



Managing unreasonable conduct by a complainant

A manual for frontline staff, supervisors and senior managers

2021

A joint project of the Australasian Parliamentary Ombudsman



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Part 1. What is unreasonable conduct by a complainant?

1.1. Overview

Public and private sector organisations deal with hundreds of thousands of complaints every year. Organisations that value complaints and respond to them fairly and promptly are more likely to:

- strengthen relationships with the people who use their services or premises, or with whom they otherwise interact
- identify problems in the operations of their organisation or the conduct of their staff
- improve their operations, service delivery and systems
- improve the standard of the services they provide.

Some people who complain are justifiably disappointed and angry because they have suffered harm through no fault of their own. Some may have been treated unfairly or disproportionately without reasonable explanation. They may have been given incorrect information or advice that they relied on to their detriment or may have suffered substantial losses as a result of an improper decision that was made against them. Despite these challenges, many people who make complaints are able to manage their frustration and anger, and productively engage with the systems, processes and people with whom they are interacting.

Organisational scientists have put forward a theory to describe how people react to decisions and the way they are made, arguing that parties to a dispute may well care as much about how a decision was made as they do about the outcome. They commonly refer to this theory as 'organisational justice theory' when looking at decision-making processes within an organisation, or 'justice theory' when looking at decision-making processes external to an organisation. This theory is relevant for complaint handlers.

If people who make complaints see the complaint handling process as fair and reasonable, believe they were treated with respect and are given enough information, they are more likely to accept decisions or outcomes that are unfavourable to them.

However, this is not true for everyone. For some people, their frustration or anger about the subject matter of their complaint, how it was handled or its outcome can lead to aggressive and abusive conduct towards the organisations and staff handling their complaints. In such circumstances some people may threaten harm, be dishonest, provide intentionally misleading information or deliberately withhold information that is relevant to their complaint. Others may make repeated and unnecessary telephone calls, send frequent emails providing large amounts of irrelevant information, or insist on things they are not entitled to and outcomes that are clearly not possible, realistic or appropriate in the circumstances. When a complaint is finalised, such people may be unwilling to accept decisions and continue to demand further action when they have exhausted all available internal review options.

It is also very common for people who have gone down this path to escalate their complaints to external review bodies when an objective assessment would show they were unlikely to be successful. Some also lose perspective and change the focus of their complaint – shifting from the substantive issues and the people or organisation responsible for them, to allegations of incompetence, collusion, conspiracy and corruption by the case

officers and organisations with whom they have been dealing. This means their complaints are often with a number of organisations at the same time – including being dealt with by one or more organisations, external review bodies, Ministers, local MPs or the courts where they enter the complaints cycle all over again.

One of the main challenges for organisations dealing with people who display these types of behaviours is that it is normal that most staff, regardless of their job description, will prefer not to deal with people they view as ‘difficult’. In fact, many will try to actively avoid or minimise circumstances where they have to deal with such people. We have seen such avoidance behaviour resulting in organisational cultures where these people are seen as an irritant or interference to other more ‘important’ work. In these circumstances, their complaints are often:

- delegated to junior staff members
- assigned to someone in the organisation who is considered to be ‘naturally good’ at dealing with difficult people
- declined with little consideration of the merits of their issues
- only escalated to a more experienced or senior staff member once the situation has spiralled out of control.

These approaches often increase stress levels for staff dealing with these complaints and, because of differences in skill levels, lead to significant disparities in the ways that people exhibiting challenging behaviours are dealt with.

This manual is designed to help organisations and their staff take a systematic and consistent approach to managing their interactions with people engaging in unreasonable conduct. It provides a series of suggestions and strategies to assist all staff members – not just frontline officers – to appropriately interact with all people they come in contact with in the course of their work, particularly those who are perceived to be behaving unreasonably. The strategies have been developed by complaint handlers for complaint handlers – and although the focus of this manual is on the public sector, the suggested strategies are equally applicable to private sector situations.

The key issue in this manual was first addressed by the NSW Ombudsman in a publication in 1998 entitled ‘Dealing with Difficult Complainants’. In 2006 all Australian Parliamentary Ombudsmen agreed to pilot a new approach to categorising and managing what we referred to as ‘difficult complainants’. This pilot project led to an interim practice manual being published in 2007, with the first edition of the practice manual being published in 2009 and the second edition in 2012 – both titled ‘Managing Unreasonable Complainant Conduct’. To highlight the importance of not labelling individuals and focusing on the conduct not the person, this edition of the practice manual has been renamed ‘Managing Unreasonable Conduct by a Complainant’.

The framework of management strategies in the manual is based on original work by the NSW Ombudsman’s office. It has been refined through extensive consultation with a range of Ombudsman offices, complaint handlers and professionals from a variety of disciplines – including consumer behaviour, suicide intervention, intercultural communication and mental health. The development of the manual was also informed and supported by a 2004 study into ‘unusually persistent complainants’ conducted by Grant Lester, Beth Wilson, Lynn Griffin and Professor Paul E. Mullen.¹

1. Lester G, Wilson B, Griffin L & Mullen PE, (2004) ‘Unusually Persistent Complainants’, *British Journal of Psychiatry*, 184: 352-356.

The framework was trialled for 12 months by Australasian Parliamentary Ombudsman offices in 2007. It is now used by staff from a wide range of organisations, both public and private, around the world.

While preparing the second edition, we held focus groups with approximately 180 public sector staff from 80 organisations across Australia. Among the various issues discussed during these sessions was the effectiveness of the approach and framework for managing unreasonable conduct set out in the first edition of the manual. All of them confirmed that the framework was a primary tool for responding to unreasonable conduct – particularly those organisations that do not have the discretion to terminate services, or are small or remote with limited resources to devote to managing unreasonable conduct.

This third edition builds on the experiences of our office over the last five years, and the refined and updated advice and guidance we have developed for our managing unreasonable conduct training. It also covers a number of important issues such as:

- how best to respond to the cultural background of people who make complaints and any disability a complainant may have
- recognising and responding to ‘high conflict’ people
- the implications for complaint handlers of the changes that can be expected in the attitudes and behaviours of the parties to a complaint as a complaint related conflict escalates
- the impact of factors such as certain cognitive and motivational biases
- the importance of fairness in the complaints process.

The manual is not intended to tell you exactly how to deal with every situation.

There is no ‘one size fits all approach’ to managing unreasonable conduct by some complainants.

Further, the suggestions in this manual will not be effective in all situations. The strategies should be adapted to suit the circumstances of each case and should also supplement rather than replace existing organisational policies, procedures and protocols.

1.2. What is unreasonable conduct and why does it happen?

We define unreasonable conduct as any behaviour by a person which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the people involved in the complaint process.

These can include

- the organisation responsible for handling a complaint,
- the case officer(s) dealing with a complaint,
- any subjects of complaint,
- the person who made the complaint (potentially including members of their families and friends),
- other people who have or make a complaint,
- and other service users.

Unreasonable conduct can happen anywhere. It is not limited to telephone communications or face-to-face interactions. It can also take place online or in written correspondence. So far as a person's conduct is unacceptable and arises during the course of, or as a direct result of, professional work/services provided by an organisation or its staff, it can legitimately be characterised as unreasonable conduct for the purposes of this manual. Organisations can also experience unreasonable conduct from people who are not (yet) complainants, but have an issue with the organisation or its staff.

1.2.1. Why do some people behave unreasonably?

From our experience, there are a wide range of reasons why some people behave unreasonably. Most of the reasons fall into one or more of the following motivational categories:

- Attitudes – they are dissatisfied with a person, an organisation, or the systems and processes with which they are interacting.
- Emotions and personalities – they are highly angry, frustrated or disappointed and express those emotions in unacceptable ways, or they have an inflated sense of entitlement and are unable to accept any personal blame for their issue.
- Aspirations – they are seeking 'justice', a 'moral outcome' or are obsessively pursuing their issue on 'a matter of principle'.
- Vindication – they want to prove that they are right or justified, but this is something complaints processes are generally not designed to deliver.
- Recreational interests – they are carrying out an all-consuming hobby or are making a career of complaining, or they are deriving pleasure from the activities associated with the complaint process or are enjoying the social contact with the case officer or organisation.
- Unmet needs and expectations – their expectations, physical needs or emotional needs are not being met or have not been met.
- Misinterpretations – the behavioural traits and communication patterns of people from different cultural backgrounds may differ from those of the staff or the organisation.

- Revenge and/or retribution – an intention to cause harm that can override all other considerations.
- Ulterior motives – they may make a complaint or series of complaints as a strategy in an ongoing conflict or with the intention of harassing, intimidating, embarrassing or annoying another person or organisation.

Some people who make complaints use the complaints system as an information gathering process for subsequent legal cases, while others may be experiencing personal or mental health problems we cannot control.

While psychiatrists and psychologists look closely at what causes a person's behaviour in order to assess their mental state or make a psychological diagnosis, it is not our role as complaint handlers to do this. Our focus is complaint handling in a culturally sensitive and inclusive manner. We deal with people who are dissatisfied with a service they have received, a failure to follow a process or procedure, or improper/incorrect conduct or decisions.

It is important to stress that most complaint handlers do not have the qualifications to assess and diagnose complainants. Even those who do will rarely have enough face-to-face contact with a complainant to make a valid diagnosis about their mental health.

This means the suggestions in this manual are based on recognising that the most effective way to manage unreasonable conduct is to deal with a person's observable conduct and the content of their communications – rather than speculating on the possible motivations behind them or the person's mental health. This ensures that:

- People who are not mental health professionals, counsellors or social workers are able to confidently manage instances of unreasonable conduct without being experts in psychoanalysis or behavioural psychology.
- Complaint handlers can take a more focused approach to dealing with unreasonable conduct by responding directly to the things and behaviours they observe, rather than the things they assume or suspect.
- A person's behaviour does not negatively affect how their complaints are dealt with (if valid) or the level of attention that is given to them.
- Unreasonable conduct and its impacts are managed in ways that are transparent, reasonable and fair to all those involved in a complaint and the way it is handled.

1.2.2. The impact of unreasonable conduct

Although relatively few people who make complaints behave unreasonably, their behaviour can have profound effects on organisational resources and efficiency levels – as well as staff productivity, safety and wellbeing. The feedback we have received suggests that for most organisations unreasonable conduct by complainants is only an issue in about 3–5% of cases, and can involve just one or two complainants at any one time. However, such unreasonable conduct can:

- Take up approximately 25–30% of an organisation's resources – in some cases this can be a large amount of an organisation's complaint handling resources, as well as the time and attention of senior managers.
- Cause significant equity problems for organisations that are forced to substantially and unreasonably divert resources away from other complaints and functions to manage it.

- Be a major source of stress for the staff members who have to deal with it – including in some cases affecting their right to dignity, physical and emotional safety, wellbeing and work performance.
- Have damaging and sometimes devastating consequences for the people who engage in these types of behaviours. It almost always hinders their ability to achieve appropriate and acceptable outcomes for themselves and, in extreme cases, can result in unemployment, bankruptcy or self-harm.²
- Have negative consequences for external review agencies and regulatory bodies that have to dedicate time and resources to dealing with review requests/applications that have little or no merit and have been escalated by people who cannot ‘let go’ of their issue.

2. Lester G, Wilson B, Griffin L & Mullen PE, (2004) ‘Unusually Persistent Complainants’, *British Journal of Psychiatry*, 184.

1.3. Understanding the approach and framework

1.3.1. Core objectives and underlying principles

The approach to managing unreasonable conduct in this manual has three core objectives. These are to:

- Ensure equity and fairness for all complainants – regardless of their conduct, ethnic identity, national origin, religion, linguistic background, sex, gender expression, sexual orientation, physical ability or other cultural or personal factors.
- Effectively manage resource allocation and improve efficiency in handling complaints.
- Protect the health and safety of staff who interact with people whose conduct is unreasonable.

To achieve these objectives, you also need to be guided by three categories of broad underlying principles – prevention, management and accountability.

Ensure equity and fairness

Make sure that all current and potential complaints are dealt with equitably and fairly – regardless of ethnic identity, national origin, religion, linguistic background, sex, gender expression, sexual orientation, physical ability or other cultural or personal factors – and resources are distributed on the basis of the merits of a complaint, rather than a complainant's demands or conduct.

Improve effectiveness and efficiency

Improve overall effectiveness and efficiency by allocating sufficient time and resources to dealing with unreasonable conduct which, if left unmanaged, can be a massive drain on the complaint handling resources of an organisation.

Protect health and safety

Comply with work health and safety and duty of care obligations by identifying the potential risks posed by unreasonable conduct to staff health, safety and wellbeing and implementing measures to eliminate or control those risks. Staff safety is the number one goal.

See – 4.1. Management roles and responsibilities.

Prevention principles

Manage expectations from the outset

Manage the expectations of people making complaints from the beginning of the complaints process to ensure that they are reasonable and realistic. Unmet expectations are one of the primary triggers for unreasonable conduct by a complainant (UCC).

See – 3.1. Effectively managing complainants and their expectations from the outset.

Recognise and respond to cultural differences

Some people who make complaints come from cultural backgrounds that are different from the dominant culture in which your organisation operates. They may be acting in a way that is seen as respectful and polite within their own culture, but not within your

organisation. This may mean that staff members have to tell them about your written policies, procedures and mechanisms as well as the unwritten expectations for respectful behaviour, cooperation and transparency. Staff members should also be taught to recognise some of the specific non-dominant behavioural and communication patterns that they may encounter in the course of doing their jobs.

See – 3.3. Cultural communication styles.

Insist on respect and cooperation

Insist that people show respect for and cooperate with staff as a prerequisite to receiving services and having any further contact with or communication from the organisation.

It is also vital that complaint handlers show the same respect and courtesy to the people who make complaints, regardless of how those people may behave towards them.

Implement policies and procedures

Implement appropriate policies and procedures for managing unreasonable conduct and ensure that all staff are familiar with and receive training on how to apply them.

See – Unreasonable Conduct by a Complainant: A model policy and procedure for organisations – available at www.ombo.nsw.gov.au.

Management principles

Exercise ownership and control over complaints

Exercise ownership and control over complaints and ensure that people who make complaints are aware that the organisation and its staff effectively ‘own’ the complaint – they decide whether it will be dealt with and if so by whom, how quickly it will be dealt with, the priority and resources it will be given, the appropriateness of the outcome achieved, and so on. People who make complaints ‘own’ their issue – they can raise it in any other forum, including oversight agencies, the courts and tribunals, the media or with a politician.

Focus on specific, observable conduct

Move away from any approach that labels or categorises people as ‘difficult’. Other terms used to describe those with problematic behaviours include resource-intensive, high maintenance or high conflict people, vexatious or querulous complainants. These terms all focus on labelling the person as being difficult or challenging rather than on managing how to respond to their behaviour – which is the real issue. Also, when these terms are used by case officers to describe certain people who make complaints, it can negatively influence how these people are perceived and dealt with by other staff.

Saying ‘unreasonable conduct by a complainant’ allows us to focus on the problematic behaviour and respond to it openly and transparently – without the worry that we have incorrectly labelled someone.

Respond appropriately and consistently

Make sure that you make full use of the framework and strategies in this manual when dealing with unreasonable conduct. The framework provides a series of strategies and a ‘thinking tool’ that can be used to prevent and respond to such conduct. It can also ensure consistency in how matters are dealt with individually and across the board – both within and across public sector agencies.

Communicate effectively

Provide people who make complaints with clear, timely, firm and culturally or personally appropriate communication – including regularly informing them about the status of their complaints, even if there has been no progress.

If people who have made a complaint are not kept informed about the progress of their complaint, they are more likely to reach negative assumptions about how they are being dealt with. This includes assuming that no one is working on the complaint, that it is the subject of a significant investigation (when it is not), or that there has been a mistake.

See – 3.1. Effectively managing complainants and their expectations from the outset.

Accountability principles (supervisors and senior managers)**Commitment**

Showing management commitment and support for the approach outlined in this manual for managing unreasonable conduct is critical to its success. It is not enough to send staff for training and expect them to be able to deal with the challenges presented by unreasonable conduct.

Senior managers need to:

- Actively and clearly endorse and support the strategies adopted by the organisation to manage unreasonable conduct.
- Demonstrate their commitment to the approach by applying it consistently.
- Support their staff with the necessary policies, directives and authorisations to use the strategies – staff need to understand what they are and are not specifically authorised to do when dealing with unreasonable conduct and the appropriate escalation procedures to follow.

Supervision

Make sure that supervision – as far as the person engaging in unreasonable conduct is concerned – happens behind the scenes, except in limited circumstances. This could be when a staff member decides they are unable to manage the person's conduct and/or that access to a senior manager will defuse the situation.

It is usually not necessary or appropriate to allow a complaint to be escalated to a supervisor just because the person who made the complaint demands it. People who are treated this way can feel that they are getting preferential treatment in having their matter escalated or can make false assumptions about the importance of their issue. Also, once a person has got through to a senior manager, they may well continue to expect similar treatment in their future interactions with the organisation – especially when they do not get their own way.

Unless a person who has made a complaint wants to make a complaint about a case officer, which they should be asked to do in writing if at all possible, case officers should be strongly encouraged not to escalate calls to supervisors and senior managers – unless customer loyalty and repeat custom are important to the organisation.

Supervisors also play an important role in ensuring that case officers are given adequate support with handling individual instances of unreasonable conduct.

See – 4.1. Management roles and responsibilities.

Recognition

It is important that management recognises that managing unreasonable conduct is a core organisational responsibility, rather than a peripheral issue, and is given proper priority and adequate resources. This includes ensuring that staff are given adequate time to deal with these cases.

Although this may require greater initial outlays in terms of time, training and supervisory support, taking this approach is likely to result in significant overall savings for the organisation.

Accountability principles (all staff)**Remain calm**

It is important that staff remain calm in the face of conduct that they find to be unreasonable and maintain control over their emotions and reactions to such conduct. Keep in mind that ‘calmness’ does not preclude adapting communication style.

See – 3.3. Cultural communication styles.

