

## **POLICY NUMBER: 7**

### **Habitual and Vexatious Complainants**

#### **Introduction:**

This policy is intended to assist in identifying and managing persons who seek to be disruptive to the International Alliance of ALS/MND Associations (“the Alliance”), its staff, Directors or Members through pursuing an unreasonable course of conduct.

This policy identifies situations where a complainant, either individually or as part of a group, exhibits behaviour which might be considered to be “habitual or vexatious” and ways of responding to these situations. In this policy, the term habitual means “done repeatedly or as a habit.” The term vexatious is recognized by English law, under which the Alliance is constituted, and means “denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant.”

Habitual or vexatious complainants can be a problem for the Alliance’s staff, Directors and Members. The difficulty in handling such complainants is that they are time-consuming and displace human resources that could otherwise be spent furthering the Alliance’s programs and objectives and responding to legitimate Member concerns. While the Alliance’s staff and Directors endeavour to respond with patience and compassion to the needs of all Members and stakeholders, there are times when nothing further can reasonably be done to resolve a real or perceived problem.

For the purpose of this policy, habitual or vexatious complaints are defined as: *The repeated or obsessive pursuit of (i) unreasonable complaints or unrealistic outcomes; (ii) outcomes incompatible with the aims and objectives of the organisation; and/or (iii) reasonable complaints presented in an unreasonable manner.*

#### **Policy:**

Prior to considering implementation of this policy, the Chairperson and/or General Manager must send a summary of this policy to the complainant(s) to give them notice of its possible implementation, and to inform them that continued complaints could be identified as habitual or vexatious.

Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in the attached document (Schedule A), the Board of Directors shall agree that an appropriate course of action to be taken. Schedule B details the options available for dealing with habitual or vexatious complaints. In this case, the Chairperson will notify the complainants, in writing, of the reasons why their complaint has been treated as habitual or vexatious, and inform them of the action that will be taken.

Once a complainant has been determined to be habitual or vexatious, their status will be kept under review by the Board of Directors.

#### **Schedule A - Criteria for Determining Habitual or Vexatious Complainants:**

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where previous or current contact with them shows that they meet one of the following criteria. The complainants:

1. Persist in pursuing a complaint where the Alliance's process has been fully and properly implemented and exhausted.
2. Persistently change the substance of a complaint or raise new issues, or seek to prolong contact by continually raising further concerns or questions whilst the complaint is being addressed. (Care must be taken, however, not to disregard new issues which are significantly different from the original complaint as they need to be addressed as separate complaints.)
3. Are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions.
4. Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of the Alliance's staff and/or Directors to help them specify their concerns, and/or where the concerns identified are not within the remit of the Alliance to address or fall outside the Alliance's powers.
5. Regularly focus on a trivial matter to an extent which is out of proportion to its significance. It is recognised that determining what is a trivial matter can be subjective, and careful judgement will be used in applying this criterion.
6. Have harassed or been verbally abusive on more than one occasion towards Alliance staff and/or Directors. (See Schedule B.)
7. Have threatened or used physical violence towards Alliance staff or Directors at any time. This will, in itself, cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, thereafter, only be continued through written communication. Any complainant who threatens or uses actual physical violence towards Alliance staff or Directors will immediately be regarded as a vexatious complainant. (See Schedule B.)
8. Have, in the course of addressing a complaint, had an excessive number of contacts with the Alliance's staff or Directors, placing unreasonable demands on the Alliance's resources. Such contact may be by email, in-person, or by telephone, teleconference, letter or fax. Judgement will be used to determine excessive contact taking into account the specific circumstances of each individual case.
9. Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.

10. Make unreasonable demands on the Alliance and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable.
11. Make unreasonable complaints which impose a significant burden on the Alliance's staff and where the complaint:
  - a. clearly does not have any serious purpose or value; or
  - b. is designed to cause disruption or annoyance; or
  - c. has the effect of harassing the Alliance's staff or Directors; or
  - d. can otherwise fairly be characterised as obsessive or manifestly unreasonable.
12. Make repetitive complaints and allegations which ignore the replies which staff and/or Directors have supplied in previous correspondence.

### **Schedule B - Options for Dealing with Habitual or Vexatious Complainants:**

The options below can be used singularly or in combination depending on the circumstances of the case and whether the complaint process is ongoing or completed.

1. Send a letter (or email) to the complainant setting out responsibilities for the parties involved if the Alliance is to continue processing the complaint. If terms are contravened, the Directors will then consider implementing other action as indicated below.
2. Decline contact with the complainant, either in-person, by telephone, by fax, by letter, by email or any combination of these, provided that one form of contact is maintained.
3. Notify the complainant, in writing, that the Alliance has responded fully to the points raised and has tried to resolve the complaint, but there is nothing more to add, and continuing contact on the matter will serve no useful purpose. In this case, the complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as indulging in habitual or vexatious behaviours and, as such, the Alliance's staff and Directors do not intend to engage in further correspondence dealing with the complaint.
4. Inform the complainant that in extreme circumstances the Alliance will seek legal advice on habitual or vexatious complaints.
5. In the case that any habitual or vexatious complainant is a delegate from a Member association, the Board of Directors may consider terminating membership, according to the terms and procedures set forth in the Memorandum and Articles of Association, if incidents of habitual or vexatious complaints continue after a written warning. In this case, the complaints must rise to the level of being "harmful" to the Alliance, in the Directors' best judgment.
6. In the case of complainants who threaten or use physical violence against Alliance staff or Directors, in-person contact with the individual(s) will be ceased immediately, and the complainant's admission to the Annual General Meeting, Annual Alliance Meeting or other Alliance functions and events may be denied indefinitely and immediately through a resolution by the Board of Directors.
7. In the case that a Member delegate threatens or uses physical violence, or harasses or verbally abuses the Alliance's staff or governors, the Board of Directors reserves the right

to begin proceedings to terminate membership, in accordance with the Memorandum and Articles of Association, even upon first offense.

*Endorsed by the Board of the International Alliance of ALS/MND Associations*

Signed:

Carol Birks.

Approved by the Board: 30 August 2017