unreasonable persistent enquirer.

4. Managing Unreasonable Persistence Actions

4.1 There are relatively few enquirers whose actions would be considered unreasonable. How we aim to manage these actions depends on their nature and extent.

4.2 Alerting enquirers to this policy

It will be the responsibility of the relevant service manager to bring to the attention of the Quality Manager situations where enquirers might be identified as being unreasonably persistent, against the criteria set out in Appendix A.

It will normally be appropriate for a service manager, or the Complaints team, to draw an enquirers' attention to the existence of this policy before any decision is made. They will inform the enquirer in writing that their continued correspondence or interactions with The National Archives on a particular subject matter may lead to them being treated as unreasonably persistent.

The National Archives will try to resolve matters before invoking this procedure and / or the sanctions detailed within it. If The National Archives is to continue dealing with the enquirer, it may be appropriate to draw up a signed agreement which establishes a code of behaviour for the parties involved. If this agreement is breached, consideration should be given to implementing other actions.

4.3 If it adversely affects our ability to do our work and provide a service to others, we may need to restrict an enquirers' contact with The National Archives in order to manage the unreasonable action. Wherever possible we aim to do this in a way that still allows the enquirer to receive appropriate information and assistance. We may restrict contact by telephone, letter or by electronic means, or by any combination of these, although we will try to maintain at least one form of contact if it is appropriate to do so. If it is, not all contact will be ceased.

4.4 We do not engage with written contact that is aggressive, abusive or offensive to staff. When this happens, we will inform the enquirer that we consider their language offensive and state that we will not respond to their correspondence if they do not moderate their use of language. We may require future contact to be through a third party.

4.5 We will always explain what action we are taking and why. Where enquirers continue to correspond on a wide range of issues, and this action is considered excessive (see 3.3.3 Unreasonable Persistence), then they will be told that only a certain number of issues will be considered in a given period and asked to limit or focus their requests accordingly.

4.6 Equality & Diversity considerations

If you think the unreasonable or persistent behaviour may relate to a disability, and/or the customer discloses a disability, then this must be taken into account when decisions are made about applying this policy. For further information see the definition of disability under the Equality Act 2010 in Appendix C and vulnerable persons in Appendix D.

5. Deciding to Restrict Enquirer Contact

- 5.1 Once it is clear that the enquirer meets any two or more (or are in serious breach of one) of the criteria set in section 3.3 or Appendix A, the responsible Director will review the evidence and decide, against the criteria, whether the enquirer should be identified as being unreasonably persistent.
- 5.2 When this decision is made, the responsible Director will notify the enquirer in writing, within 10 working days of the decision, of the reasons why the enquirer has been classified as unreasonably persistent and of the actions taken. The different options for dealing with unreasonable persistent enquirers are detailed in Appendix B. Wherever possible, we will give the enquirer the opportunity to modify their behaviour or action before such a decision is taken.

6. Appealing a Decision to Restrict Contact

Appeal to the Chief Executive Enquirers have the right to appeal a decision to restrict contact. If you are dissatisfied with the decision to restrict or cease contact, you can, within one calendar month from the date of our final response to you, appeal the decision. The review will be carried out by a director and we will contact you within five working days of receipt of your request (the day of receipt being Day 0) to notify you of their name and contact details.

All appeals are decided 'on the papers', i.e. all submissions must be in writing. There is no provision for oral submissions (i.e. by telephone or in person), except where the appellant would be disadvantaged (such as an appellant with a disability or condition that made written submission difficult). The person hearing the appeal will decide whether to permit oral submissions.

The appointed director has ten working days to complete the review, if they are unable to complete the report within that time, they will write to explain the reasons why and tell you when you can expect a response. The report will then go before the Chief Executive for consideration. After consideration, and usually within a further ten working days, you can expect a formal written response from the Chief Executive.

The appeal is to hear and determine:

- whether the decision to restrict or cease contact was fair and justifiable;
- and, if so, whether the enacted restrictions were appropriate and proportionate

Unless otherwise agreed, any other appeal conditions are outside the scope of this procedure, and are dealt with according to TNA's complaints procedure.

The possible findings are:

- the original decision is upheld without change
- the original decision is upheld but the nature of restriction is varied
- the original decision is overturned (i.e. the appeal is successful)

In the event that an appeal is successful, there is no authority within the appeals process to award any form of compensation or redress, other than to recommend an apology. Any decision to offer compensation or redress is dealt with outside the appeal process, with

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due to regard to Ombudsman best practice guidelines and also to any restrictions on offering redress that may apply to TNA as a government department.

The decision is final and there is no further route of appeal within this procedure. Dissatisfaction with the handling of a complaint is dealt with by TNA's complaints procedure (for details, go to nationalarchives.gov.uk/contact/complaints.htm).