Show respect

Show respect to all people you interact with, including people who may attempt to provoke you. ‘Showing respect’ may require you to adapt how you hear a person’s expressive, circular or somewhat unfamiliar communication style. With training and practice you may even develop the ability to adapt your own preferred communication styles.

Words or actions that people interpret as disrespectful are a significant trigger for people to react in ways we find to be challenging, if not unreasonable. Showing respect is therefore fundamental to preventing, or successfully managing, unreasonable conduct. Everybody believes they deserve respect no matter how they behave – and a failure to show respect will invariably lead to a negative response from any person you are dealing with. As a result, it does not matter how a person treats or responds to you – you should treat them with respect. This is not about faking an emotional response, but about words and actions – being courteous, polite, attentive and responsive in ways that the person will recognise.

See – 2.13. Dealing with anger through effective communication.

See – 3.3. Cultural communication styles.

Demonstrate impartiality

Demonstrate impartiality throughout the complaints process and do not act as an advocate – particularly when dealing with people who try to pressure, intimidate or manipulate you. The obvious exception to this is if advocacy is a part of your job.

Be professional

Understand that you must promote productive and professional interactions with all people you interact with at work. Be professional in all your dealings with them, even when they are acting unreasonably.

1.3.2. The framework

The framework in this manual divides unreasonable conduct into five broad categories – unreasonable persistence, unreasonable demands, unreasonable lack of cooperation, unreasonable arguments and unreasonable behaviours. The framework provides an overarching strategy for managing each one. It also identifies the specific behaviours that fall under each category and provides corresponding options for each one.

Unreasonable persistence

This includes people persisting with their issues even though they have been finalised, refusing to accept a final decision, and sending excessive amounts of correspondence.

The best approach for dealing with unreasonable persistence is to say ‘no’ – not necessarily using the word but the same principle.

See – 2.3. Strategies for managing unreasonable persistence.

See – 2.4. Scripted responses to unreasonable persistence.

Unreasonable demands

This includes people insisting on outcomes that are unattainable, moving the goal posts or demanding to have their matters dealt with in particular ways.

The best approach for dealing with unreasonable demands is setting limits – such as limiting how often they can telephone the organisation, who they can call and for how long.

See – 2.5. Strategies for managing unreasonable demands.

See – 2.6. Scripted responses to unreasonable demands.

Unreasonable lack of cooperation

This includes people providing disorganised, excessive or irrelevant information, failing to provide relevant information that might not suit their position or argument, being unwilling to consider other valid viewpoints, or refusing to define their issues of concern when they are capable of doing so.

The best approach for dealing with unreasonable lack of cooperation is setting conditions – such as requiring the person to define their issues of concern, organise information they have submitted in support of their complaint, or supply all relevant information in their possession at the outset.

See – 2.7. Strategies for managing an unreasonable lack of cooperation.

See – 2.8. Scripted responses to an unreasonable lack of cooperation.

Unreasonable arguments

This includes people seeing cause and effect arguments where there is none, holding conspiracy theories unsupported by evidence, or irrationally interpreting facts or laws and refusing to accept other interpretations.

The best approach for dealing with unreasonable arguments is declining and discontinuing – for example, refusing to deal with complaints (or aspects of complaints) that are not supported by any evidence or are clearly illogical.

See – 2.9. Strategies for managing unreasonable arguments.

See – 2.10. Scripted responses to unreasonable arguments.

Unreasonable behaviours

This includes extreme anger, aggression, threats or other threatening or violent conduct.

The best approach for dealing with unreasonable behaviours is setting limits and conditions about acceptable and unacceptable behaviour and, if necessary, applying risk management strategies and/or security policies and procedures.

Threats or other threatening or violent conduct are not acceptable in any culture, but you may want to check 3.3 Cultural communication styles to see if the person's expressive communication style makes it appear as if they are angry or aggressive when they are actually displaying passion for their cause.

See – 2.11. Strategies for managing unreasonable behaviours.

See – 2.12. Scripted responses to unreasonable behaviours.

1.3.3. Benefits of the approach and framework

By using this approach and framework you can be confident that:

- The people involved will not be any worse off if you use the suggested strategies – whether or not the strategies are successful in addressing their problematic behaviour.
- The rights of individuals will be protected.
- All people, whether their behaviour is challenging or not, will be dealt with in a more equitable, fair, respectful and consistent way.
- By taking control of interactions with people engaging in conduct that is unreasonable, you can separate the way you manage their behaviour from the way you deal with their issues.
- You will be able to easily implement the strategies, while also relying on your own professional knowledge, skills and experience to deal with unreasonable conduct.
- Your safety will be a central consideration when dealing with unreasonable conduct – and you will help your employer to meet their duty of care and work health and safety obligations.
- The impact of unreasonable conduct on organisational resources will be reduced.

Part 2.

Staff strategies for responding to unreasonable conduct

2.1. Recognising the early warning signs

Early intervention is the most effective way to prevent and/or minimise the impacts of unreasonable conduct by some complainants, clients or other people who interact with your organisation. By recognising some of the warning signs you may be able to identify difficult and potential cases of unreasonable conduct and manage them better before they become a bigger problem.

These warning signs are not the only factors to consider – none of them is individually determinative and they do not always escalate into unreasonable conduct. Even so, in our experience, they are almost always present in cases where such conduct becomes an issue.

It is important to consider all of the factors that may be influencing a person's behaviour. For example, some cultural groups commonly use certain communication styles that may appear repetitive, aggressive or argumentative. You may want to consider these factors before taking action.

See – 3.3. Cultural communication styles.

The behaviour exhibited by some people may also be influenced by a disability or disorder. While it is important not to engage in diagnosis, in some cases you will know about one or more conditions that may have an impact on a person's behaviour. This will be particularly important when considering restricting a person's access to services or locations.

See – 3.4. Guidance on disability and mental illness.

See – 5.1. Modifying or restricting access to staff, premises or services.

Some of the warning signs of unreasonable conduct are very obvious, but others are subtle. Some may be identified early on and others may only develop or become clear later on in interactions with case officers or organisations. In some cases, this may be at the end of the investigation when an otherwise reasonable and cooperative person discovers that the outcome is not what they expected. Identifying these warning signs should not cause you to be disrespectful, unfair or to act partially.

2.1.1. Some of the early warning signs of unreasonable conduct

The person's history – the person has:

- had a significant number of previous interactions with your organisation about their issue or related issues
- made a significant number of internal review requests about the same issue
- made repeated contact with various other organisations, MPs, Ministers or oversight bodies about their issue
- made a number of access to information requests for information about how their issue had been handled
- complained about a case officer's (or organisation's) integrity or competence without justification, citing concerns largely or solely relating to their dissatisfaction with the outcome of their complaint, the level of attention they were given, etc.
- suffered disproportionate losses in their personal and/or professional lives as a result of pursuing their issue – such as unemployment problems, bankruptcy, clinical depression and/or divorce

- a known history of physical violence or serious verbal threats, including having a previous history with police in relation to such issues
- safety alerts on their file
- a history of substance abuse or mental health issues.

Outcomes sought – the person wants:

- a manifestly unreasonable amount of organisational time and resources to be spent dealing with their issue(s)
- financial compensation that is manifestly inappropriate or unreasonable in the circumstances
- an illogical, irrational or otherwise clearly unjustified outcome
- an apology when it is clearly not warranted or the terms of the apology sought are clearly unreasonable
- revenge or retribution (if this appears to be their primary motivation) as opposed to vindication, which may be entirely reasonable in the circumstances
- their matter pursued as a matter of ‘principle’ or in the ‘public interest’, when the issue is clearly primarily personal.

Style of writing – their electronic or written communications contain:

- text that is UPPERCASE, lowercase, underlined, **bolded**, highlighted or in different colours, FONTS and SIZES
- extensive and/or inappropriate uses of technical language, such as legal or medical terminology
- a formatting or reporting style that appears to imitate an official style
- excessively dramatic language and/or idiosyncratic emphasis
- multiple ccs addressed to various people and/or organisations
- text or notes all over the page(s), including in the margins
- references to themselves in the third person by name or as ‘the victim’ or ‘the defendant’
- repeated restatements of their issue, often done in different ways
- an excessive number of pages and/or supporting information, most of which is irrelevant, for example photocopies, press clippings, diary entries or testimonials.

Interaction with the organisation – the person:

- is consistently rude, confronting or angry, aggressive, or unusually frustrated
- is overly complimentary, ingratiating or manipulative, or makes veiled threats
- makes excessive phone calls, sends excessive amounts of information and correspondence/emails, or regularly makes appointments to discuss their issue(s) when it is not needed
- makes continuing and escalating complaints which often follow one after another
- gives forceful instructions about how their issue ‘must’ be dealt with
- has an unreasonable or unrealistic sense of entitlement about how they should be treated, their issue(s) dealt with or their expected outcome

- displays an inability to accept responsibility and blames others
- is entirely focused on the past and is not interested in moving forward or looking for a resolution
- increasingly attributes improper, immoral, unethical or corrupt motives or intentions to the organisation or individuals the subject of their concerns
- appears to have a low anger threshold and limited self-control
- has a pattern of contact while under the influence of drugs or alcohol
- refuses to define their issues of concern when they are clearly capable of doing so
- has a strong belief that their issue is of far greater importance than the facts show
- resists logical explanation if it is contrary to their own views
- refuses to accept advice, even if it is clearly valid and reasonable
- intentionally harasses, intimidates, embarrasses or annoys the people they are interacting with to get their own way
- provides information in dribs and drabs, despite requests to provide all relevant information or intentionally withholds information
- provides false information
- makes excessive demands on resources – copies, expert opinion etc.

You may want to consider cultural issues further before taking action. For example, those who favour an intellectual communication style may appear confrontational as they tend to use debate and argument to get to know others and establish trust. Also, those who favour an expressive style may appear rude or angry because they tend to use volume, tone and demonstrative body language to show (as well as state) how important their issue is.

See – 3.3. Cultural communication styles.

Reaction to their issue not being dealt with or substantiated, or the inquiries into it being discontinued – the person:

- refuses to accept the decision made/outcome reached in their matter
- continually reframes their issue of concern in an attempt to have it taken up again
- provides previously withheld information in an attempt to have their case reopened
- raises a range of minor or technical issues and argues that they somehow invalidate the decision/outcome of their complaint
- expects a review of the decision/outcome based simply because they are dissatisfied with it and without making a clear argument why the decision was wrong
- demands further reviews if they are not satisfied with the outcome of the previous review
- takes their issue to other forums alleging bias or corruption on the part of the case handler or organisation, simply because the decision went against them.

See – 2.13. Dealing with anger through effective communication.

2.1.2. Things to do when you recognise the early warning signs of unreasonable conduct

If you recognise these early warning signs in your interactions with a particular person, consider the following:

- Make sure that you do not act prematurely – Just because you have identified a potential problem does not mean it will necessarily become one. Avoid being judgemental or overly reactive because the person may just be having a bad day.
- Check your communication style – Think about how you have interacted with, and reacted to, this person. What can you do differently to bring about a different response from them?
- Stop, think, and arm yourself with the strategies – By identifying the potential for trouble early on you have a unique opportunity to think through the appropriate strategies.
- Seek guidance – It is always easier to prevent unreasonable conduct than to deal with it once it becomes a serious problem. Speak to a colleague or consider sitting down with your supervisor to develop an action plan on how you will respond if the person's conduct escalates. Having a plan helps to take some of the stress and anxiety out of the situation.
- Assess the risks – Assess the situation to see if the person's conduct poses an unreasonable level of risk to your health or safety or that of your colleagues/staff. This will usually help you to decide how you should respond in the circumstances.
- Set limits and communicate them to the person – If necessary, talk to the person about the behaviour that has concerned you and inform them of your boundaries.
- Keep an open mind and remain positive – There will be days when you will come across one, two, even three people who will test your patience and your desire for the job. Do not let it drag you down. There is always another day and another person who will remind you why you love doing the work you do.

2.2. When does conduct become unreasonable?

A person's conduct can be considered to be unreasonable if it has unacceptable consequences for one or more of the parties to the interaction. In the complaint handling context, this would include the case officer and the organisation handling their complaint, the staff and organisation the subject of the complaint, other current or potential complainants or other services users, and even the complainant themselves in certain circumstances.

It is not always easy to distinguish between behaviour that makes you feel uncomfortable or is challenging to deal with and behaviour that is so unreasonable that it is unacceptable.

Sometimes this can be fairly straightforward – such as when a person is overtly violent or aggressive. However if a person is emotionally manipulative, subtle or underhanded, this assessment can be far more difficult. It can be even more challenging when conduct that might be reasonable in one set of circumstances may be unreasonable in another. For example, certain types of otherwise unreasonable conduct may be reasonable if a person has suffered loss – either in financial terms or in the impact on their wellbeing or that of a friend or close relative. The person's conduct may be proportional to the loss, provided the conduct does not pose a threat to the health or safety of others. Another example may be where a complaint has not been dealt with appropriately in the first instance. In such circumstances a demand to deal with a supervisor or manager may be entirely reasonable.

The following six criteria can help you to assess whether a person's conduct is, or has become, unreasonable.

The person's circumstances

Does the person have the health, intellectual, linguistic, financial and social resources needed to cooperate and meet the requirements of the complaint process? If they do, then more can be expected of them in terms of their conduct than if some or all of these resources are absent.

Are there any cultural influences that may be affecting the person's conduct that you might be misinterpreting – for example, in some cultures people prefer to talk quite closely which others may perceive as being intrusive?

See – 3.3. Cultural communication styles.

Proportionality

Is the person's behaviour/reaction proportionate when compared to the loss/harm they have suffered?

Are the person's demands on time and resources proportionate to the seriousness of their issue – for example wanting it dealt with by a supervisor or more senior staff member?

The person's responsiveness

Do appropriate calming measures and explanations help to settle the person down?

Is this the first time the person has displayed this type of behaviour or has it occurred in the past?

Has the person already been warned about their conduct?

Personal boundaries

Have your personal boundaries been crossed?

Do you feel unusually stressed, anxious, threatened or otherwise uncomfortable when interacting with the person?

The answer to these questions will be influenced by your personality and resilience, as everyone has different personal boundaries. Some people and cultures have a high tolerance for swearing, raised voices or insults, while others do not.

Conduct that is unreasonable and unacceptable under all circumstances

Does the conduct involve aggression, harassing words or actions, threats, violence or assault? This should never be tolerated under any circumstances.

Jurisdictional issues

Is there any legislation or policy that may limit or affect the types of strategies you can use to manage the person's conduct? For example, does the person have a statutory right to the services provided by your organisation thereby preventing you/your organisation from terminating their access to those services?

Case study example – Identifying unreasonable conduct

A child support welfare payment recipient contacted an Ombudsman's office to discuss their unresolved complaint with the welfare agency. When he was told that the matter would not be investigated by the Ombudsman, the person became argumentative and started to yell each time the investigation officer attempted to speak. The person was cautioned that he had to stop yelling or the call would be ended. The person calmed down and then ran through a litany of current complaints he had with an energy company, a water company and a telecommunications company – including a harassment case involving an energy company because he had been calling them 400 times a week.

This helped the investigation officer realise why the person's relationship with the welfare agency had broken down. The investigation officer advised him how to constructively raise his complaints with the agency and the other bodies and organisations he was dealing with, and referred him to community support when he said he had difficulty writing complaint letters. The person accepted the contact details and said he would get in touch with those community organisations.

2.3. Strategies for managing unreasonable persistence

The principle underlying the strategies and script ideas for managing unreasonable persistence is about saying 'no'. Done properly, 'no' should be firm but polite. It should not be defensive or overly apologetic and should make it clear to the person concerned that no amount of pressure will change the decision/position that has been reached.

2.3.1. Interrupts the case officer or does not allow the case officer to speak

There are four different options for dealing with this type of conduct.

1. Reflection, echoing and paraphrasing – in any conversation where you need to interrupt

It is generally best not to interrupt or challenge a person while they are telling their story or giving an explanation. Paraphrasing is a powerful communication tool which allows you to:

- interrupt without triggering resistance or being seen as disrespectful
- get them to listen to you, because people listen very hard to people repeating their views back to them
- take control of the conversation and ensure you have 'got it right' on the spot, because if you have got it wrong the other person will correct you
- where relevant, reflect back to the other person what they have said in ways that highlight the unreasonable nature of any statements – which may well cause them to modify those statements so they are more reasonable
- create empathy because the other person believes you are trying to understand their point of view
- cause the other person to feel they need to listen to your point of view because you have listened to theirs.

2. The silent approach³ – for moderately persistent people

Say nothing – do not speak at all.

Let the person tell their story and 'let off some steam'. Any attempts to interrupt them – other than interrupting to paraphrase or echo what they have said to you – will likely get them more annoyed and keep them talking. This is especially important for people who rely heavily on the use of storytelling and styles of communication that strongly rely on providing context. This is a style of communication that will largely be used on the telephone.

Eventually, the person is likely to stop and ask:

- *Hello, are you there?*
- *Are you listening?*

At this point, you can either state firmly that you wish to speak or guide where the discussion goes next.

3. Bacal R, *Defusing hostile customers workbook*, p 72

If you allow the person to keep talking, you may try to break their monologue by repeating their name, a key word or the last word they said:

- *I know you're upset ... You do sound upset etc.*
- *I know you're upset and would like to tell me about ..., but I need you to let me speak for a moment.*
- *You've been speaking for ... minutes now. I wonder whether I might have a chance to respond to what you've been saying.*
- *Now that you've said what's on your mind, let me make sure I've got it right so we can figure out what to do next.*

Do not back down when they try to interrupt again.

3. Repetition – for very persistent people

Repeat the same word or short phrase over and over until the person hears and processes your message (remember – anger can affect our ability to process information).

- *I recognise that would be upsetting/frustrating for you. Let me explain why this has happened/what we can do next.*

The person continues ...

- *It's clear you're upset/frustrated. Let me explain what has happened/what we can do.*

The person continues ...

