

GUIDANCE ON FRIVOLOUS AND VEXATIOUS COMPLAINTS

CISAS may refuse to deal with a dispute if it is frivolous or vexatious (Rule 2.2.8). The decision to reject a dispute on this basis is at the sole discretion of CISAS.

In identifying frivolous or vexatious complaints, CISAS must be careful not to prevent complainants who are raising genuine concerns from having access to ADR. We will achieve this by recognising that:

- complainants may often be aggrieved, frustrated or have other reasons for their behaviour and, therefore, that the focus must be on careful consideration of the merits of the case rather than the attitude of the complainant; and
- every complaint must be considered on its own merits and, even if someone has made a frivolous or vexatious complaint in the past, it must not be assumed that any other complaint they make will also be frivolous or vexatious.

The need to consider every complaint on its own merits cannot be over-emphasised.

Vexatious complaints

A vexatious complaint is a very narrow category of complaint. CISAS will refuse to accept a complaint where it is readily apparent that the consumer is pursuing a complaint which is entirely without merit and is made with the intention of causing inconvenience, harassment or expense to the company.

Example 1

A customer raises a new dispute with CISAS every few weeks. Each dispute is regarding a relatively minor complaint that the company has already provided a reasonable resolution to, and it is clear that the only reason for raising the disputes so frequently is to inconvenience the company.

Example 2

A customer is aware that his complaint has no merit but he advises the company that he will raise a dispute with CISAS just to cause it to incur financial costs.

Frivolous complaints

A frivolous complaint is a complaint that has no serious purpose or value. We could apply the term frivolous to a complaint that has little merit or is of a trivial nature, or where to investigate it would be out of all proportion to the seriousness of the issues complained about.

Example

A customer complains about one typographical error in e-mail correspondence he/she has received. The company has already apologised for the error, but the customer seeks £500 in compensation. We would consider such a complaint to have no serious purpose or value.

Complaints that are not frivolous or vexatious

The following examples cover a complaint which a company may consider to be frivolous and/or vexatious, but CISAS would not agree:

Example 1

The customer complains about the actions of engineers who have carried out work on behalf of the company. The company asserts that the engineers are employed by a third party and that it is not responsible for their actions.

CISAS will need to consider whether the company is responsible for the actions of those acting on its behalf. This complaint is not frivolous or vexatious; it is a dispute that requires resolution through ADR.

Example 2

The customer complains they have received incorrect charges on each monthly bill for the last six months. The company says it has investigated on the first three occasions and each time the bill has been correct and the customer has simply not understood the bill. The customer has queried slightly different things each time.

CISAS would have to investigate the merits of the case and assess if the bill was correct in relation to the specific issue raised and assess if the explanation provided by the company was clear and understandable. This complaint is not frivolous or vexatious, it is a dispute that requires resolution through ADR.