

Independent Parliamentary Standards Commission

Supporting safe and respectful workplaces for parliamentarians and
Commonwealth Parliamentary workplaces.



Complaints Policy – Complaints which are Vexatious, Frivolous, Misconceived, Lacking in Substance and Not Made in Good Faith

This policy sets out the way the Independent Parliamentary Standards Commission (**IPSC**) will manage certain types of complaints – specifically complaints that the investigating Commissioner considers to be vexatious, frivolous, misconceived, lacking in substance or not made in good faith.

This policy seeks to explain in simple terms what each of these terms mean. These terms will often overlap and so may be considered together. For example, a vexatious complaint may also be one that has not been made in good faith, in the sense that it is intended to embarrass the person against whom it is made. A complaint that is frivolous may also be misconceived and lacking in substance.

Vexatious and frivolous complaints

A complaint may be regarded as vexatious if:

- the complainant institutes a complaint with the intention of annoying or embarrassing the person against whom the complaint is brought; or
- the complaint is being made for reasons unrelated to the actual concerns raised, and not to have the IPSC examine the real issues of the complaint;
- Irrespective of the motive of the complainant, the complaint is clearly without merit and has no realistic prospect of succeeding.

This list is not exhaustive.

A complaint may be considered frivolous if the IPSC cannot make any decision that would meaningfully help the person who made it.

A complaint could be considered vexatious or frivolous if no legitimate purpose can be achieved by continuing with the proceedings, even if there was an initial legitimate purpose when the complaint was first made.

Complaints that are misconceived, lacking in substance and not made in good faith

A misconceived complaint may be one that:

- the IPSC does not have jurisdiction to review; or
- is without a proper legal basis or based on a false conception or notion.

Independent Parliamentary Standards Commission

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A complaint that is lacking in substance may be one that:

- does not have sufficient substance to justify proceeding with the investigation, when that process is not warranted by the weakness of the complaint; or
- has no reasonable basis and is unlikely to result in an outcome that supports the complainant.

A complaint that is made 'not in good faith' refers to a complaint that is subjectively made not in good faith. For example, acting for a purpose extraneous to having the IPSC investigate a legitimate complaint, such as to cause harm to or out of revenge against the person who is the subject of the complaint.

These lists are not exhaustive.

How are these sorts of complaints handled by the IPSC?

If an investigating Commissioner forms the preliminary view that a complaint may be vexatious, frivolous, misconceived, lacking in substance or not made in good faith, where reasonably practicable, the investigating Commissioner will notify the complainant of the concerns about the complaint and invite the complainant to provide further comment or information within 14 days to demonstrate their complaint does not fall into any of these categories.

The complainant's submission (if any) will be considered before a decision is made that the complaint is vexatious, frivolous, misconceived, lacking in substance or not made in good faith.

The Investigating Commissioner may decide not to investigate or not to continue an investigation if a complaint has been found to be vexatious, frivolous, misconceived, lacking in substance or not made in good faith. Where this occurs, the investigating Commissioner will take reasonable steps to inform the following people in writing:

- if the issue arose from a conduct complaint or conduct issue referral—the complainant;
- if the investigating Commissioner has previously made the respondent aware of a complaint —the respondent;
- if the issue arose from a conduct complaint or conduct issue referral—the referrer;
- any other person to whom the investigating Commissioner has previously given a notice in relation to the issue.

The aim of handling complaints that are found to be vexatious, frivolous, misconceived, lacking in substance or not made in good faith in this way is to prevent complainants from using the IPSC investigation and review process to advance spurious claims, continuing with complaints where there is now no legitimate purpose or from making

Independent Parliamentary Standards Commission

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Commonwealth Parliamentary workplaces.



complaints where they are not genuinely interested in seeking an investigation or review of a decision, such as if they are applying solely to intimidate another party or to delay the finalisation of an IPSC process.

Complaints under this Code

A vexatious complaint or a complaint made in bad faith may itself be a breach of the Behaviour Code for Australian Parliamentarians, Behaviour Code for staff employed under the Members of Parliament (Staff) Act 1984 or Behaviour Standards for Commonwealth Parliamentary Workplaces (the **Standards and Codes**) and may be subject to sanctions.

Case study 1 – a vexatious complaint

Scenario

An employee claims their manager is bullying them by unfairly refusing to approve their working from home arrangement. It is revealed that the employee failed to disclose they are currently subject to a performance management process. The manager's actions, such as not approving remote work, are reasonable management responses, considering the employee's performance concerns and the need for close supervision.

Vexatious indicators

- The complaint is intended to embarrass or undermine the manager rather than highlight a genuine workplace issue.
- The employee has a history of making multiple complaints about routine management decisions, particularly following critical performance feedback.
- The complaint is baseless, with no realistic prospect of resulting in action, as the manager's conduct aligns with reasonable and documented standards.

Outcome

The investigating Commissioner determines that the complaint is vexatious, as it serves no legitimate purpose and is motivated by personal dissatisfaction with reasonable management action. The complaint is dismissed, and the employee is informed that further vexatious complaints may result in sanctions under the Behaviour Standards.

Case study 2 - a frivolous complaint

Scenario

A media advisor in a parliamentarian's office lodged a complaint, claiming that their well-being was negatively affected by feeling routinely dismissed, undermined, and excluded from decision-making. They reported that their professional advice gets overlooked in favour of alternative approaches which were sometimes criticised when they didn't go well.

Independent Parliamentary Standards Commission

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Assessment found that the advisor's recommendations were considered, but not always adopted due to competing priorities, political factors, and the parliamentarian's risk tolerance. Final decisions appropriately rested with the chief of staff per their governance protocols. There was no evidence of inappropriate criticism; feedback was constructive and aimed at improving clarity, responsiveness, and message alignment. The advisor continued to be included in key meetings for development opportunities.

Frivolous indicators

- The complaint centres on differences in professional judgement rather than unreasonable behaviour or misconduct.
- The issues raised fall within the standard decision-making authority of senior staff, reflecting the inherent pressures of the media advisor role.
- No evidence demonstrates exclusion, bullying, or misconduct.
- The complaint does not relate to a matter of practical significance and does not merit formal investigation.

Outcome

Following assessment, the complaint is not substantiated. The investigating Commissioner determines that the complaint is frivolous, as it relates to routine workplace decisions and does not indicate improper conduct. The media advisor is reminded of the appropriate use of the complaints process and their role responsibilities. Support options, such as PWSS counselling and support are offered.

Case study 3 – a complaint that is not made in good faith

Scenario

A parliamentarian posts a message on social media reflecting their policy stance. Another parliamentarian from a different party lodges a formal complaint, arguing that the message is offensive and in breach of the Behaviour Codes and Standards. Investigation reveals that the complaint is politically motivated, aiming to discredit the opposing parliamentarian rather than address a legitimate conduct issue.

Lack of good faith indicators

- The complaint was made to further a political agenda rather than to have the IPSC investigate a genuine conduct issue.
- Evidence suggests the complainant misrepresented the nature of the post and its context to strengthen their allegations i.e. chose to provide screenshots of partial elements.
- The timing and content of the complaint indicates it was lodged strategically to harm the other parliamentarian, not resolve a workplace concern. For example, in retaliation of a complaint lodged against them.

Independent Parliamentary Standards Commission

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Outcome

The Commissioner finds the complaint was not made in good faith and dismisses it. The complainant was unable to justify how the post affected them. The complainant is warned that complaints for political or retaliatory reasons may violate Behaviour Codes and could lead to sanctions.