- *It is/would be upsetting/frustrating. Can I explain why this has happened/what we can do?*

If the person still continues ...

- *It is upsetting/frustrating. What happened was .../Here's what we/you can do next*

And so on.

4. The 'stop' approach – for people who you know from experience to be extremely persistent

Interrupt the person's monologue at the outset and assert control.

If this does not work, reschedule and terminate the call – preferably for 24–48 hours or sooner if the issue needs your immediate attention:

- *[Mr/Ms ...], I need you to [answer/give me information] before I can get into the details of what happened. Otherwise we'll have to go over this all over again. So tell me about ...*
- *Until you give me [information] I can't respond to what you're saying. You'll have to tell me the whole story over again, which would just be an ineffective use of both our time/the short amount of time available*
- *Before I can help you with ..., I need to get some information from you. Is it okay if I ask you a few questions about ... ?*
- *Unfortunately, I can't really help you until you tell me about ... So can you tell me about ... ?*
- *[Mr/Ms ...], I only have **[X minutes]** for this conversation. In this time I need you to answer **[list questions]**. Once you've answered these questions, we can discuss the problem that you're having further. So beginning with*

At the end of the designated time period, end the call. If necessary, reschedule and remind the person of the information you need from them before you can move forward with their issue/other issues.

2.3.2. Bombards the organisation with phone calls, visits or written correspondence when it is not warranted

Firmly ask the person to stop the behaviour and tell them that they will be contacted when necessary.

Limit phone calls to short intervals – for example, five minutes.

Advise them that they have to book an appointment through the main reception if they want to meet with you (or another staff member), and limit the frequency and length of those meetings as appropriate.

Wait to respond to streams of letters or emails until you receive a number of them (for example, three or four). One way of slowing down constant email communications is to respond by mail. Each communication should still be acknowledged, either by telephone or email, unless they are particularly unreasonable in number – in which case restrictions may be needed.

See – 4.1. Management roles and responsibilities.

2.3.3. Contacts different people within the organisation in the hope of getting a different outcome or more sympathetic response – internal ‘forum shopping’

Avoid having extended conversations with people whose issue is being or has already been dealt with by another case officer.

Expressly ask people at the outset if they have already talked to someone about their issue. If so, identify the relevant person and refer them to that person to ensure consistency.

Identify complainants at the start of any contact so you can check for their personal information in your case management system to see if their complaint is being/has already been dealt with – especially when you suspect they are not being truthful.

Make sure you keep accurate and contemporaneous records of all communications and interactions with people raising concerns to minimise the likelihood of this ‘forum shopping’ behaviour.

See – 4.2. Recording and reporting incidents.

2.3.4. Sends their complaint to multiple people/organisations to try and get a different outcome – external ‘forum shopping’

Do not take up matters that have already been dealt with fairly, reasonably and comprehensively by another organisation – unless they raise issues that specifically require further action by your organisation.

Treat cc’d communications as being ‘for your information’ rather than a complaint to your organisation, unless it raises an issue that your organisation decides requires further action.

Ask complainants early on if they have already raised their issue with another organisation.

If they have, ask for copies of any final correspondence from that organisation to help you better understand their issues and decide if additional action is needed by your organisation. However, this information should not be used in a way that would affect your ability to impartially assess the complaint.

Draft final letters as standalone documents that can be used to brief any third party/organisation that the complainant takes their issue to next – for example, the media or the Minister.

See – 2.13. Dealing with anger through effective communication.

2.3.5. Demands a review simply because they disagree with the decision and does not make a case for one

Clearly explain that your organisation has a one review policy and stick to it (if your organisation has adopted such a policy, which is recommended).

Advise them that to receive a review they have to make clear arguments for one. For example, they need to:

- explain how or why you/your organisation has made an error in handling their issue
- explain how or why the decision or outcome reached is inappropriate in the circumstances
- provide new information or evidence that would justify a review.

Have final review letters signed by an appropriate senior officer or the CEO to show that the decision has been made by senior management and further escalation would serve little purpose.

2.3.6. Refuses to accept a final decision after all avenues of review have been exhausted

Maintain a ‘no means no’ stance after a review.

Avoid arguments or extended discussions with people who are not receptive to your position, particularly if their issue has been dealt with comprehensively.

Refer them back to the final letter or review letter and advise that the letter speaks for itself. If they have additional concerns, they should put them in writing – this will only be responded to if it raises a valid issue or provides substantial new evidence that affects the decision or outcome reached. Failing this, their correspondence will be ‘read and filed without acknowledgement or response’.

If the person is ‘forum shopping’, refer them to the original case officer/case reviewer who dealt with their issue to ensure consistency in the information given and the approach taken towards managing their conduct.

End phone calls or interviews that are unproductive.

2.3.7. Reframes their issue in an attempt to get it taken up again

Do not allow people to reframe their issues, particularly if they have already received a review.

Advise them that their issue will not be revisited unless:

- the circumstances of their case have changed substantially and are likely to affect the organisation's decision/the outcome
- they provide new and substantial information or evidence that is likely to affect the appropriateness of the decision made/outcome.

Identify the complainant at the start of any contact to determine whether their issue has already been raised or dealt with by your organisation. If so, refer them to the case officer who previously dealt with the person or the issue.

Make sure you keep accurate and contemporaneous records of all communications and interactions with people raising concerns to minimise the likelihood of the same issue being revisited.

Note: Be careful not to disregard issues that are sufficiently different from other issues raised by the same person and that require further action by you/your organisation.

2.3.8. Makes an issue out of anything when things do not go their way, including complaining about how their matter was handled or someone's skills or competence

Decline complaints that are not supported by clear evidence or where there is no practical purpose for pursuing them.

Provide people with clear instructions about the threshold that their complaints must meet before they will be taken up. For example, the person should:

- raise a substantial new issue
- support this with clear evidence that suggests that the event/issue they are complaining about happened.

Explain that clear evidence includes:

- copies of official documents
- photographs
- videos
- anything that shows or tends to show that what they are complaining about occurred.

Tell them clearly and firmly that complaints about you/your colleague/your organisation will not change the outcome of their original complaint, except if there has been a clear error – which they will have to explain in writing.

If a person threatens to complain about you, provide them with the information they need to do so.

Although it can be difficult, try not to take unfounded personal attacks or threats to complain about you personally. Often this is an attempt by a person to bully or coerce you to agree to their demands, or to take their frustrations out on you.

2.3.9. Persists in wanting to know where to go next, when it has been explained that there is nowhere else to go

Do not suggest or refer the person to another organisation simply to appease them or 'get rid of them'. Referrals should only be made if the other organisation is likely to be able to help the person and unlikely to contribute to their frustration or anger.

Be honest and upfront if you are not aware of anywhere else for them to raise their issue.

Do not engage in extended discussions that are likely to give the person false hopes about their issue or possibilities of success.

2.4. Scripted responses to unreasonable persistence

Statement or conduct	Possible responses
<p>You're not listening to me.</p>	<ul style="list-style-type: none"> • <i>Well [name] I have been listening to you. I've been listening to you for [minutes] now and if you allow me to speak</i> • <i>I'd like to help you, but before I can do that I need to ask you a few questions</i> • <i>I can see you're concerned and I'd like to help, but I need to ... first.</i> • <i>Let's see what we can do to get things going/get you what you need.</i> <p><i>When a person's communication style differs significantly from yours, they may feel that they have not been heard – regardless of your words. Consider whether your approach is the most appropriate style of communication for the person.</i></p> <p><i>See – 3.3. Cultural communication styles.</i></p>
<p>I have more proof/ information or I still haven't told you about ...</p>	<ul style="list-style-type: none"> • <i>Can you please stop ...? [explain – for example, sending me emails every day]</i> • <i>If/when I need more information I'll let you know. Until then, please stop</i> • <i>I already asked you not to send any more information/emails/ ... I ask again that you please stop.</i> • <i>You have emailed/phoned/met with us about this issue [number of times]. Unfortunately we have nothing new to tell you. When we do we'll let you know right away.</i> • <i>Your frequent emails/phone calls/meetings are taking me away from doing other important work relating to your complaint ... Please give me time to get them done because, until I do, I will not have anything new to tell you/I won't be able to read anything new that you sent to me until</i> • <i>I can't deal with your complaint properly while you're sending all of this information. You'll have to decide whether you want to withdraw your complaint while you get your information together, or let us move forward with what I have and the issues we've identified. What's happening now simply isn't working.</i> • <i>Because I've already asked you [number of times] to stop ..., I'll be following this discussion up with a written request that you stop ... I'd appreciate it if you'd agree to stop.</i>
<p>Suspected or actual internal forum shopping.</p>	<ul style="list-style-type: none"> • <i>Have you been in contact with anyone else in the office about this issue?</i> <p>If yes, find out who and redirect them as appropriate.</p> <p>If no, get their name [with correct spelling] and check the system anyway. Otherwise, log their personal details and complaint/inquiry information as appropriate.</p> <ul style="list-style-type: none"> • <i>It seems [person] is dealing with your issue. Because they are more familiar with the details of your issue, I'll need to forward your phone call to them.</i>

<i>Statement or conduct</i>	<i>Possible responses</i>
<p>Be advised that I have notified/cc'd the Ombudsman/Minister/third party.</p>	<ul style="list-style-type: none"> • <i>It looks like [person] has spoken to you about this. One minute, while I check if they are available to speak to you right now.</i> • <i>Our system shows that you've tried to speak with a number of people about this issue. I should remind you that [person] is responsible for handling your complaint. I can get them to call you back if you like. Do you have their phone number?</i> • <i>A lot of work goes into allocating issues/complaints to the right officers and making sure that we use our resources in the best way possible. [Person] is responsible for handling your issue/complaint and is very capable of doing so.</i> • <i>[Person] is responsible for handling your issue/complaint and will do so exclusively, unless we think this needs to change. Would you like me to transfer you over to them now?</i> <ul style="list-style-type: none"> • <i>Our policy is to treat cc'd letters and emails as general information and not as an issue/complaint to be actioned by this organisation.</i> • <i>We generally don't respond to cc'd letters and emails, unless</i> • <i>If you want your letter/email to be dealt with as a complaint, you will need to clearly indicate this and identify the specific issues you want us to look at.</i> • <i>For us to deal with your complaint appropriately, we need you to clearly identify the issues you want us to look at and explain how the information you've sent supports each issue.</i> • <i>Have you raised this with another organisation?</i> • <i>[If yes] It would be useful if you included copies of the correspondence that you've received from them about this issue.</i> • <i>It's clear that this has been dealt with by ... organisation(s)/people. Because we haven't found any outstanding issues that we can help you with/it's unlikely we'll get a different outcome for you, we've decided not to pursue this further.</i> • <i>It seems your issue/complaint is being handled by more than one organisation right now. We generally wait until other organisations have finished their investigations before we consider taking up an issue/complaint to minimise repetition. Feel free to contact us again once these investigations are finished if you're still unsatisfied. We'll see if it's something we can help you with then.</i> <p>Take care to avoid situations where a person's issue is declined by all relevant organisations, simply because the person has admitted to sending it to other organisations. Communication between organisations can be useful so long as it does not breach any privacy or confidentiality obligations.</p>

Statement or conduct	Possible responses
<p><i>I want this reviewed/ someone else to handle my issue/ complaint.</i></p>	<ul style="list-style-type: none"> • <i>Our organisation doesn't provide a review automatically. If you want one, you'll have to put your request in writing and explain why it's needed. We will then consider it and get back to you.</i> • <i>Before we can review our decision on your issue/complaint, you'll have to write in and explain why and how you think we have made an error – either in the way we handled your issue/complaint or in the decision we have made</i> • <i>Simply disagreeing with our decision isn't a reason for us to provide a review/get another officer involved with your issue/complaint. You'll have to make a case for one by ... [explain].</i> • <i>I suggest that you take time to re-read the decision that we sent you and carefully consider if we have made an error or if you simply disagree with the decision. Disagreeing with our decision isn't a reason for us to provide a review.</i> • <i>We can review your issue/complaint if you wish, but I must warn you that we have a one review policy at this office – this means ... [provide relevant details of policy and what it means for the person].</i>
<p><i>You call that a review? You clearly don't understand what I'm complaining about</i> or <i>You've made the wrong finding [after a review].</i></p>	<ul style="list-style-type: none"> • <i>When someone asks for a review of the decision on their complaint the matter is given to another case officer, usually a more senior officer, who makes a fresh assessment of the case. In your case that officer found ... Our office stands by this finding.</i> • <i>I appreciate that this issue is very important to you, but we won't be taking any further action on it.</i> • <i>Simply disagreeing with our decision isn't a sufficient reason for us to revisit this issue again. We've explained to you in detail [refer to any relevant correspondence here] how and why we made the decision we have. This hasn't changed.</i> • <i>You've had an opportunity to have your complaint reviewed under our one review policy and we are satisfied with the outcome of that review. Any other correspondence that you send to us about this issue will be read and filed without acknowledgement, unless we decide that it requires our attention.</i> • <i>As we explained to you before, we only review decisions once. Because of this we make sure that all reviews are very thorough. Your concerns about how your complaint was dealt with were/ the outcome of your complaint was thoroughly considered and unfortunately we do not agree with the issues you raised.</i> • <i>We'll only reconsider a review decision in highly exceptional cases [explain].</i> • <i>To make sure we distribute our resources fairly to everyone who complains to our office/organisation we only provide one review of a decision. This has been explained to you in the past.</i>

<i>Statement or conduct</i>	<i>Possible responses</i>
<p>You can't be finished with my complaint. You haven't looked at/considered/answered ...</p>	<ul style="list-style-type: none"> • <i>It's unfortunate, but our office/organisation is unable to help you with this issue because This has already been explained to you in some detail.</i> • <i>It seems that you've contacted us before about this issue and were told that There is nothing else that we can do for you in relation to this issue.</i> • <i>It seems this issue/a similar issue may have already been brought to our attention. I'll have to look into it and call you back. Is that okay?</i> • <i>This issue has already been considered by our office/organisation. You were sent a letter on ... explaining our position on it with reasons. Unless you have new evidence or information that is likely to affect our decision, we won't revisit it again.</i> • <i>I think that the correspondence we've already sent to you about this clearly explains why we are unable to deal with it any further. Unfortunately, I have nothing else to add to this.</i>
<p>It's your fault. How could you let this happen?</p> <p>or</p> <p>You're incompetent. Who can I complain to about you/your organisation/the way you handled my complaint?</p>	<ul style="list-style-type: none"> • <i>I can see that you're upset and I'd like to help, but I won't accept you telling me that I am incompetent.</i> • <i>I understand that your issue/complaint is important to you and that you are disappointed with the decision that I've made/what I'm telling you. However, making personal attacks against me is not productive. I'll have to end this conversation if this continues.</i> • <i>I'll have to end this call if we can't keep to the issues.</i> • <i>I'm sorry we weren't able to do what you wanted us to do/had hoped we could do. The fact is ... [explain the case details].</i> • <i>I appreciate that you would have liked us to take up your case. The fact is we are impartial investigators, not advocates for complainants. In this case we have decided</i> • <i>I'm not sure how you want/expect me to respond to this.</i> • <i>You can put your concerns in writing and we'll consider them. If we don't think that they raise a substantial issue that requires our attention, your letter will be read and filed without acknowledgement.</i> • <i>We won't review the decision that has been made about your issue/complaint because However, if you wish you can make a complaint about me and you are free to do so.</i> • <i>One thing I should clarify for you now is that we won't be reviewing our decision about ... because However, if you believe that I/another officer have/has done something wrong, you are welcome to complain about it. A senior manager would look into your complaint and, if it is substantiated, will decide on the appropriate course of action to be taken.</i> • <i>I'm sorry you feel that way. My intention was to conduct an impartial assessment of your complaint to the standard required by my office/organisation, which I believe I have. If you have concerns about what I've done, you're welcome to put your complaint in writing to our office/organisation.</i>

Statement or conduct	Possible responses
Where can I go where my complaint will be taken seriously?	<ul style="list-style-type: none"> • <i>I'm not aware of any other avenues of redress that may be available to you.</i> • <i>It seems you've exhausted all avenues I can think of.</i> • <i>Outside of the organisations you've already contacted, I can't think of anywhere else for you to take your issue/complaint.</i> • <i>I don't want to waste your time by sending you to another organisation that I don't think can help you.</i> • <i>I can't think of another organisation that can help you with this.</i> • <i>Sometimes there are problems that can't be sorted out by any organisation.</i>
I'm going to the media/Minister/Ombudsman etc.	<ul style="list-style-type: none"> • <i>You are free to contact anyone that you think might be able to help you.</i> • <i>That's for you to decide.</i> • <i>You're free to take your matter to any forum you choose.</i> • <i>That option is certainly open to you.</i> • <i>It's for you to decide if you want to contact the media</i> • <i>I have no opinion about whether you should go to the Minister/the media/ ... about this. This is really for you to decide.</i> • <i>That's certainly your right. We would have hoped that you would be satisfied with this outcome/our decision because ... but, it's really up to you which path you want to take.</i> • <i>It's up to you to do what you consider appropriate now.</i> • <i>As I said, that's completely up to you. If that's the case, then I guess we don't have anything else to discuss.</i>
Unproductive/stressful phone call or interview.	<ul style="list-style-type: none"> • <i>I understand that you're unhappy and I've tried to explain to you how I came to make the decision that I have. But I'm unable to spend any more time explaining it to you. Perhaps you might want to put any additional concerns you have in writing and we will consider them.</i> • <i>I feel that I've given you all the information I can about this and our conversation seems to be unproductive/circular. Because I have other things to attend to, I'll need to end our discussion here. If you still have questions, you can put them in writing and if they require further action by our office/organisation we'll let you know.</i> • <i>We've been discussing this for ... minutes now and it's clear that we don't agree on this issue. Unfortunately, I can't spend any more time explaining why I've taken the view that I have, but you can put your concerns in writing if you wish. We would then decide on what action, if any, our office/organisation will take.</i> • <i>I don't think this conversation is productive for either of us now and I am going to end our call/interview. You have my full reasons in the letter I sent you.</i> • <i>I see what you mean, but as I've explained that isn't something that we can help you with.</i> • <i>It seems you want me to say something that I can't. I think it will be best to end our discussion here.</i>

2.5. Strategies for managing unreasonable demands

The principle underlying the strategies and script ideas for managing unreasonable demands is about setting limits. When setting limits, you should:

- identify the unreasonable demand
- expressly tell the person that the demand will not be met
- state why they need to stop making the demand (identify the limits)
- offer the person a choice, if possible
- enforce the limits, as appropriate.

