

NOTICE VS COMPLAINT

When people serve notice upon a government agency or corporation, employees within said business will ignore the fact that you sent a legal and formal notice, and instead call it a complaint.

This is referred to as a reclassification of the correspondence, and in almost all cases they will not refer to your correspondence as a notice and instead call it a letter.

For example: The sender says, in substance, ***“I hereby serve notice, asking you to answer specific questions and produce documents that supports your claim”***, while the corporation responds as though the sender has instead submitted a letter of complaint.

There is an important distinction between a ***notice*** and ***“letter of complaint”*** and it is a deliberate tactic that almost every corporation does intentionally and deceptively, which must be corrected.

In some cases, the corporation may simply claim an ***“administrative classification”***; however, whatever the case, it has the practical effect of locking you into their jurisdiction.

If a notice of complaint was sent, then it would have the following:

- It would be titled ***“Notice of Complaint”***.
- There would be a declaration of issuing a complaint.
- The nature of the complaint would be detailed within the notice.

If none of these points were made within your notice, then it ***cannot*** be considered a complaint.

Change in Jurisdiction

When this tactic is used upon you, there is a fundamental change in jurisdiction, whereby you have lost all control and they gain full control.

The switch is subtle between what you have said, and the corporation's response, which is missed by most people; consider the difference:

- Individual sends: ***“It is required that you answer the following questions and provide the documents upon which you rely”***.
- Corporation's response: ***“We acknowledge your complaint. We will investigate your concerns and respond in accordance with our complaints procedure”***.

These two things are ***not*** the same.

The first is potentially a notice requesting information or document demand, request for clarification, dispute of a factual assertion, or exercise of a ***“statutory right”***, depending upon its context.

The second places the correspondence into the corporation's ***“complaints-handling framework”*** and therefore within the jurisdiction and rules of said corporation.

That distinction matters because the corporation then gets to determine things such as:

- which department handles it.
- who investigates it.
- what information it considers relevant.
- what its response timetable is.
- what constitutes a satisfactory response.
- whether the matter is escalated.
- when the corporation considers the matter ***“closed”***.

So, the applied use of the word ***“complaint”*** is to change the procedural framework and take control of the situation.

Corporation Advantage

This is advantageous to the corporation as there is a subtle reversal of positions.

The original correspondence sent by you in notice form, put the corporation in the position of having to answer questions.

After being classified as a complaint, the corporation can instead present itself as the party investigating the ***“customer’s concerns”*** and then ***not*** answer the questions you asked.

Furthermore, a claim may be made against you that they do ***not*** need to supply you with answers or documents you requested; however, if you exercise your right to ask, then they are now obligated to answer.

Note: One tactic you can use when your notice is turned into a complaint is to create a ***refusal*** on their part, whereby they are now obligated to answer.

The corporation can produce a sequence as follows:

- Person: ***“You have asserted X. Provide the document establishing X.”***
- ↓
- Corporation replies: ***“We acknowledge your complaint and will investigate.”***
- ↓
- Person: ***“I did not make a complaint. I asked you to provide the document.”***
- ↓
- Corporation replies: ***“Your complaint is currently being investigated.”***

The original question made by the person has become ***secondary*** to the corporation’s internal complaints process, and shall now be ignored.

Language change

This is particularly important to spot, and correct, as it can also change the language of the dispute.

For example: Consider the scenario of a debt collector sending unfounded demands via mail, and the recipient of said mail sends a Notice of verification.

- Person: ***"You have stated that I owe £10,000. You are hereby instructed to identify the contractual provision upon which you rely and provide a copy of the document evidencing the alleged liability."***

That is a challenge to an **asserted** factual or legal position which has **not** yet been verified.

- Corporation replies: ***"We are sorry to hear that you are dissatisfied with our service. We have opened a complaint."***

The language has subtly changed and the corporation has introduced concepts that the sender may never have used, such as:

- Dissatisfaction.
- Service.
- Complaint.
- Complainant.
- Investigation.
- Resolution.

The corporation has effectively created a **different description** of the correspondence that was initially sent.

If this is the first reply from the corporation, then it may not, by itself, establish deception but will still give the corporation legal jurisdiction over you and therefore it is still procedurally significant, and must be corrected.

If the corporation should **retract** their mistake by incorrectly carrying out **"administrative reclassification"** of your notice to a complaint, then there is no legal conflict.

However, if they do not, then this has caused a **legal conflict** which could be treated as deception first, and fraud second.

Procedural Control

As all registered corporations belong to the country they are registered to, such as the USA and UK corporation, there are higher jurisdiction the corporation must follow first before their own.

It must be distinguish between the UK corporation's jurisdiction, in the legal sense, and a **"procedural control"** of an organisation.

When a corporation says **"we have classified this as a complaint"** it does **not** ordinarily create a legal jurisdiction over you at the state level.