7. Record Keeping

All contact that causes concern must be recorded and kept as evidence to support further action, escalation and allow for any appeal or annual review to be carried out. This information will be stored and managed in line with our [Privacy notice](#)

Appendix A

Criteria of an Unreasonable Persistent Enquirer

Enquirers (and/or anyone acting on their behalf) may be deemed to be unreasonably persistent where current or previous contact with them shows that they have met two or more (or are in serious breach of one) of the following criteria:

- 1.1 Persisting in pursuing a complaint where The National Archives complaints procedure has been fully and properly implemented and exhausted;
- 1.2 Comments or complaints which are proved to contain unfounded allegations and or includes behaviour or language (whether oral or written), the impact of which is to cause staff to feel fearful, threatened or abused.
- 1.3 Persisting in pursuing an enquiry which in the view of a service manager has been fully answered and no further assistance can be given;
- 1.3 Persisting in disagreeing with the action or decision taken in relation to their enquiry or contacting The National Archives persistently about the same or similar issue(s);
- 1.4 The substance of an enquiry is changed or new issues are raised persistently or users seek to prolong contact by unreasonably raising further concerns or questions upon receipt of a response whilst the enquiry is being dealt with;
- 1.5 Enquirers who are unwilling to accept documented evidence as being factual or deny receipt of an adequate response despite correspondence specifically answering their questions/concerns. This could also extend to complainants who do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed;
- 1.6 Enquirers who do not identify clearly the precise issues they wish to be investigated/answered despite reasonable efforts to help them do so by staff and, where appropriate, their advocates;
- 1.7 Where the concerns identified are not within the jurisdiction of The National Archives to investigate;
- 1.8 Enquiries that focus on a peripheral matter to an extent that is out of proportion to its significance and continue to focus on this point;
- 1.9 Enquirers have, in the course of pursuing an enquiry, had an excessive number of contacts (or unreasonably made multiple requests) with The National Archives placing unreasonable demands on staff. Such contacts may be by telephone, letter, fax or electronically;
- 1.10 Enquirers that have harassed or been abusive, including racist, sexist or homophobic abuse, or verbally aggressive on more than one occasion towards staff dealing with their enquiry. If the nature of the harassment or aggressive behaviour is sufficiently serious, this could, in itself, be sufficient reason for ceasing contact;
- 1.11 Enquirers displaying unreasonable demands or expectations and failing to accept that these may be unreasonable after a clear explanation has been provided as to what constitutes an unreasonable demand (for example insisting on responses to complaints or enquiries being provided more urgently than is reasonable or recognised practice).

Appendix B

Options for dealing with Unreasonable Persistent Enquirers

- 1.1 When enquirers have been identified as being unreasonably persistent, in accordance with the above criteria, a Director will review the evidence and decide what action to take.
- 1.2 The Director will implement such action and notify the enquirer in 10 working days and in writing, of the reasons why they have been classified as unreasonably persistent and the actions to be taken.
- 1.3 The Director may decide to deal with unreasonably persistent enquiries in one or more of the following ways:
 - a) Decline further contact with the enquirer either by telephone, fax, letter or electronically - or any combination of these - whilst ensuring that one form of contact is maintained (if appropriate). Alternatively, further contact could be restricted to liaison through a third party;
 - b) Notify the enquirer in writing that the Director has responded fully to the points raised and has tried to resolve the issue but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The enquirer should be notified that correspondence is at an end and that further communications will be acknowledged but not answered;
 - c) Temporarily suspend all contact with the enquirer, or handling of an enquiry/case, whilst seeking legal advice or guidance from senior managers, or other relevant colleagues.
- 1.4 If this policy is to be implemented, it should be remembered and explained to the enquirer that any course of action taken as a result only relates to contact with The National Archives over their specific enquiry(s). It does not, and is not intended to, have any impact on any other dealings between The National Archives and the enquirer on other, unrelated issues.
- 1.5 An enquiry which may appear spurious or tedious to the organisation may have genuine value to the individual. Furthermore, an enquiry with a very serious purpose or value may be enough to prevent it being unreasonable, even if it imposes a significant burden and is harassing or distressing to staff. The serious and proper purpose must justify both the enquiry itself and the lengths to which the campaign or pattern of behaviour has been taken.

2. Withdrawing Unreasonable Persistent Enquirers Status

- 2.1 Once an enquirer has been classified as unreasonably persistent, the Customer Service and Complaints team will arrange for such status to be reviewed after a period of 12 months, the review to again be carried out by a Director, as before. If it is decided that unreasonably persistent status will be re-imposed for a further period of 6 or 12 months, all relevant parties involved will be informed of this decision. However, there also needs to be a mechanism for withdrawing this status earlier if, for example, the enquirer subsequently demonstrates a more reasonable approach. If they submit further enquiries, relating to a new matter, the

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normal procedures would apply.

Appendix C

The definition of 'disability' under the Equality Act 2010

In the Act, a person has a disability if:

- they have a physical or mental impairment
- the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities

For the purposes of the Act, these words have the following meanings:

- 'substantial' means more than minor or trivial
- 'long-term' means that the effect of the impairment has lasted or is likely to last for at least twelve months (there are special rules covering recurring or fluctuating conditions)
- 'normal day-to-day activities' include everyday things like eating, washing, walking and going shopping

People who have had a disability in the past that meets this definition are also protected by the Act.

Progressive conditions considered to be a disability:

There are additional provisions relating to people with progressive conditions. People with HIV, cancer or multiple sclerosis are protected by the Act from the point of diagnosis. People with some visual impairments are automatically deemed to be disabled.

Conditions that are specifically excluded:

Some conditions are specifically excluded from being covered by the disability definition, such as a tendency to set fires or addictions to non-prescribed substances.

Appendix D

Definition of a 'vulnerable' person

A 'vulnerable adult' may be defined as any person aged 18 or over who may not be able to a) care for him/herself by reason of mental, physical or learning disability, age or illness and b) care for, or protect him/herself against significant harm or serious exploitation

Vulnerable Person

A 'vulnerable person' is any child or vulnerable adult.

Responsible Adult

A person over the age of 18 who is responsible for a 'vulnerable person'