For example:

You've asked that I read your letter/email/complaint form right away because you want to come in and discuss it with me this afternoon. Unfortunately, this isn't possible because I have other equally pressing matters that I need to tend to first because they came in before yours. If you like, I can make time to discuss your matter with you on Thursday. By that time, I will have had an opportunity to read through your letter/email/complaint form and think about the issues that you've raised.

Some people will resort to emotional manipulation. This can include:

- threats of self-harm and/or harm to others
- threats to harass or otherwise create difficulties for you/your organisation
- threats to embarrass you/your organisation by taking their issue to an oversight body or the media
- pleading with you/your organisation to act in a certain way/help them because you are their last resort – that they have nowhere else to go.

They may also make statements about you/your organisation:

- being powerless
- not doing your job or performing your duty
- being biased or colluding with the people or organisations the subject of their issues of concern
- protecting yourselves by not taking on perceived powerful interests
- being a waste of time and/or money.

This type of behaviour should be recognised for what it is – an attempt by a person to bully, coerce or manipulate you to comply with their demands about how and when their issue should be dealt with. Although it is generally important to be able to empathise with people who are raising concerns, you should avoid doing so if they are being emotionally manipulative. In these situations, showing anything that could be perceived as weakness will only reinforce their behaviour. You should also recognise that in these situations you are actually in a position of control as the person is trying to get you to do something.

2.5.1. Makes demands about how their matter should be handled, including insisting on an immediate response

While complainants 'own' the issues that are the subject of their complaints, complaint handlers effectively 'own' how complaints made to them will be handled. Inform the complainant that it is you/your organisation and not them that must decide how the complaint will be handled, by whom, the amount of resources to be dedicated to it, the priority it will be given and the outcome.

Tell them clearly and firmly from the outset how the organisation intends to deal with the matter.

Be honest and upfront about what will and will not happen and what is and is not possible.

If applicable, explain that an immediate response is not possible because:

- there are other demands on your/your organisation's time and resources that make it impossible to respond immediately
- there are processes that must be followed that do take time
- to be fair to everyone, other than in exceptional cases you/your organisation deals with complaints on a first come, first served basis – and there are other complaints that came in before theirs.

2.5.2. Insists that you/your organisation respond to every point they have raised, including minor or irrelevant issues

Clarify the central issues of the complaint with the complainant early on and make it clear that these are the only issues that you/your organisation intend to address.

Where a person has raised a large number of issues in a complaint, particularly if many are of minor importance or irrelevant, tell the person that not every issue they have raised will be responded to. If appropriate, tell them that there is no legal obligation on you or your organisation to respond to every point that they have raised.

In giving a person such a message, it is never a good idea to use words such as 'unimportant', 'trivial', 'frivolous', 'vexatious' or 'not in good faith' as the person will be insulted or feel disrespected, which may only inflame the situation.

2.5.3. Insists on talking to a supervisor or senior manager personally, because they disagree with you/your decision

Tell the person clearly and firmly that if they want to make a complaint about you or to request a review of your decision they should do it in writing and provide clear reasons to support their claims/request.

If applicable, tell them that the advice you have given them/the decision that has been made will not change by talking to a supervisor/senior manager because they have already confirmed the advice.

Where relevant, refer the person back to the original case officer or reviewer who dealt with their matter to ensure consistency.

Any organisation whose staff regularly deal with concerns raised by members of the public should adopt a policy about the circumstances where a person raising concerns may or should be referred to a more senior officer. These circumstances will depend on factors such as the importance to the organisation of repeat custom, the authority delegated to staff at different levels to make decisions to resolve complaints, etc.

Some people tend to be more aggressive towards frontline staff because they perceive them as having less authority or power than senior managers. This can result in demands to talk to others with 'more authority'. Depending on your organisation's approach to these requests, you should not automatically escalate such calls/demands if they are solely motivated by a disagreement with the advice you have given.

Some people from more hierarchical cultural backgrounds may find it very difficult to accept decisions from any but the most senior person in your organisation. Where applicable, refer them to letters or other correspondence that have been signed by these senior people.

End phone calls or interviews that are unproductive.

2.5.4. Wants regular and/or lengthy phone calls or face-to-face contact when it is not warranted

Avoid spending extensive amounts of time talking to a person early on in the complaints process because they may expect similar treatment later on – when it is not warranted.

If necessary, limit the length and frequency of interactions with the person. For example, you may try to limit interactions to previously agreed appointment days and times when either the person can call you or you will call them with an update on the progress on their matter – even if there has been no progress. If the person agrees to this arrangement you should try to enforce it to the extent possible (for example, if they try to contact you outside of the agreed days and times), unless they are raising an issue or providing evidence that requires your immediate attention.

All communications/interactions with complainants should serve a purpose. Be clear in your mind about the objective you wish to achieve in each interaction and make sure that conversations are focused on the central issues/tasks at hand. Remember that not everybody will use linear or direct styles of communication. Stories, metaphors and examples can still be focused on the central issues but may require you to listen differently.

If a person is sending frequent emails or making frequent calls, slow down the communication process when possible – by responding to emails or phone messages by letter or suggesting that the person send through their concerns in writing. The person should also be firmly advised that any documentation they send should be summarised and a clear explanation provided about how it relates to the core issues of their matter.

End phone calls and face-to-face interviews as soon as possible once it is clear that the person has no new information or issues to discuss.

Make sure that you keep accurate and contemporaneous records of all interactions with particular people so you can identify whether a person's demands on resources are excessive or unreasonable.

When you are concerned that a person's interactions with you/your organisation have become so excessive that they are unreasonable, carefully and cautiously assess (with a supervisor) whether that is the case – and then discuss the possible next steps.

2.5.5. Manipulates situations to cause guilt, intimidate, harass, shame, or wrongly portray themselves as innocent victims

Avoid showing any weakness in these situations and do not attempt to negotiate with people trying to manipulate you.

Stay focused on the central issues that need to be addressed. If the person is not able to keep focused on the central issues after some time, terminate the call or interview and reschedule for another time.

Do not respond to overly complimentary remarks. It is extremely unlikely that the person knows you well enough to make an assessment about your character or skill – good or bad.

Tell any person making threats of self-harm or threats to harm others that this sort of behaviour is unacceptable and the policy of your organisation is that you must terminate such conversations if it continues.

If appropriate, consider referring the person to an advocacy or support service that is better suited to help them – particularly if they have multiple and complex needs that extend beyond the scope of what you/your organisation can do for them.

2.5.6. Wants to discuss your personal life or makes unwanted sexual advances

Maintain clear personal and professional boundaries and avoid idle conversation about personal matters concerning yourself or the person.

Only discuss things that are relevant to the matter at hand and deflect any personal questions.

Any organisation whose staff regularly deal with concerns raised by members of the public should adopt a policy about staff discussing their personal life with people raising concerns with the organisation. If necessary, tell the person that your organisation has a policy that you are not allowed to discuss your personal life.

Explain that you only have a limited time to talk and therefore need to focus on their issues.

If the person is persistent, reschedule the discussion for another time. Alternatively, you might consider putting your questions to the complainant in writing.

You may also consider having the complainant re-assigned to another complaint handler (male or female) who they are less likely to engage in this type of behaviour with.

Some people from more hierarchical cultural backgrounds may interpret friendliness, the use of first names or other displays of informality as signs of friendship. They may then react negatively when you do not act as they expect a friend would – which is to decide in their favour regardless of the merits of their case, take their side in a dispute, etc. They may need to be reminded many times throughout the process, not just at the end, that you are an impartial agent and not their personal advocate.

2.5.7. Contacts you outside of office hours to discuss their matter

Politely refuse to respond to any work related questions from any person who finds a way to contact you outside office hours and always maintain clear personal and professional boundaries.

Invite the person to book an appointment or call you during regular office hours.

If they have called you on your home phone, hang up. Notify your relevant supervisor or senior manager about the phone call and consider talking to them about having your phone number changed or unlisted.

If they have contacted you through your personal email account or through social media, do not respond. Forward or give your relevant supervisor or senior manager a copy of the contact. You can then discuss with them possible options for dealing with the issue. You may also wish to take personal steps to block the email account that the person used to send you their email communication. You should also avoid socialising with or 'befriending' such people online.

2.5.8. Demands answers to questions that have already been responded to comprehensively and/or repeatedly, when they are clearly capable of understanding these responses

End unproductive discussions/arguments about issues that have already been comprehensively responded to.

Refer the person back to the earlier correspondence/conversation and invite them to contact you again after they have read/reconsidered it – but only if they have specific and outstanding questions or issues.

Acknowledge that they are unhappy with your/your organisation's response, but explain that their issue has been comprehensively considered and responded to and will not be revisited.

If necessary, explain the circumstances in which their issue might be reviewed and clearly and firmly advise them that simply disagreeing with the organisation's conclusions or decision is an insufficient basis for doing so.

Be careful dealing with people who may have literacy or other language difficulties and make sure you explain the contents of any written correspondence sent to them. If this is unsuccessful over time, suggest that they ask someone else – such as a family member or support person – to explain the letter/written communication to them.

2.5.9. Demands information that you are not permitted to disclose/ provide – copies of sensitive documents, names and personal contact details of staff

Maintain a 'no means no', stance no matter how much a person tries to convince you otherwise.

Provide clear reasons why this type of information will not be disclosed.

Where relevant, advise the person that they can request certain information from public agencies under relevant access to information legislation (such as the *Government Information (Public Access) Act 2009* (NSW)) if they wish and explain the process for doing so/where they can access such information.

End unproductive phone calls.

2.5.10. Changes their issues or desired outcome while their matter is being dealt with

Clarify the central issues of concern with the person early on in case they change focus later on.

Make it clear that the focus of your investigation will only be on what you or your organisation consider to be the central or most important issues they have raised.

Stick to the initial issues or outcomes agreed to by the person/you/your organisation, unless:

- the circumstances of the case change and give rise to new and substantial issues
- there is new and substantial information or evidence that affects the appropriateness of the outcome achieved or proposed
- the new and desired outcomes are substantially different from the one achieved or proposed and are more suitable in the circumstances.

Ask the person to wait until their matter is resolved and they receive a final letter before raising their dissatisfaction.

Keep records of topics discussed and outcomes of phone calls and face-to-face interviews and write to the person outlining these topics and outcomes, requesting their agreement with a signature – this provides a written record in case the person changes their mind later on.

Note: You should be careful not to disregard new issues that are substantially different from the original matter and warrant further action by you/your organisation.

2.5.11. Insists on outcomes that are unattainable or inappropriate or that they are not 'entitled to'

Clarify the limitations of your system for dealing with concerns raised by members of the public and tell the person clearly and transparently if something is not possible/not going to happen.

Tell the person that you can only base your assessment and investigation on the facts you become aware of, and not their emotions or unsubstantiated recollections – no matter how valid they may be.

Manage their expectations early on by letting them know in advance:

- what can and cannot be done
- how you/your organisation intends to deal with their matter
- the likelihood that they will achieve the outcome they are looking for.

Consider giving them a list of reasonable outcomes that you/your organisation may be able to achieve – being careful not to lead them on or give them false hope.

Avoid the 'I'm entitled to' argument as it rarely ends positively and often only escalates the situation.

'Agree to disagree' about which outcome (the one they want or the one that you/your organisation have proposed) is the most appropriate one without making the person feel their views are invalid.

Keep records of topics discussed and outcomes of phone calls and face-to-face interviews and write to the person outlining them and requesting their agreement with a signature. This provides a written record in case the person changes their mind later on.

2.6. Scripted responses to unreasonable demands

Statement or conduct	Possible responses
<p>Call me back immediately/I'll call back in an hour if I don't hear back from you by then</p> <p>or</p> <p>I want this fixed now.</p>	<ul style="list-style-type: none"> • Perhaps no-one has taken the time to explain to you our process for dealing with concerns such as yours. Let me. • I appreciate that you want this dealt with right away. But I'm sure that you can also understand that I do have several other matters that I have to deal with in addition to yours and which were brought to my attention first. • Other than in extraordinary circumstances we deal with matters on a first come, first served basis, and as you can imagine there are files that came in before yours. I'll be in contact with you in [number] days/weeks or sooner if I need more information from you. • Most people who raise concerns with us think that their matter is the most important one and want us to deal with it right away or ahead of other complaints. That's not possible in practice. • It's clear this is important to you and you want it handled a certain way, but there is a process that I must follow to make sure that it's dealt with appropriately and fairly for everyone involved. • We are dealing with your matter in the way we consider to be appropriate. It's unfortunate that you don't see things the same way. • I know you feel your matter is urgent. I've assessed it and have decided I should call the officer/organisation concerned. I'll be able to do this sometime this week/I'll need some time to do this and then to receive a response from them. How about you call me in [number] days/weeks and hopefully I'll have some information for you then. • Ultimately, if you are unhappy with the way we are handling your matter you are free to raise it with another organisation.
<p>You've contacted the person/organisation I'm having problems with</p> <p>or</p> <p>I told you not to contact them. They're liars.</p>	<ul style="list-style-type: none"> • I'm aware of your views of this person. I find it helpful to contact the person most involved in the matter first, unless I consider it inappropriate. If I'm not satisfied with their response, I will go further up the line until I'm satisfied. • You have given us your side of the story. We have also given [the other party] involved the opportunity to put their side of the story. • In the interest of fairness, I need to hear how the other party sees the issue. I'm sure you can appreciate that I need to get both sides of the story if the matter is to be resolved. • I can understand that you're concerned about that. It is usually the case that it is fair and relevant to get versions from both sides of a complaint. You've presented your side and we need to get their side too. • If the complaint is about the conduct of a member of staff, we would make inquiries at a higher level.

Statement or conduct	Possible responses
<p>You should have interviewed me/ contacted me/ allowed me to give you more information before you made your decision.</p>	<ul style="list-style-type: none"> • <i>I have carefully considered the information you sent us and I have made my decision based on that. If you have any further information that is relevant to this case, you can write to us and let us know that information.</i> • <i>Yes, that's correct. The information you provided was enough for me to consider the matter and make a decision.</i> • <i>I have assessed all the material – your submission as well as the documents I requested from [the other party]. If I had concluded that an investigation was required, I would have contacted you. In the end, my decision is that there appears to be no evidence that something went wrong.</i> • <i>I think the organisation's reply adequately addressed your concerns. If you are dissatisfied with it, we can talk about it now. [Discuss – point out any review option if the person is still dissatisfied.]</i>
<p>You haven't answered every issue I raised with you.</p>	<ul style="list-style-type: none"> • <i>We decided that the central issues you raised with us were ... and these will be the focus of our response to you/our investigation.</i> • <i>We've considered all the information you have supplied to us, but we don't intend to respond to every point you've raised.</i> • <i>Our organisation can look at whether. ... In our letter to you we addressed ... issues. We didn't look at ... because</i> • <i>Given the number of concerns raised with us, we try our best to distribute our resources as fairly as possible across all of them. To do this we focus our attention and resources on the central/more substantial issues raised with us. In your case, we decided that the central issues were ... and we have responded/will respond to them accordingly.</i> • <i>There is no legal obligation on us to respond to every point you have raised with us.</i> • <i>We're satisfied that we've dealt with your matter adequately and will not be responding to the issues you're now raising/the other issues you've raised.</i>
<p>I want to speak to your supervisor/ manager.</p>	<ul style="list-style-type: none"> • <i>I'm in a position to respond to your concerns and to help you, without the need to get another case officer involved.</i> • <i>From what you've said it seems you're raising an issue that I can help you with. All we have to do is</i> • <i>Why don't you tell me what your concern is so I can get a better sense of which officer/supervisor would be most suited to help you with it?</i> • <i>If you're looking to dispute my decision, you should put your concerns in writing. My supervisor doesn't have the detailed knowledge of your case to discuss it with you now.</i> • <i>If you wish to make a complaint about me, the policy of this organisation is that you must put it in writing.</i> • <i>If you would like to have ... done by today, then I'm the person who is available to help you with it. So it's up to you what you want to do.</i> • <i>I'm authorised to deal with this issue and would be happy for us to work together to find a solution that's appropriate for everyone.</i> • <i>My supervisor has reviewed your file and agrees with my decision [if this is indeed the case].</i>

Statement or conduct	Possible responses
<p><i>I want to speak with/meet with the director/CEO.</i></p>	<ul style="list-style-type: none"> • <i>For practical reasons the director/CEO doesn't generally meet or speak directly with people raising concerns with our organisation, but they have given me a delegation to deal with such concerns on their behalf.</i> • <i>I'm authorised to act on the director's behalf. You can speak to me now and we can see how we go.</i> • <i>Unfortunately, the director/CEO isn't able to speak with you, but I'm happy to discuss this with you and try to find a solution if you wish/but here's what I can do</i> • <i>I'm sure you can appreciate that the director/CEO, as head of the organisation, is a very busy person. That is why they have delegated authority to their staff to deal with matters like yours.</i> • <i>I understand your frustration/that you're angry/that you disagree with me on this issue and you would like to speak with the director/CEO about it. However, I can't meet that request. What I can do is</i> • <i>I understand that you disagree with me on this issue, but I'm unable to arrange a meeting with the director/CEO for you. The usual procedure in this office is for issues of concern to be raised in writing [apply to suit circumstances of your particular organisation].</i> • <i>If it's necessary, I can arrange a meeting with the officer dealing with your matter. Would you like me to do this for you now?</i> • <i>I've already spoken with you at length. A face-to-face meeting won't change the advice I've given you. You can send us additional information in writing and we'll then decide if another meeting is necessary.</i>
<p><i>I want to come and meet with you [when such a meeting is not necessary].</i></p>	<ul style="list-style-type: none"> • <i>I can see that you really want to come in/discuss this in greater detail, but I don't think that a meeting/this is necessary right now, because</i> • <i>I don't think a meeting would help. If you have additional documents, you can send them to me with a covering letter explaining how they relate to the central issues you have raised. If I need to, I'll call to discuss them with you. I believe this is a much better use of our time.</i> • <i>If I need more information, I'll contact you. Otherwise, the summary of issues you've provided is adequate.</i> • <i>I don't have any new information to give you about progress in dealing with your matter. I'll be in touch with you when I do.</i> • <i>There are no new developments in your matter. However, you can call me after [date] if you'd like to check in with me.</i> • <i>Can you please send me copies of these documents? I'll review them to decide if a meeting is necessary/would be useful.</i> • <i>It is generally better for us to look at the documents first, before we decide whether a meeting with you would be useful. In the end, we often have to rely on documentary evidence anyway. Say-so evidence isn't enough.</i>