It does, however, potentially place the correspondence inside the corporation's own internal complaints procedure where they have control.

These are very different jurisdictions, one is at the state level, the other is considered **"pseudo-private"**.

The corporation **cannot** simply manufacture a **“legal jurisdiction”** by putting a **different label** on your notice.

Likewise, if your notice contains a **statutory request**, the corporation **cannot** necessarily avoid the statutory regime merely by calling the correspondence **“a complaint”**.

For example: the ICO expressly says that a valid subject access request does not require particular wording. A person does not have to use the words **“subject access request”** or even cite legislation; the substance of the request is what matters.

This illustrates a broader principle, that **classification** should depend upon the **substance** of the communication, **not** merely the label applied to it by the recipient.

For example: somebody writes: **“Provide me with all personal data you hold concerning me.”**

The organisation **cannot** legitimately transform that into merely: **“You have made a complaint and we will investigate your concerns.”**

The ICO specifically states that organisations must recognise and handle DSARs correctly, and that there are no formal wording requirements.

Furthermore, the ICO also distinguishes between a **“data-protection complaint”** and a **“rights request”**.

Its current guidance gives the example of someone **“making a complaint”** while simultaneously exercising a **“data right”** and says the two should be treated **separately**.

Complaint Definition

Trying to navigate the system is extremely difficult, as many words are in fact labels, whereby the definition of the original word can change depending on context, how it is being used, and within what jurisdiction.

Hence, the word **“complaint”** does **not** always mean what people ordinarily think it means.

For example: For regulated financial firms, the FCA has a specific regulatory definition of the label **“complaint”**.

It includes an oral or written expression of dissatisfaction concerning the provision or failure to provide a financial service, subject to the conditions in the FCA definition found in their handbook.

This means if somebody writes **“I am dissatisfied because you have deducted £5,000 incorrectly and I require this to be corrected”**, the corporation may legitimately have to treat that as a complaint under its regulatory obligations set out by the FCA.

But that is different from a corporation taking a communication which says **“identify the contractual provision upon which you rely and provide the underlying contract”** and simply deciding that it is a complaint without addressing the substantive request.

Therefore, the exact wording of the original notice matters enormously.

Note: There is a time and a place you may wish to issue a complaint; however, it should be you who determines this and no one else, as you know why you have issued it.

Misclassification Correction

The strongest way to deal with this is to put the corporation on notice of the misclassification.

For example:

NOTICE OF MISCLASSIFICATION OF CORRESPONDENCE

For the avoidance of doubt, my previous correspondence did not constitute a complaint and was not submitted as a complaint under your complaints procedure.

The purpose of my correspondence was to require you to address specific questions and provide the documentation upon which your stated position is based. I have therefore not invited you to investigate a complaint, nor have I requested that you determine whether I am satisfied or dissatisfied with the service provided.

Your response has characterised my correspondence as a “complaint” and has consequently referred the matter into your internal complaints process. That characterisation does not accurately represent the nature or purpose of my correspondence.

I therefore require you to distinguish between the following:

- a) the matters I have actually raised and the questions and documentary requests I have made, and***
- b) any complaint which you consider me to have submitted.***

If you maintain that I have made a complaint, you are required to identify the precise words upon which you rely as constituting said complaint.

For the avoidance of doubt, placing my correspondence within your complaints procedure does not, of itself, constitute a substantive response to the questions raised or provide the documentation requested.

Therefore, address each question and documentary request on its own terms and identify the legal, contractual or other basis upon which you contend that any requested document or information need not be provided.

Nothing in this notice should be construed as acceptance that my original correspondence constituted a complaint, or as consent to any recharacterisation of the matters raised.

This approach forces them to answer a much more precise question, but in summary you are asking ***“What exactly did I say that you contend constituted a complaint?”***

If they cannot identify it, you have exposed the distinction between ***what was actually communicated*** and ***how they subsequently chose to categorise it.***

To further strengthen your response to any misclassification placing you under their procedural control, you could add the following:

“Your internal classification of my correspondence does not alter the substance, legal character or purpose of the matters I communicated.”

This is much harder to dismiss because it does **not** depend upon an assertion that the corporation has no jurisdiction; it focuses on the actual issue, which is whether the recipient’s label accurately reflects the communication.

Furthermore, where a **“statutory right”** is involved, the distinction can become even more important.

The ICO’s current guidance expressly recognises that organisations must identify the nature of **rights requests** and **cannot** require a particular form of words.

For example: if you exercise your rights within the correspondence, the corporation **cannot** ignore them.

Furthermore, the corporation must state the statutory right they have to reclassify your notice of verification into a letter of complaint, which they do not have.

Whether the reclassification is legitimate or not depends on the actual wording, the nature of the request, and any applicable statutory or regulatory framework.

However, this reclassification of your notice is considered legal if you do **not** object, as your silence means both parties are in agreement.