Statement or conduct	Possible responses
<p>Emotional manipulation.</p> <p>If you don't do [x] then I'll do [y]</p> <p>or</p> <p>I've had such a hard time. I've just lost all my money and my wife has left me ...</p> <p>or</p> <p>You're my last hope. If you don't help me I don't know what I'll do.</p>	<ul style="list-style-type: none"> • <i>That would certainly be a difficult thing to deal with. Unfortunately I can't help you with it. Why don't we focus on what I can help you with, which is</i> • <i>You're right. It is hard to have to worry about these things. Let me explain what I think your options are</i> • <i>I understand that you really want our organisation to solve this problem for you. As I've already explained to you, we can't.</i> • <i>I understand that this issue is really important to you and that you've spent a significant amount of time trying to Unfortunately, this doesn't change the fact that</i> • <i>I can only imagine how distressing this process has been for you and I'm sorry that the outcome of your issue/matter couldn't be more positive</i> • <i>I'm aware that this problem has cost you a lot of money/caused a lot of stress for you and your family and in your position I would feel upset too. From an organisational standpoint though we aren't able to do anything to help you.</i> • <i>I agree that pursuing an issue of concern for ... years without a satisfactory outcome would be devastating. However, I need to be upfront in letting you know that I don't believe that our office/organisation will be able to achieve the outcome that you're looking for either.</i> • <i>I recognise that you've had a difficult time and I don't want to add to this by giving you false hope that we can help you to</i> • <i>I can't imagine how hard it would be for you to deal with that. It certainly wouldn't be easy. But for me to be able to deal with your matter as quickly and effectively as possible, I need you to focus on telling me about</i> • <i>Unfortunately, I can't respond to that. It is clearly a difficult situation to have to deal with. I can help you with ... if we can focus on that</i> • <i>No I'm sorry, I'm not qualified to help you with that. All I can do is</i> • <i>I apologise, but I'm not the person to speak to about you're feelings on this – though I'm sure they are valid. I can help you with your matter if you want to focus on that for a moment.</i>
<p>Well, I didn't really expect you to do anything anyway</p> <p>or</p> <p>I knew you wouldn't want to help me</p> <p>or</p> <p>I'm a taxpayer you know.</p>	<ul style="list-style-type: none"> • <i>I'm sorry you feel that way. If you'd like, I can take a few minutes to discuss our role.</i> • <i>I'm sorry you're disappointed with the outcome of my assessment. I've explained the reasons for my decision in my letter. You may care to read through it again.</i> • <i>It appears in this case you're right [explain reasons for not doing anything].</i> • <i>I've considered the issue(s) you raised and made inquiries. I know my actions haven't resulted in the outcome you were hoping for.</i> • <i>We've fully assessed the issues you raised and we have not found evidence to show ... acted wrongly/unlawfully/corruptly.</i> • <i>When did you start thinking that we wouldn't do anything about your issue. I imagine it wouldn't have been when you brought it to our attention.</i>

I Part two

Statement or conduct	Possible responses
	<ul style="list-style-type: none"> • <i>I'm not sure what else you were expecting in this situation. When we spoke ... I explained to you that</i> • <i>It's unfortunate that you feel this way, because a lot of time was spent making inquiries into/investigating and responding to the questions/ issues you raised.</i> • <i>We've satisfied ourselves that this outcome it is the most appropriate one in the circumstances.</i> • <i>I'm sure you can appreciate that I'm a taxpayer too and pay my taxes just like you do. So how about we focus on what I can help you with</i>
<p>You're racist/sexist. You wouldn't treat me like this if I was/ wasn't ...</p> <p>or</p> <p>I'm not stupid you know</p> <p>or</p> <p>Your organisation isn't interested in helping the little guys/people like me.</p>	<ul style="list-style-type: none"> • <i>Your race/gender/social status doesn't affect how I treat you/why I did that. We deal with lots of people who are</i> • <i>Your race/gender/social status doesn't affect what I think or do. We deal with people from all walks of life.</i> • <i>Your race/gender/social status has played no part in the decision I've made.</i> • <i>I haven't said anything about your race/gender/social status because it simply isn't relevant to ... and it's unclear to me why you would raise such issues.</i> • <i>When did you start thinking that you were being treated differently based on your race/gender/social status?</i> • <i>When did you start thinking that we'd allow your race/gender/social status to influence our behaviour?</i> • <i>I'm sorry you got that impression.</i> • <i>My own son/daughter would have received the same outcome from this organisation/agency if they had brought your issue to us.</i>
<p>Asking personal questions that cross your personal boundaries – for example questions about your marital status, where you live, your kids etc.</p>	<ul style="list-style-type: none"> • <i>I don't consider this to be relevant to the issue of What I do need information on is</i> • <i>I don't need information about that right now. If I do, I'll let you know. What I need you to tell me about however is</i> • <i>My organisation doesn't allow me to discuss my personal life with people whose concerns I am responsible for dealing with. So why don't we get back to....</i> • <i>[Mr/Ms/name] I have a limited amount of time to talk to you/meet with you and there is specific information that I need from you before our time runs out. So tell me about ... [regain control of the conversation].</i> • <i>The information that you're giving me is making me uncomfortable and I don't believe that it relates in any way to the questions I'm asking you. I need you to focus on these issues/questions [restate them].</i> • <i>I'll have to end this call if we can't keep to the issues.</i> • <i>I find this information inappropriate and I've asked that you stop telling me about it, because it doesn't relate to the immediate issue that I'm dealing with. If you continue to talk to me like this, I'll end this call.</i> • <i>I provided you with the information you require and, if you have no new questions, I'll have to end the call here to deal with other people who are waiting.</i>

Statement or conduct	Possible responses
	<ul style="list-style-type: none"> • <i>I'll have to hang up now, because we are not getting the things we need to get done. I'll call you back in [number of minutes/hours/days/next week]</i> • <i>I'll have to end the call here, but I'll put my questions in writing for you and send them through Australia Post. You can read them, answer them, and send them back to me either by email or in the mail.</i> • <i>I've told you that I would hang up if you continued this behaviour. Goodbye.</i>
Wanting to talk about their complaint outside of office hours.	<ul style="list-style-type: none"> • <i>I'm not able to comment on your file right now. You can call the office during normal business hours and I can discuss your matter with you then.</i> • <i>I can't comment on your file without having it in front of me.</i>
Why wasn't I told about this before [when they were told]?	<ul style="list-style-type: none"> • <i>If you recall, we talked about this on [date] and I told you then that This has not changed and I do not see any reason to discuss it again now. If you have other concerns I suggest you put them in writing.</i> • <i>I sent you a letter/email on [day/date] that explains our position on this in detail. I don't have time to discuss it again right now, but I suggest that you take time to read that letter/email again. If you still have specific questions that you want answered, I'll set aside [minutes] for you on [day/date] to discuss them. Do you need me to send you another copy of that email/letter?</i> • <i>A lot of time was spent making inquiries into/investigating and responding to the issues that you're raising with me now. I'd appreciate it if you could take the time to go over the letter/email I sent to you again. If you still have specific questions after reading it, you may call me back.</i> • <i>I don't think this conversation is productive for either of us because we keep on coming back to the same issue</i> • <i>It seems you want me to say something that I can't. I've tried to explain several times how we reached the conclusion we have. Because I don't think this conversation is productive for either of us, I'll have to end our discussion here. You can put your concerns in writing if you wish and we'll decide whether or not further action is needed by our office.</i>
<p>I have a right to see/access those documents</p> <p>or</p> <p>This is urgent and can't wait until tomorrow. Give me [person's] direct/home line.</p>	<ul style="list-style-type: none"> • <i>I don't have authority to give this information to you. You can put your request in writing and the appropriate senior officer/manager will decide whether it will be given to you.</i> • <i>I can't give you this information, because</i> • <i>We rarely disclose this type of information, except in extremely rare cases where ... and where there are clear and substantial reasons for doing so.</i> • <i>We consider requests for information on a case-by-case basis, so you'll need to put your request in writing and clearly explain why this information should be disclosed to you. We'll provide you with a response shortly after that.</i> • <i>Our usual practice is not to disclose the information you've asked for because</i>

Statement or conduct	Possible responses
	<ul style="list-style-type: none"> • <i>There is an expectation by the people/organisations that interact with our office/organisation that this information won't be disclosed, except in exceptional circumstances. Your case isn't one of these exceptions.</i> • <i>You always have the option of making an application for disclosure under the [relevant access to information legislation]. You can find information about making an application on the [relevant organisation's] website.</i> • <i>I understand that you think this is an urgent matter, but I can't call ... at home and I can't provide you with the person's home phone number/personal contact details. What I can do is arrange for you to talk to someone else who is available right now and who might be able to respond to some of your concerns.</i>
<p><i>That's not what I'm complaining about. You've got it all wrong.</i></p>	<ul style="list-style-type: none"> • <i>We agreed that the central issues you were raising were ... and these will be the focus of our response to you/our investigation.</i> • <i>We prefer that you wait for us to complete our investigations/inquiries before raising additional issues, as things often can and do change as our investigations/inquiries progress.</i> • <i>I understand that you've several concerns that you want to raise about However, we've decided to limit our inquiries/investigation to the following issues</i> • <i>Our organisation can look at whether In our letter to you we addressed those issues. We won't be looking at ... because</i> • <i>By changing your issues of concern, this affects our ability to resolve them. Please give us time to complete our inquiries/investigation/etc.</i> • <i>I can't deal with your matter properly while you're changing the issues you want us to deal with/adding new issues of concern. You'll have to decide whether you want to withdraw your complaint while you figure out what you want us to look at or let us move forward with what we have and the issues we have identified to date. What's happening now simply isn't working.</i> • <i>Given the many complaints we receive, we try our best to distribute our resources as fairly as possible across all of them. To do this we focus our attention and resources on the central issues/more substantial issues raised in these complaints. In your case, we agreed that the central issues were We'll not be looking at anything else, unless there are clear reasons for doing so.</i>
<p><i>That [outcome] isn't good enough. It's not what I wanted.</i></p>	<ul style="list-style-type: none"> • <i>It's clear that you aren't satisfied with the outcome that we've achieved for you. Having considered the matter carefully, we are satisfied with it and have decided not to take any further action.</i> • <i>The outcome you're asking for isn't very different from the one we've already achieved for you. We won't spend more time and resources pursuing this issue.</i> • <i>To make sure that we distribute our resources fairly and evenly across all people seeking our services/raising concerns with us, we must think about whether there is a practical purpose in pursuing a different outcome in your case. Our view is that the outcome you're now seeking is not very different from what we've already achieved, and it therefore would not be practical or fair for us to spend any more time and resources on it.</i>

Statement or conduct	Possible responses
	<ul style="list-style-type: none"> • <i>If you recall, on ... [date] we discussed the types of outcomes we would be aiming for. We decided that we would try to. ... This is what we've achieved and I don't see any practical purpose in pursuing</i> • <i>You're welcome to write to us and explain why you think this outcome is the wrong one/inappropriate/unsatisfactory. If we agree with you, we'll notify you accordingly. Otherwise we'll read and file your correspondence without acknowledgement.</i>
They/you owe me a refund	<ul style="list-style-type: none"> • <i>It seems to me that you're hoping we can do... I have to tell you right now that this will not be possible/is unlikely because</i> • <i>What you're asking for isn't possible/realistic/appropriate in the circumstances. Perhaps we can think about other possible options/outcomes like [give example] which are more likely to happen.</i> • <i>I accept that you want to see ... happen. I have taken the view that this isn't an appropriate solution/isn't likely to happen because I therefore, suggest that we start thinking about other more appropriate/likely outcomes such as</i> • <i>I understand ... is what you'd like to see happen in this case, but we don't consider this to be an appropriate outcome because We think ... is more appropriate and more likely.</i> • <i>Sometimes people have a different view on the same issue. You and I clearly have a different view on ... As I've explained, we think that the more appropriate/more likely outcome in this situation is</i> • <i>I understand that you're quite angry about what has happened, but we can't make a decision based on your emotions alone. We can only act on the facts, which must also be supported by evidence. So the sooner we can focus on the facts and the evidence, the sooner we can resolve this issue.</i> • <i>I don't want to give you false hope by telling you that ... might happen when it's quite clear that it won't. I suggest that we think about ... as possible solutions so that you're not disappointed later on.</i> • <i>Our system for dealing with concerns raised by dissatisfied members of the public/customers/service recipients isn't designed to provide vindication/retribution/vengeance. The kinds of outcomes that we can normally achieve are In your case it is possible that ... might happen.</i> • <i>It's unlikely that you will get the compensation you're looking for.</i>
He/she/you should be fired.	<ul style="list-style-type: none"> • <i>I accept that you believe ... should be sacked over this. We, however, view things differently.</i> • <i>You are entitled to your opinion.</i> • <i>No-one will be fired over this issue.</i>

2.7. Strategies for managing an unreasonable lack of cooperation

Managing an unreasonable lack of cooperation is about 'setting conditions'. This involves requiring something of the person seeking assistance as a precondition to taking any action on their issue of concern or performing a particular service/action. For example, a person may be required to organise and summarise unreasonably disorganised and lengthy documentation as a condition to it being accepted and read.

2.7.1. Sends a constant stream of lengthy or disorganised information without clearly defining any issues of concern or explaining how they relate to their concern – where the person has previously demonstrated or should have the ability to do this

Ask the person to organise and summarise the information they have provided as a condition of accepting/addressing their matter.

Ask them to stop sending information, and advise them that if you/your organisation need further information they will be notified immediately.

Do not accept cc'd communications/emails or copies of press articles as requests for you to take any particular action, unless the person expressly indicates such an intention and clearly identifies specific issues of concern that can be appropriately dealt with by your organisation.

Advise the person that every time they send you information you have to take time to read it – taking you away from doing other important work in relation to their matter.

2.7.2. Provides little or no detail about their issue of concern or presents information in 'drips and drabs' – includes anonymous complainants who cannot be contacted or refuse to provide any identifying information when this is required to obtain more detail

Inform the person verbally and/or in writing that you/your organisation can not take their matter forward until all relevant information has been presented.

Describe the types of information that they should provide – for example, copies of official documents, photographs, video footage or other materials that clearly show that the events or actions of concern occurred.

Identify a time frame for the person to provide the requested information, informing them that after this time no further action will be taken on the matter or no additional information will be accepted in relation to the complaint before a decision is made – if it appears the information was intentionally withheld by the complainant.

2.7.3. Provides irrelevant information, including documentation with sexually explicit content

Return correspondence that contains clearly inappropriate content and require the person to remove the inappropriate material before the correspondence will be considered – after making a copy of it for your records.

Inform the person that only certain issues they have raised, for example the central issues, will be dealt with/responded to, and restate what those issues are – so they are clear and preferably there is agreement.

2.7.4. Refuses to follow instructions or accept suggestions and advice

Provide your advice/instructions and stick to them. Do, however, acknowledge any reasons why the person may be resistant to the instruction or advice – for example, they have previously relied on such advice to their detriment.

Explain your responsibilities and theirs and your goals/intentions in pursuing their issue.

See – 3.1. Effectively managing complainants and their expectations from the outset.

Make sure to summarise instructions to ensure they are understood.

Follow up any verbal instructions or advice in writing and clearly indicate a time frame for compliance/action, if relevant.

End unproductive phone calls and interviews if the person is not receptive to instructions, advice or suggestions.

Record meeting topics and outcomes and write to the person outlining the outcomes of the meeting.

2.7.5. Argues frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments

Clearly state that a particular outcome is not possible. If you think your message is not being received in the way you intended, consider whether a direct approach is the most appropriate style of communication with the person.

See – 3.3. Cultural communication styles.

Assert your position clearly and firmly and stick to it – but do acknowledge their viewpoint.

Avoid arguments or trying to reason with people who are unwilling to consider other logical and reasonable points of view. No amount of reasoning is likely to convince such people to calm down or to accept your point of view or decision.

Advise them of their one review option and, if they have already exercised that option, firmly advise them that the issue will not be reconsidered unless exceptional circumstances exist.

End unproductive phone calls and interviews if the person is not receptive to your explanation or point of view.

2.7.6. Displays unhelpful behaviour – withholds information, is dishonest, acts illegally, is unethical, misleading or otherwise misquotes others

Terminate your/your organisation's involvement with the person if you discover that they have purposely and significantly misled you have been untruthful about their matter.

Specifically identify the problematic behaviour and ask that they stop it if they wish to have their matter pursued further.

Restate the ground rules or 'rules of engagement' and emphasise that if they do not comply with them their matter will not be dealt with further.

See – 3.1. Effectively managing complainants and their expectations from the outset.

Record meeting topics and outcomes and write to the person outlining the outcomes of the meeting.

Refer the behaviour to the relevant authority if necessary – for example, unlawful conduct such as fraud.

2.8. Scripted responses to an unreasonable lack of cooperation

Statement or conduct	Possible responses
<p>See attached/the attached speaks for itself.</p>	<ul style="list-style-type: none"> • <i>So to deal with your matter properly, we need you to summarise the information that you've sent and explain how it relates to your central issues of concern. As it stands, we're having difficulty understanding how they are related.</i> • <i>I've had a chance to look at the information you sent and I'm finding it difficult to see how it relates to the issues you raise. Can you please summarise this information and clearly explain how it relates to your central issues? I would need you to do this in the next [number of days/weeks] if you want us to proceed with your matter.</i> • <i>For the moment, I don't need this level of detail ... [explain].</i> • <i>As you can imagine we receive a lot of complaints at this organisation, so to make sure we deal with all of them fairly we ask people raising concerns to clearly identify their key issues and explain how their supporting documentation relates to these issues</i> • <i>You've sent [number of emails/documents] to our office/organisation about your issue of concern. We don't need this much information right now. If we need it, I'll let you know. Until then, please stop sending this information as it is taking me away from doing other important tasks in relation to your matter.</i> • <i>I previously asked you not to send any more information/emails because it is affecting my ability to deal with your matter effectively. Again, I don't need this level of detail from you at the moment. I'd appreciate it if you would comply with this request.</i>
<p>I've told you everything/given you all the documents that you asked for [when they clearly haven't].</p>	<ul style="list-style-type: none"> • <i>I know you probably feel like you've talked about this enough, but could I ask you a few more questions that will help us to deal with it as quickly as possible? [Proceed by asking open-ended questions.]</i> • <i>I understand that you're unhappy with the system, but I still need you to provide this information.</i> • <i>[Restate what they've said] sounds really important. Can we go over it in a little more detail?</i> • <i>We need you to send all the information you have that relates to your matter within [number of days/weeks]. Otherwise, we may have to close your file until we receive it from you.</i> • <i>It's essential that you send us documentation/information that relates to your matter. Otherwise, we won't be able to deal with it appropriately.</i> • <i>It's a very inefficient use of our time and resources to change the course of our inquiries/investigation/undertake further inquiries/another investigation because you did not provide us with this information earlier/when you were asked.</i> • <i>We've asked you a number of times to send ... and you haven't. If we don't receive it by ... we won't accept it later on if you decide to send it to us. I suggest that you get it to us right away.</i> • <i>By not sending the information that we've asked for we haven't been able to We need you to send this to us right away if you want</i>

Statement or conduct	Possible responses
	<p>Otherwise, we may have to close your matter/decide on the outcome of your matter without it.</p> <ul style="list-style-type: none"> • We can't resolve your issue of concern without ... I'm sure you wouldn't like to see us close your file because of this. • You've come to us because you want us to For us to do this we need you to cooperate fully, by providing us with any information that is likely to influence how we deal with your matter and any solutions that we might suggest
<p>It's vital to my issue/ complaint. You must look at it.</p>	<ul style="list-style-type: none"> • I don't consider this to be relevant to whether ... I do, however, need you to tell me about • I don't need to know about ... to be able to determine whether ... has occurred. • It appears to me the central issues you have raised with us are I don't believe you need to tell me about ... for me to deal with those issues. • I apologise, but I'm not the person to speak to about I can help you with To ensure that we don't waste time, why don't you tell me about that? • I don't want to take up time by talking about Perhaps we can get back to discussing ... • I find this information to be inappropriate and irrelevant to I'll have to end our call if you continue to raise it with me. • I'll have to end this call if we can't keep to the issues of • I understand that you want to share all the details of what has happened with me. However, I don't need that level of detail because I can't help you with How about you tell me about ...? • If I need to know about it I'll let you know, but for the moment let's focus on • Can I ask why you're bringing this to my attention? [let them respond] As I've tried to explain to you, my role is to [explain]. Unfortunately, the information that you're sharing is not anything we can use at this organisation/our organisation can do anything about. • You've already been informed that our office/organisation doesn't consider it appropriate for you to talk to us/me about [explain]. I have nothing else to add to this issue. • I'll have to hang up now, because we aren't getting done the things we need to get done. I'll call you back in [number of hours/days] when I'll have more time to discuss them further/we can have a more focused discussion. • I'll send you an email/letter with my questions later this afternoon and you can respond in writing and send them back to me • I told you that I would hang up if you continued to discuss Goodbye.
<p>Who the hell makes these?</p>	<ul style="list-style-type: none"> • I know you disagree with the policy. If you want to have your say about this, the best thing to do is contact [organisation/person]. They are involved in setting the policies. [If the information is available to you] Would you like me to give you their name and number? <p style="text-align: right;"><i>continued...</i></p>

Statement or conduct	Possible responses
	<ul style="list-style-type: none"> • <i>Alternative responses to ‘that’s our policy’ or ‘it’s a matter of policy’ are:</i> <ul style="list-style-type: none"> • <i>Let me explain how we usually do things/why we do things this way</i> • <i>We ask/expect that</i> • <i>Our usual practice is</i>
<i>I can’t/won’t do that.</i>	<ul style="list-style-type: none"> • <i>I feel I’ve explained your options to you as best as I can. You might want to choose a different path and that is absolutely your decision.</i> • <i>It’s my role to explain your options to you, but any decision on what you do is clearly yours.</i> • <i>Perhaps you’d like to think about what I’ve just explained to you. We can discuss it again next week if you need me to clarify anything further.</i> • <i>So, let me recap. I’m going to do ... and you’re going to do Is that how you understand it?</i> • <i>I understand that you’re unhappy with the system, but I still need you to do</i> • <i>This is really the only advice I can give you. You’ll have to decide from here what you want to do next.</i>
<i>You’re wrong/ I disagree.</i>	<ul style="list-style-type: none"> • <i>I acknowledge that you view things differently. However, on the information I have, I’ve formed the view that</i> • <i>I acknowledge that your view is ..., but we see it differently.</i> • <i>I feel that I’ve given you as much information as I can about this. It seems you want me to say something that I can’t. Because I have other serious matters to tend to, I’ll have to end the phone call here. You can write to our organisation if you have new and substantial issues that you want to raise.</i> • <i>I don’t think this conversation is productive for either of us now and I’ll have to end it here. If you have any further concerns, you can put them in writing and we’ll assess them and decide whether or not they warrant any action by our organisation.</i> • <i>I’ve given you all the information you need, and if you have no new questions I’ll end the call to deal with other people who are waiting.</i> • <i>I understand that you’re dissatisfied with what I’ve told you. I’ve tried to explain to you how I/we came to this conclusion and can’t spend any more time explaining it to you. If you wish, you can put your concerns in writing.</i> • <i>I’ve explained how and why I’ve made the decision that I have. Unfortunately, there is nothing else I can add to this. Unless you have some other issues that you would like to raise with me, I’ll have to end this conversation/interview here.</i> • <i>Sometimes people have a different view on the same thing. You and I clearly have different views ... and as I’ve explained our organisation won’t be taking any further action on your matter.</i>

2.9. Strategies for managing unreasonable arguments

The principle underlying the strategies and script ideas for managing unreasonable arguments is about 'declining or discontinuing' involvement with a matter. This involves politely refusing to do something or stopping doing something for a person who has raised a concern or is asking for an action to be taken or a decision made. As soon as it becomes apparent that a concern is groundless or a request is unreasonable, you should decline or discontinue service. If unreasonable arguments are mixed with reasonable arguments, the strategy should be to refuse to deal with the unreasonable portion.

Unreasonable arguments are sometimes associated with mental illness. Dealing with people with a mental illness requires extra sensitivity, although their conduct can generally be dealt with in the same way as anyone else.

When dealing with people with mental illness, it is important not to immediately dismiss an issue as being delusional. A delusion (or psychosis) does not preclude a legitimate issue of concern. Staff who receive expressions of concern that they suspect to be delusional should take time to ask specific questions about any evidence they have to support their concern/claim. At the same time, extra care should be taken not to fuel or encourage people who are clearly delusional or have concerns that have no legitimate basis, as this is likely to give the person false hope about what you can do for them.

See – 3.4. Guidance on disability and mental illness.

For information on mental health services in your area, please contact or refer the person to the following:

- Beyond Blue: 1300 22 4636 (www.beyondblue.org.au)
- Lifeline: 13 11 14 (www.lifeline.org.au)
- WayAhead (Mental Health Association NSW): 1300 794 991 (www.wayahead.org.au)

In emergency situations, contact your local mental health team or community health centre.

2.9.1. Insists on the importance of an issue that is clearly unimportant or trivial

Do not take up/continue with issues that there is no practical purpose in pursuing.

Explain that issues are not taken up unless they are supported by evidence and are sufficiently serious. For example, the issue of concern should:

- raise a substantial new issue
- be supported by clear evidence that suggests that the event/issue happened.

Explain that clear evidence could include:

- copies of official documents
- photographs
- video footage
- other material that shows or tends to show that what they are complaining about occurred.

Tell them firmly and confidently that it is the organisation and not them who must decide on the importance of an issue – that is the resources it will dedicate to it, etc.

In giving a person such a message, it is never a good idea to use words such as 'unimportant', 'trivial', 'frivolous', 'vexatious' or 'not in good faith' as the person will be insulted/feel disrespected, which will only inflame the situation.

Advise that any further correspondence about the particular issue is likely to be read and filed without acknowledgement, unless it meets the threshold above.

Note: You should be careful not to disregard new issues that are substantially different from the original issue and that do warrant further action.

2.9.2. Invents allegations from the smallest piece of unsupported information or sees cause and effect links where there are clearly none

Avoid being drawn into hypothesising, catastrophising, conspiracy theories, unproductive arguments and personal attacks.

Acknowledge the person's point of view, but advise that you have reached a different but equally valid viewpoint and are sticking to it.

Make firm and final statements so that there is no more room for continued arguments or 'ammunition' for the person to raise more issues and prolong the discussion unnecessarily.

Make sure your responses are brief, yet polite.

Ask that they provide clear evidence to support any claims or allegations – otherwise they will not be considered.

Describe the type of evidence that your organisation will accept and consider – try to identify things that relate to their particular issue.

Be upfront and honest from the outset and do not say or do anything that will give them false hope about whether their issue will be taken up or their likelihood for success.

After you close the matter, do not respond to further communications about that issue – unless it raises a substantial new issue or evidence or provides new information that warrants further action.

2.9.3. Raises bizarre or incomprehensible issues

Speak to the person in the same tone as you would to anyone else and treat them with respect.

Listen carefully to what they are saying and avoid arguments.

Ask questions and check for evidence. Sometimes a person may be delusional, but may still have a legitimate issue of concern. The ability to provide evidence or point to factual information will be the key. You might say:

- *To take this further, we would need clear evidence like photos, documents or medical certificates*
- *Sometimes people think something wrong has happened, but there isn't any evidence. I can only suggest that if you do get some evidence you send it to me.*
- *You're explaining your concerns well, but without any clear evidence I can't follow this matter up.*

Reflect back to them what they are saying without agreeing:

- *So you say aliens are following you.*

Acknowledge emotions, both theirs and yours.

- *I'm feeling frustrated listening to you, so I can only imagine how frustrated you must be feeling about this.*

Empathise with both their lows and highs.

- *I can see you're feeling really bad about this/you're feeling really happy about this.*

If it appears that your organisation can assist them, explain what can and cannot be done to help them – without fuelling their arguments.

If it appears unlikely that your organisation can take up the issue, see whether the person may be able to come up with a solution of their own.

- *Is there any other way you may be able to achieve this/make sure this doesn't happen again ...?*

2.9.4. Interprets facts or law in ways that are clearly irrational or unreasonable and insists their interpretation is the correct one

Acknowledge their point of view, but clearly state your own and stick to it.

If reasoning with the person does not work, refer them to another forum where they can raise their issues – such as the courts if it is a matter of legal interpretation or a Minister or MP if it is a policy or political issue, if appropriate.

2.9.5. Makes false or unsubstantiated accusations of biased, unethical, illegal, inconsistent, or partial decision-making when things do not go their way

Advise them that you/your organisation can only consider clear and verifiable evidence when making decisions on a claim or issue.

Tell them clearly, firmly and transparently that complaints about you/your colleagues will not lead to a change in the decision that has been made or the outcome reached in their matter, unless there are clear and substantial grounds for it.

Keep records of all contacts and communications with the person for future reference, including conversations where they argue bias.

Some people may demonstrate an inability to accept personal responsibility – and instead blame others (such as the case officer/organisation) for things that they clearly bear no responsibility for. Never accept responsibility for things that you/your organisation are not responsible for.

Do not get caught up in conversations about what other people/organisations have done, unless this is the subject of a matter that is within your/your organisation's jurisdiction.

Avoid asking questions that are focused on the past – keep it in the present and talk about the task at hand and things that need to be accomplished in the future.

2.10. Scripted responses to unreasonable arguments

Statement or conduct	Possible responses
<p><i>This is a very serious issue. So you think my issue/complaint isn't important enough?</i></p>	<ul style="list-style-type: none"> • <i>It may well seem that way ... followed by an appropriate explanation.</i> • <i>It's not about your issue being unimportant. It's a question of whether our office/organisation can achieve a substantial outcome in this situation/whether your matter is one that our office/organisation can help you with. From our perspective, we can't/it isn't.</i> • <i>Unfortunately, we don't share your view that this issue needs to be investigated/taken further by our office/organisation.</i> • <i>All issues of concern/complaints are carefully assessed according to our policies and procedures. Sometimes we receive complaints we can't/don't have the powers to take up.</i> • <i>It's clear that this issue is important to you. However, we do have certain requirements that must be addressed before an issue/complaint can be taken on by our office/organisation. These include that the issues raised are Unfortunately, your matter doesn't meet this threshold.</i> • <i>We've considered the information relating to your issue and we don't believe that there is a practical purpose in pursuing it further.</i> • <i>As we've explained, we don't think that there are clear reasons for us to take action on this issue. Perhaps you should consider raising it in another more appropriate forum.</i> • <i>When did you start thinking that we weren't/I wasn't taking you seriously?</i> • <i>When did you start thinking that we aren't concerned about your situation?</i>
<p><i>Why are you discouraging me from pursuing my issue/complaint?</i></p>	<ul style="list-style-type: none"> • <i>My intention isn't to discourage you. I'm trying to be as realistic as possible with you now so that you are not disappointed later on</i> • <i>It's unfortunate that you feel that way. I simply don't want to see you spending even more time pursuing this when there may not be any organisation that can help you with this issue.</i> • <i>It would be very easy for me to pass you on to another organisation/person and let you think that they can help you, even though they probably can't. But I don't want to give you false hope.</i> • <i>The reality of the situation is that our office/organisation is unable to help you with your issue/complaint because ... I'm not discouraging you from taking your issue/complaint elsewhere if you think another organisation can help you.</i>
<p><i>They're corrupt.</i></p>	<ul style="list-style-type: none"> • <i>People often feel that a certain person/organisation has caused a problem for them. We need clear evidence to support what you're saying before we can follow it up. Examples of clear evidence would include</i> • <i>I'd really like to help you, because it's clear that your issue/complaint is important to you. But for me to be able to do this I need you to provide us with solid evidence that supports what you're saying – for example Until we get this type of evidence we won't be able to move ahead with your issue/complaint.</i>

Statement or conduct	Possible responses
	<ul style="list-style-type: none"> • <i>I accept that your opinion is that ... We have a different view. We can't do what you're asking because</i> • <i>I can see that you think this is the worst thing that could happen. Perhaps we could have a closer look at how it is</i> • <i>Sometimes people have a different view on the same situation/issue. You and I clearly have a different view on</i> • <i>I accept that ... is your view. I've taken a different view. My view is For these reasons I won't be taking any further action on your issue/complaint/or will take the following action</i> • <i>I understand that ... is your view. However, on assessing the information that has been submitted to this organisation, our view is that</i> • <i>Your view is Is there any possibility that there could be another/different view?</i>
<p>The police are listening to my thoughts/recording me/following me.</p>	<ul style="list-style-type: none"> • <i>Is it possible there might be an innocent explanation for ...?</i> • <i>You must be worried about being followed/recorded by the police. I can't help you with that, but if you can tell me about ... then I can help you with that.</i> • <i>I can't do anything about an event that hasn't yet happened.</i> • <i>Some of the things you're asking about are hypothetical. I can only respond in detail to an actual event.</i> • <i>If ... happens in the future, you can ring me then.</i> • <i>I know you will understand that we can't act on an allegation without evidence.</i> • <i>I appreciate that you've put a lot of thought into this issue and you have a lot to say about it. However, discussing [irrelevant issue] won't help us to focus on those things that our organisation can deal with which are</i> • <i>I'd really like to help you, but what's lacking in your allegation is the evidence to support what you're saying. Without it I won't be able to follow up your claim.</i> • <i>Ask a series of questions – What would make the situation better? What are you hoping to achieve by contacting us? What did you hope we could do for you? [and then manage expectations].</i>
<p>The legislation says that your office must ... /I'm entitled to</p>	<ul style="list-style-type: none"> • <i>I appreciate that you have a certain opinion about how the legislation/document is to be interpreted, but our office/organisation takes the position that it should be applied like this.</i> • <i>It's clear that we have different views about how this policy/legislation should be interpreted and applied. We've given you clear reasons to explain our position and there is nothing else that we can add to it.</i> • <i>Sometimes people have a different view on the same situation/issue. You and I clearly have a different view on</i> • <i>I accept that ... is your view. I've taken a different view. My view is For these reasons I won't be taking any further action on your matter/will take the following action</i> <p style="text-align: right;"><i>continued...</i></p>

Statement or conduct	Possible responses
	<ul style="list-style-type: none"> • <i>I understand that ... is your view. However, on assessing the information that has been submitted to this office, our view is that</i> • <i>Your view is Is there any possibility that there could be another/ different view?</i>
<p>You/your organisation/they are biased/corrupt</p>	<ul style="list-style-type: none"> • <i>Do you have evidence to support this allegation?</i> • <i>[Organisation/person] has made a professional judgement and we have seen documentation explaining the reasons for their decision.</i> • <i>I understand you're annoyed/sceptical/angry about The evidence we've gathered suggests the conduct is not unreasonable/may be unreasonable warranting action on our part.</i> • <i>I need to give [organisation/person] a chance to explain their side of the story. If I'm not satisfied, I'll take it further.</i> • <i>Simply because you disagree with my/our/their decision doesn't necessarily mean that we've been biased towards you. Do you have evidence to support your allegation?</i> • <i>I understand that you think that there has been bias in this situation. I've made my own assessment of these claims and, after looking at your concerns and checking the information that has been provided to me, I don't consider that there has been bias.</i> • <i>You may believe this to be the case, but we are satisfied that</i> • <i>I appreciate that this is your view. The evidence in this case suggests</i> • <i>We rely on good documentary evidence to make our decisions. Any biases, misconduct, shortcomings or other discrepancies usually become apparent during our inquiries and reviews of documents. So far, we haven't found any evidence to support that ... has occurred in this situation.</i> • <i>Often there can be many good reasons why a person/organisation doesn't disclose the type of information that you've requested – other than bias like you suggest. There may be confidentiality or privacy issues that they are required by legislation to observe.</i>
<p>You're taking their word for it or You're colluding with them.</p>	<ul style="list-style-type: none"> • <i>No, that's not correct. I have sought documentation reports/files notes/correspondence to assess the decision-making process and reasons for the organisation's/staff member's conclusions.</i> • <i>It seems you think that, because I haven't agreed with your allegation/claim, I'm simply accepting their word. In fact, my job is to hear and consider both sides of a story and then to decide whether there is sufficient evidence that something has gone wrong.</i> • <i>[Where relevant] I'm independent of both parties and I'm not here to take sides.</i> • <i>My role is to consider allegations/complaints impartially and not to advocate for either side.</i> • <i>That's not the case. I have looked at the documentation and I can't see any evidence to contradict our position.</i> • <i>I've asked them to explain the situation and I'm satisfied with their explanation.</i> <p style="text-align: right;"><i>continued..</i></p>

Statement or conduct	Possible responses
	<ul style="list-style-type: none"> • You may think that. I have to make my own assessment of the matter. After looking at your concerns/checking out the relevant policies/ seeking information from the [organisation/person] I consider there is nothing for us to take up. • The fact that you disagree with their decision doesn't mean they have been unreasonable. • What do you base this claim on? • I understand you're disappointed with my decision/view and I must say I'm sorry you see it this way. My role is to be impartial. Based on the evidence available to me, I can't see that the [organisation/person] has acted wrongly.
<p>Why won't you do it for me? You did it for my friend/someone I know.</p>	<ul style="list-style-type: none"> • Each case is different. Perhaps we can get back to your situation. • I'm not sure how your friend's situation applies here. Let me explain how we came to our conclusions about your situation.
<p>I thought your organisation was interested in fairness.</p>	<ul style="list-style-type: none"> • You're right. We are very interested in what is fair and reasonable. • We have carefully looked at your matter and we have decided that there does not appear to have been any unfairness in your case.
<p>They're lying to you/ manipulating you/ pulling the wool over your eyes and you can't see through them.</p>	<ul style="list-style-type: none"> • You may believe this. However, I'm satisfied with their response. Unless you can give me evidence to prove that they've deliberately misled or misinformed me, my decision stands. • I'm very aware of the way responses are made to me. I can assure you that I get copies of reports and documents to substantiate what I'm being told. • I appreciate that is your view. However, the evidence in this case is • So far I have no reason to believe this. I certainly welcome any evidence you can give me that supports your assertion. • I have considered your evidence as well as the evidence provided to us by the organisation/their staff and I can't agree with your assertion, though I do acknowledge that this is your view.
<p>They think they can get away with anything</p> <p>or</p> <p>So the law doesn't apply to them/they're above the law?</p>	<ul style="list-style-type: none"> • They are required to abide by the law/policy/procedure that is relevant to them. They have had to explain their actions to us. I consider that they have reasonably explained their conduct/decision. • Well no, they're not. The issue here is about an issue you have brought to our organisation. Our role is to see whether there may be any evidence that something went wrong. Having looked into/at your matter, I have formed the opinion that there isn't any evidence to demonstrate that. • The organisation has to conduct their business and has legitimate authority to make their decisions. We haven't found evidence that they are acting unreasonably in doing this.

Statement or conduct	Possible responses
<p>It's all your/their fault. How could you let this happen?</p>	<ul style="list-style-type: none"> • <i>I can't take responsibility for what has happened in the past. However, I would like to help you with Can you tell me about ...?</i> • <i>I understand that your experience with ... was/has been difficult for you and that you're still quite upset. However, for me to be able to help you with your current complaint, we need to focus on</i> • <i>I'm sure that you can understand that I'm not to blame for So why don't we focus on what I can help you with now</i> • <i>I recognise that you believe ... is responsible for But perhaps there is another explanation</i> • <i>Is it possible that there might be some other reason why ... has occurred?</i> • <i>For me to do, you will need to do ... otherwise, we'll have to close your file.</i> • <i>I'm sorry you've had trouble, but I can help you with [explain].</i>
<p>Resistant to explanation</p>	<p><i>Some people are resistant to explanation and unwilling to consider views other than their own. To determine if a person will be receptive to your explanations/point of view, you may ask the following types of questions as they may give you an indication of whether it will be productive to continue your discussion with them:</i></p> <ul style="list-style-type: none"> • <i>Your view is Is there any possibility that there could be another/ different view?</i> • <i>You say ... is the case. Is this necessarily so?</i> • <i>You seem to be saying ... is the case. How is this true?</i> • <i>[To manifestly illogical conspiracy allegations] Is it possible there might be an innocent explanation for ...?</i>

2.11. Strategies for managing unreasonable behaviours

The principles underlying the strategies and script ideas for managing unreasonable behaviours are about 'setting limits' and 'setting conditions'. Setting conditions is about requiring a person to do something as a precondition to taking any action on their issue of concern or performing a particular service/action. Setting limits is about establishing clear boundaries and placing limits on interactions or services, if necessary. When setting limits, you should:

- identify the behaviour you consider to be unreasonable
- ask the person to change that behaviour
- state the consequences if the behaviour continues (identify the limits)
- offer the person a choice, if possible
- enforce the limits, if necessary.

For example:

I cannot continue with this interview if you are going to continue to bang the table. Please stop – otherwise I will end the interview. Would you like to continue or would you like to do this some other time? It's your choice.

Important caveat

The suggested strategies that follow must always be balanced against your organisation's security protocols and procedures. If any of the suggestions conflict with those protocols and procedures, the latter should always take priority, unless you are otherwise instructed by a supervisor or senior manager.

See – 2.16. Ten steps for responding to threats, hostility and aggression.

The NSW Ombudsman also has *Model Guidelines for Managing and Responding to Threats, Aggressive Behaviour and Violence* – available at www.ombo.nsw.gov.au.

2.11.1. Foul language and swearing that is part of their normal communication style or an expression of distress, but still makes you feel uncomfortable – low risk

Attempt to calm the person down and to stay calm yourself. You may find that asking the person to calm down may well be ineffective or counterproductive. A better approach may be to display empathy for their distress.

Tell the person that you are uncomfortable with their choice of words and politely ask that they change them.

If it continues, ask the person to stop again and warn that your organisation's policy is that you can end the call if the inappropriate language continues.

If it continues, end the call and make a note of the conversation.

You may also wish to invite the person to call back when they are prepared to use more appropriate language. Avoid saying – we need time out here so we can calm down – as this is likely to escalate the situation.

If you do tell the person to call back, make sure to give them clear instructions about who they can contact, when, how (method of communication) etc.

Consult with your supervisor/senior manager as to whether:

- to take further calls from the person and, if so, who should take them
- further calls should be automatically put through to voicemail (if this is possible)
- to inform reception about what they can do with any further calls.

Note: Whether or not this behaviour is unreasonable will depend on the circumstances of the case.

2.11.2. Acts up in the presence of others/at public functions to create a scene – low risk

Attempt to calm the person down and to stay calm yourself. You may find that asking the person to calm down may well be ineffective or counterproductive. A better approach may be to display empathy for their distress.

See – 3.3. Cultural communication styles.

As soon as possible, take the person to another room or remove others from the immediate area where the person is located.

Do not discuss any issues relating to their matter or any sensitive issues in front of others, no matter how much they try to taunt you.

If the person calms down, get them to agree to go to another room and get a colleague to assist you with the interview.

If a colleague is not available, leave the door open and sit closest to the exit so you can make a swift and easy escape if an incident arises. This ensures that staff in the immediate vicinity can be quickly alerted to what is happening.

If the person rejects your efforts to calm them down and the situation persists, tell them that security may be contacted if they cannot calm down. Give them time to cool off, but follow through as appropriate.

2.11.3. Makes confronting comments or low level threats in written communications – low risk

Make a copy of the communication, file it and then return it to the sender – advising that it will not be considered until the inappropriate content is removed.

Notify your relevant supervisor or senior manager immediately if any actual or suggested threats have been made in the communication so a decision can be made about the appropriate course of action.

If the person continues to send communications with inappropriate content – particularly by email – consider talking to your supervisor or senior manager about restricting the person's access to your direct email and, if necessary, only allowing contact to be made through your organisation's general email portal.

2.11.4. Goes online and vilifies, defames, harasses, intimidates or threatens – low risk

You should not respond to personalised or negative online comments. Make a copy and take it to your designated communications officer/manager who can decide on the appropriate course of action.

Warn the person that this type of conduct will not be tolerated and action may be taken to restrict their contact with the organisation.

If you think the comment may give rise to criminal or civil liability, you should immediately consult your relevant supervisors/senior manager so they can decide whether legal action will be taken to address the situation.

2.11.5. Audio or video recording interviews or telephone conversations without prior consent – low risk

If you suspect that the person is recording the conversation or interview, expressly ask if they are doing so. If your organisation's policy on this issue is that you can or are required to refuse consent to being recorded, clearly and firmly tell them that you do not consent to being recorded.

If the person says they are not recording but you still suspect they are, you may inform the person that:

- (where applicable) they are required by law to warn any and all other parties to the discussion/interview of the recording and obtain prior consent from each – otherwise they may be committing a criminal offence
- they may also be violating confidentiality and privacy laws and (where applicable) your organisation will take legal action against them if necessary.

Depending on your organisation's policy on the issue, you may also be authorised in these circumstances to terminate a call immediately. It may then be appropriate for you to discuss with your supervisor/senior manager changing how you communicate with the complainant in the future – for example, contact in writing only.

Note: You will need to seek appropriate direction on the laws in your jurisdiction and your organisation's policy on the issue to determine the most appropriate approach for dealing with such situations.

2.11.6. Refuses to leave the premises or move when asked – low risk

Politely ask the person to leave and then move towards the exit.

If the person follows you, walk them out to ensure that they have left the premises/building.

If the person does not leave, you should leave the room or area where they are located as soon as possible.

Immediately inform other relevant staff/supervisors that the person refuses to leave and make sure that no one approaches the area where the person is located unnecessarily.

Tell the person that you will give them 10 minutes to leave, after which time security or the police will be contacted and they will be escorted from the building.

Allow the time to pass and contact security as advised if they are still there.

If security is not available and you need to contact the police, at the end of the 10 minutes tell the person that the 10 minutes has passed and that the police are in the process of being contacted – this will give the person a final opportunity to leave before you follow through with that action.

Allow security/police to address the issue.

Make a detailed record of the incident, including:

- the timing and wording of all instructions/requests that you (and others) made to the person to leave the premises
- the reasons why the person was directed to leave
- the person's responses to each request/instruction.

See – 4.2. Recording and reporting incidents.

With a supervisor/senior manager, you may also consider whether the person's access to your organisation's premises should be restricted – for example, by notification under the *Inclosed Lands Protection Act 1901* (NSW) or equivalent trespass legislation in your jurisdiction.

See – 5.2. Using legal mechanisms to restrict access.

2.11.7. Makes aggressive, abusive, harassing or otherwise confronting phone calls – medium risk

Try to calm the person down and to stay calm yourself. You may find that asking the person to calm down may well be ineffective or counterproductive. A better approach may be to display empathy for their distress.

See – 3.3. Cultural communication styles.

If the person does not calm down, explain that you consider their language/aggressive behaviour to be unacceptable and ask them to stop.

If it continues, warn the person that your organisation's policy is that you must end the call. You may mute the phone and seek assistance, if necessary – but do not hang up.

If it continues, tell the person that the call is being terminated and follow through, unless the call should be traced – in this case you should mute your phone, but do not hang up.

Report the incident to reception/inquiries staff immediately in case the complainant rings back.

Consult with your supervisor/senior manager as to whether:

- to take further calls from the person and, if so, who should take them
- further calls should be automatically put through to voicemail, if possible
- to inform reception about what they can do with any further calls.

Make a file/case note of the discussion, fill out a security incident form and direct it to the appropriate supervisor/senior manager.

Seek support either through formal or informal debriefing.

See – 4.4. Managing stress.

Note: If the abusive person has been previously told only to contact the organisation in writing, you should immediately remind them of this and terminate the call.

2.11.8. Makes targeted threats towards the case officer, obvious or implied, during phone calls – medium risk

Make the threat overt by naming it. Repeat the person's statements as close to verbatim as possible so they either take ownership of their threats/comments or retract them.

Take comprehensive notes of everything that is being said.

Tell the person the consequences of making such a threat – for example, where appropriate, that your organisation's policy is that the police must be notified.

If the threats continue, ask the person to stop and clearly restate what the consequences will be if they do not – for example, where appropriate, that your organisation's policy requires you to terminate the call and contact the police or mental health crisis team.

Attempt to redirect the conversation onto the person's substantive issues of concern, being careful not to reward their behaviour.

If it continues, tell the person that the call is being terminated and follow through, unless the call should be traced – in this case you should mute your phone without hanging up.

Report the incident to the receptionist/inquiries staff in case the person rings back.

Immediately inform your supervisor/senior manager of the call and seek advice about any further action. For example, disclosing information about the call to police or mental health professionals – if this will lessen or prevent harm to the person, yourself or third parties.

Make a file/case note of the discussion, fill out a security incident form and direct it to the appropriate supervisor/senior manager.

Seek support either through formal or informal debriefing.

See – 4.4. Managing stress.

2.11.9. Attends the premises while under the influence of drugs, alcohol or other substances – medium risk

Drugs and alcohol can increase aggression and reduce impulse control. Aggression by people under the influence of drugs or alcohol can therefore be very unpredictable and they are more likely to be easily provoked or frustrated.

When dealing with people in such circumstances you should:

- Try to stay calm.
- Be assertive and firm.
- Use non-threatening words and tone – avoid using words like 'drunk' in their presence.
- Not argue – arguing is usually pointless when a person is intoxicated or under the influence of drugs, and could lead to physical violence.
- Ignore abusive words.
- Keep your distance and avoid physical contact with the person, if possible.
- Show concern for the person's safety and comfort – you might offer a cup of water or food.
- Repeat important statements clearly.

- Get help when you need it, including calling a colleague, security or police as appropriate.
- Look for a workable compromise, if possible – for example, if the person is insisting on meeting with you immediately suggest that you will meet with them in a day or two when you have more time to discuss their concerns.

If you make arrangements to meet with the person another time and you are apprehensive about the meeting, you should consider talking to your supervisor/senior manager about having another staff member or security or a police officer present.

Note: Depending on the circumstances, one or more of the other suggested approaches in this section may be applicable.

2.11.10. Displays aggressive, abusive, harassing or otherwise confronting behaviour face-to-face – high risk

You do not have to tolerate aggressive behaviour. If you feel threatened or distressed, end the interview immediately.

If you believe you are in imminent danger:

- Immediately press your portable duress alarm or the closest alarm.
- Leave the interview room or immediate area and go into a more secure area of the office.
- If leaving is not possible, you may need to defend yourself by using ‘reasonable force’ – that is, the amount of force necessary to stop an attack or prevent personal injury – nothing more.

Ask a more senior officer for support.

Make a file/case note of the discussion, including a description of any threatening behaviour, and fill out a security incident form and direct it to the appropriate supervisor/senior manager.

Seek support either through formal or informal debriefing.

See – 4.4. Managing stress.

In all other circumstances you should:

- Continually assess the possibility of the situation becoming violent – is the person’s conduct improving or getting worse?
- Ask a colleague or relevant supervisor for support.
- Keep a safe distance and preferably ask the person to sit down.
- Create space if there are any signs of physical aggression – get something like a desk between you and the person.
- Provide alternatives to the aggression by making it clear to the person that aggression will not achieve their goal and that the interview will be terminated if it continues.
- Maintain non-confrontational verbal and non-verbal communication, avoiding any ‘jargon’ and/or language that is going to confuse the person and increase their frustration.

Be careful not to get into a fight and do not attempt to physically restrain the person or physically intervene between other people who are behaving aggressively towards each other – do not try to be a hero.

If the person's behaviour continues, end the interview. It is better to withdraw earlier rather than later. You may offer to hold the interview another time or suggest an alternative form of communication.

Make a file/case note of the discussion, including a description of the inappropriate behaviour, and fill out a security incident form and direct it to the appropriate supervisor/senior manager.

Seek support either through formal or informal debriefing.

2.11.11. Makes threats of suicide or self-harm (obvious or implied) – high risk

Threats of self-harm or suicide can be very difficult things to deal with. If you do not feel that you are competent or emotionally capable of dealing with such calls or contact, you should transfer them to or involve another staff member who can. We advocate that you always react to such calls and contact and make explicit any threats of self-harm by naming them. If the person confirms the threat, then attempt to keep the person on the phone for as long as possible to get as many details as you can about what they intend to do. Report the threat immediately to your supervisor/senior manager and complete an incident form.

In accordance with the ASIST model developed by Livingworks, you should:

- Notice invitations – recognise when the person may be thinking about suicide. Listen for statements like:
 - I can't take it anymore or I can't cope.
 - What's the point?
 - I'm going to off myself.
 - I'm sitting in my car and I just don't know what to do anymore.
- Explore invitations – respond in ways that clarify and address the suicide risk. Ask:
 - Do you have thoughts of suicide/are you thinking of killing yourself?
 - It sounds like you're very upset. If yes, I'm concerned and do take this seriously.

Note: You can't put ideas into their heads by asking. However, you should avoid responding in ways that might be perceived as being authoritative or unsympathetic. You should also try to calm the person down and to stay calm yourself.

- Listen – try to understand why the caller wants to commit suicide – the reasons for dying, the reasons for living. There is usually some hesitation once the caller starts speaking about it.
- Review – the risk factors and take comprehensive notes:
 - How? When? Where are you?
 - Is there anyone else with you?
 - How are you going to do it?
- Disable their plan – this might involve telling the caller that a Mental Health Team will be asked to go and check up on them.

- Make a safe plan – get a commitment from the caller – for example, that they will make an appointment with their GP right away etc.
- Remain on the phone and seek assistance – while on the phone alert those around you/your supervisor about the person’s threats so that they can take steps to obtain appropriate assistance for the caller – for example, getting a local Mental Health Team to go to their location. Try to keep the caller on the phone until they arrive. Do not hang up.

If the caller does hang up the call, you should not also hang up. The caller’s location may be capable of being traced so the police or other appropriate response service can be sent to that location to help. Also, immediately discuss the situation with a supervisor to decide on the appropriate course of action in the circumstances.

Note: This brief summary does not constitute training. All staff should be appropriately trained on how to deal with threats of self-harm and harm to others – for example, see www.livingworks.com.au.

2.11.12. Aggressive, abusive, harassing or otherwise confronting behaviour during home visits – high risk

If you are subjected to harassment or aggression in a person’s home, you should leave immediately.

If you are physically attacked – if you have one, press your duress alarm immediately if possible. You are also entitled to use such force as is reasonable to defend yourself.

Contact police immediately on leaving the premises and follow appropriate security procedures.

Otherwise make sure that at all times you:⁴

- Respect the person’s wishes – for example, in terms of taking off shoes before entering the home etc.
- Continually assess your surroundings while conducting the interview.
- Observe the exits in the house and stay close to exits in rooms.
- Do not allow yourself to be blocked or locked in.
- Sit in a position that allows easy access to the front door.
- Interview the person in the closest suitable room to the front door.
- Avoid the kitchen (potential weapons) and bedrooms (personal space, firearms).
- Scan the environment for dangerous items or drug paraphernalia.
- Face the person at all times during the interview.
- Try to monitor what the person is doing at all times.
- Stay alert to anything out of the ordinary.
- Monitor the presence of threatening pets and request they be secured in another area of the premises if you feel unsafe.

4. Office for Children Department of Human Services, *Staff Safety in the Workplace: Guidelines for the prevention and management of occupational violence for Victorian Child Protection and community-based Juvenile Justice staff*, June 2015, http://www.cpmanual.vic.gov.au/sites/default/files/Safety%20in%20the%20workplace%20-%20CP-and-YJ_staff_safety%204201.pdf Accessed May 2021

2.11.13. Makes threats to damage property, including bomb threats, obvious or implied – extreme risk

Make the threat overt by naming it. Repeat the person's statements as close to verbatim as possible so they either take ownership of the threats/comments or retract them.

Take comprehensive notes about the threatened action and let the person finish their sentences without interruption.

Try to keep them talking and obtain as much information as possible, including:

- when the bomb will explode/action will take place
- what the bomb looks like
- where the bomb is located/where it will happen
- what kind of bomb it is/what they are going to do
- why the bomb was placed there/why they want to do it
- who their intended target is, if any
- the person's personal details (their name, where they are located etc).

Note the exact time of the call and its duration.

Do not hang up the phone if the person terminates the call.

Immediately report the threat to a relevant supervisor or security officer.

If the bomb threat is believed to be genuine, the supervisor should:

- Inform a designated senior manager or security officer, any security committee and the head of building security so appropriate action can be taken – for example, contacting the police or an evacuation.
- Monitor the staff member involved, especially if support options like debriefing or counselling have not been used.
- Liaise with the relevant senior manager/security officer who is responsible for making decisions about support services to determine whether counselling and/or an operational debrief is needed.
- Make sure the staff member has completed a bomb threat checklist within 24 hours of receiving the phone call, if possible.

2.11.14. Makes threats with a weapon face-to-face – extreme risk

Avoid doing anything that might incite the person – do not try to be a hero.

Remain calm and assess the situation.

Activate the duress alarm or call for help, if it is safe to do so.

Obey the person's instructions, but only do what you are told and nothing more – do not volunteer any information.

Move slowly and avoid eye contact.

Advise the person of any movements you may have to make which could appear sudden or unexpected, such as opening a drawer.

Do not invade their personal space and keep your hands in view.

If required, contact a first aid officer to provide first aid to staff and/or others as soon as it is safe for them to do so.

Once the threat is over, fill out a security incident form and direct it to the appropriate supervisor/senior manager.

Seek support either through formal or informal debriefing.

See – 4.4. Managing stress.

Senior staff responding to the duress alarm should try to isolate the incident by evacuating the area and preventing others from entering it – for example, stand by the lifts or ask building management to close off the lifts to the floor.

The most senior staff member present or the office security adviser should:

- override the duress alarm, if it has been activated
- ring 000 for urgent assistance or check that the police have been called
- ensure communication is maintained with the aggressor until the police arrive – if it is safe to do so.

Liaise with the relevant senior manager/security officer who is responsible for making decisions about support services to determine whether counselling and/or an operational debrief is needed.

2.11.15. Stalking – online or in person – extreme risk

Stalking includes a person for no justifiable reason:

- following, telephoning, sending messages or otherwise contacting you or another person
- giving you offensive material or leaving it where you will find it
- walking or frequently being in your vicinity
- approaching your home, place of work or any place that you frequent.

If you suspect you are being stalked, you should immediately report it to your supervisor or relevant senior manager. Together you can discuss the possibility and appropriateness of:

- being escorted home
- contacting police
- obtaining a legal order – such as an apprehended violence order or an order for trespass.

2.12. Scripted responses to unreasonable behaviours

Statement or conduct	Possible responses
<p>F#\$%! F#\$%@*&! F#\$%! S@*&! – that is part of their normal communication style or a consequence of being distressed</p>	<ul style="list-style-type: none"> • <i>I want to hear your side of the story. Please stick to the facts to help me understand what happened.</i> • <i>I can hear/see that you're upset/angry. However, I'm uncomfortable with you swearing. Please stop swearing.</i> • <i>[Mr/Ms/name] I'll try to do what I can to resolve this situation, but can you please avoid using swear words. They are distracting us from</i> • <i>I'll have to end this conversation if you don't stop using swear words.</i> • <i>I've asked you at least [number of times] to stop using swear words. I'm going to end the call here and may have another officer call you back.</i>
<p>Are you people stupid or something? or Shove it up your a***.</p>	<ul style="list-style-type: none"> • <i>I'm willing to help you with ..., provided that you stop If it continues I'm going to end this conversation. It's up to you, but I need your agreement now before we continue.</i> • <i>I'm happy to talk to you about this issue, but not while you're yelling at me/but I won't accept you calling me</i> • <i>I hear that you're upset/angry, which is making it difficult for us to focus on the task at hand. Perhaps I should call you back in [X] minutes. [make sure to call them back as promised].</i> • <i>It's quite difficult for us to focus on the issues that we need to when you are [name behaviour]. I'm happy to continue the conversation with you, but you will have to stop [name behaviour]. Otherwise, I'll have to hang up and call you back in five minutes.</i> • <i>I understand that your matter is important to you and that you're disappointed with the decision that I've made/what I'm telling you. However, making personal attacks towards me is not productive. [Name of organisation]'s policy requires me to end this conversation if this type of behaviour continues.</i> • <i>I'm sorry we weren't able to do what you wanted us to do/had hoped we could do. The fact is</i> • <i>Did you call me a [#\$%]? I can't talk to you if you're going to call me that. I'll end this call now and when you feel you're able to speak to me politely/in more moderate language, you can call me back.</i> <p>Note: Only repeat swear words if you feel comfortable repeating them and/or it will not escalate the conversation.</p> <ul style="list-style-type: none"> • <i>[After warning] – It seems like you've made your choice, so I'm ending this conversation. If and when you're willing to talk without negative remarks, I'm willing to help. But right now, this conversation is over.</i> • <i>I warned you that I would end this call if you continued to speak to me like this. I'm now ending the call.</i> • <i>I'm going to hang up now. I invite you to call me back when you're ready to use more appropriate language.</i>

Statement or conduct	Possible responses
Aggressive behaviour face-to-face.	<ul style="list-style-type: none"> • <i>When you get too close to me, I feel trapped. I'd like you to step back or I'm going to have to ask you to leave.</i> • <i>I've said all that I can about this. I'll have to end our interview here to deal with other people who are waiting.</i> • <i>I'm happy to talk with you about your issue, but not while you're swearing at me. I'll have to end this interview if you don't stop.</i> • <i>I'm a bit thirsty. Would you like me to get you a drink while I get one for myself? [leave the room and seek assistance, if necessary or just take a short time out].</i> • <i>It's clear that you're upset/angry</i> • <i>It's quite difficult for us to focus on the issues that we need to when you are [state conduct]. I'm happy to continue with the interview so long as you stop</i> • <i>I'm afraid I have to ask you to leave now. If you have any outstanding concerns, you can put them in writing.</i> • <i>I'm going to leave the room now. I invite you to call me back when you're ready to use more appropriate language.</i>
Escalated behaviour in the presence of others.	<ul style="list-style-type: none"> • <i>I'm sure you'd prefer that your privacy is protected so let's go to the office and we can continue there.</i> • <i>That sounds like very personal information you're telling me. This isn't a private place and I think it would be better if we talked about this in the next room.</i> • <i>Why don't we go and sit down in ... room where we can discuss this in more detail and I can get my ... file?</i> • <i>So what I hear you saying is that you're upset/frustrated/angry about Why don't we go into the next room and you can tell me more about that feeling and we can see what we can do about it?</i> • <i>There's a lot of background noise here, perhaps we should go into another room and talk more privately? If the person agrees, take them to the room.</i> • <i>If you think you may need support, you might say: If you'd like to take a seat, I'm sure we can wrap this up quickly. Let me just go and get your file/other object and I will be right back – Go and get support.</i>
Threats	<ul style="list-style-type: none"> • <i>When you say ... it sounds like you're threatening to ... Is that what you mean?</i> • <i>It seems to me you're saying that you're going to do something to hurt me/other person. Is this correct?</i> • <i>So what I hear you saying is that you're going to ...?</i> • <i>Did you just say you were going to follow me home and hurt me and my family?</i> • <i>If this is what you said, I'll have to report your threat to my supervisor. [Name of organisation]'s policy will also require me to report it to the police [or refer to relevant part of your organisation's risk management protocol]. Go on to report it immediately.</i>

<i>Statement or conduct</i>	<i>Possible responses</i>
<i>I'm going to come over there and</i>	<ul style="list-style-type: none"> • <i>It seems to me that you're saying you'll do something to damage our offices. Is this correct?</i> • <i>If this is correct, I'll have to report your threat to my supervisor. [Name of organisation]'s policy will also require me to report it to the police.</i> • <i>So what I hear you saying is that you're going to ...?</i> • <i>Did you just say you were going to throw a brick through our door?</i> • <i>If this is what you said, I'll have to end this phone call/interview right now and report your threat to my supervisor. [Name of organisation]'s policy will also require me to call the police [or refer to relevant part of your organisation's risk management protocol]. Go on to report the threat immediately.</i>
<i>I'm not leaving. You'll have to carry me out of here.</i>	<ul style="list-style-type: none"> • <i>I'm not going to force you to leave. It's really up to you what happens next. I'm going to leave and if you want to stay here a little while to think, then that's fine. But if you aren't gone in 20 minutes, we'll have to contact security/the police to escort you out of the office. It's up to you.</i>
<i>Inappropriate</i>	<ul style="list-style-type: none"> • <i>We can't stop you from posting something online. However, you should be aware that if we are alerted to any online content that either defames, harasses, intimidates or threatens any officer at this organisation or the organisation as a whole, then we may take legal action through the police and/or the courts.</i> • <i>I should warn you that [name of organisation] takes such conduct seriously and will take legal action if necessary.</i> • <i>We treat inappropriate online behaviour the same way we do inappropriate behaviour generally. If it requires legal action, then we'll do that.</i>
<i>Recording the interview/phone call.</i>	<ul style="list-style-type: none"> • <i>Are you using a recording device? If you are, you should know that ... legislation/[name of Act] requires you to have my permission to record me. I don't consent to you doing this.</i> • <i>Are you using a recording device? If you are, I'll have to terminate this call/interview and will send ... in writing instead. I don't agree to being recorded.</i> • <i>You should know that if you are recording me you are violating my rights to privacy and confidentiality</i> • <i>As you are recording this discussion, I'll have to terminate this phone call/interview here. Goodbye.</i>

2.13. Dealing with anger through effective communication

2.13.1. Understanding and recognising complainant anger

In complaint handling, anger is an understandable – and to a certain degree acceptable – emotion experienced by frustrated and disappointed people. Being shocked and unprepared when you face a disappointed person’s anger is generally unrealistic.

However, anger becomes problematic and unacceptable when it escalates into verbal abuse, hostility, threatening behaviour or violence. When it is expressed in these ways, it must be dealt with swiftly and decisively using the suggested management strategies in 2.11 and 2.12 – Strategies and scripted responses to managing unreasonable behaviours.

As people who deal with concerns raised by members of the public, it is essential that we understand and recognise the signs of anger in the people we deal with (and within ourselves) so that we can respond to it (or control it) in the most effective and productive ways possible.

Some of the more common signs and expressions of anger include:⁵

- raised voices when the person has generally used a more restrained communication style with you previously, yelling, slurred speech or chanting
- accusatory, dominating or even sexually explicit language
- using words that are intended to intimidate or to achieve a particular result
- harsh or overly sarcastic humour
- combative or inflexible behaviour
- irritability, anxiety or short temper
- redness in the face or flushed appearance
- hostile facial expressions – including lowered eye brows, direct prolonged eye contact when this has not been the person’s eye contact pattern with you previously, narrowing or rolling of the eyes or flared nostrils
- visible muscular tension in the face, neck, hands, scalp or back – clenched fists or jaws, grinding teeth
- intrusive behaviour such as entering into other people’s personal space when they previously have maintained more distance from you, or entering areas of the office that are off-limits or they have not been invited into
- exaggerated gestures and finger pointing or waving when the person has not previously used these expressive styles with you
- the onset of dominant body posture and positioning
- persistent sweating, heavy breathing or loud sighing
- the onset of restlessness and repetitive movements – including pacing around, tapping their feet continually, constant repositioning in a chair or standing up frequently
- physical aggression – including throwing paper, shoving things or pounding the table.

5. Department of Human Services (Vic) 2005, *Staff safety in the workplace: Guidelines for the protection and management of occupational violence for Victorian Child Protection and community-based Juvenile Justice staff*, Victoria, p 25. Copyright © State of Victoria, Australia. Reproduced with permission of the Secretary to the Department of Human Services. Unauthorised reproduction and other uses comprised in the copyright are prohibited without permission.

You will note that a number of these ‘signs’ of anger are physiological. This is because anger is one of the most physically arousing emotions that human beings experience. It can block our judgement and affect our ability to reason, problem solve and process information – making it very difficult to communicate in productive ways.⁶

In complaint handling, this usually means acknowledging and addressing a person’s anger before you can effectively deal with their substantive issue of concern. You will also need to recognise your own triggers for becoming angry and develop ways to manage them as well. Ultimately, it is your responses to the person’s anger and your communication style that will be the significant determinant in whether your interaction with an angry person escalates to crisis point.

2.13.2. Using the CARP method to defuse a person’s anger

CARP is an acronym developed by Robert Bacal to help address anger. CARP can help you to sequence and time how you defuse anger and hostility. It stands for:

- **Control** – control the interaction and your anger.
- **Acknowledge** – acknowledge the person’s anger and give them an opportunity to ‘let off steam’.
- **Refocus** – refocus the conversation on to the substantive issues.
- **Problem solve** – find solutions for dealing with those issues.

The order of CARP is very important, in particular leaving the problem solving to the end. If you try to problem solve or refocus too quickly, you are likely to find yourself explaining the same thing over and over again – because the person will persist in wanting to tell you about their story and how angry, frustrated or disappointed it has made them. If this happens, go back to acknowledging their feelings and emotions and rework your way back down the sequence.⁷

2.13.3. Communication strategies for avoiding or minimising the triggers for anger, conflict and unreasonable conduct

In addition to the CARP method, the suggestions in the table that follows are designed to promote optimum communication and lessen the triggers for conflict and unreasonable conduct. They are divided into two columns:

- **Dos** – things that you can do to facilitate non-confrontational communication and build your relationships with the people you deal with.
- **Don’ts** – things that tend to lead to conflict and unreasonable conduct and should be avoided during interactions with the people you deal with.

These suggestions can be used in your interactions with all the people you need to deal with, not just those whose behaviour you find difficult.

6. Lerner J et al, ‘Like fuel in the fire: How anger impacts on judgement and decision making’ http://content.ksg.harvard.edu/lernerlab/pdfs/fuel_in_the_fire_litvak_lerner_tiedens_shonk.pdf Accessed on 21 September 2011.

7. Bacal, R 2010, *Defusing Hostile Customers Workbook*, 3rd edn, Bacal & Associates, Casselman, p 28.

DO	DON'T
<p><i>Acknowledge their emotions and give them a chance to let off steam. You might also say:</i></p> <ul style="list-style-type: none"> • <i>I can see how strongly you feel about this</i> • <i>It sounds like you are very unhappy/angry about this</i> 	<p><i>Don't allow venting if it might encourage unreasonable conduct or will go on for longer than five minutes. This can do more damage, as it will revive the person's negative feelings about their experience.</i></p>
<p><i>Control your own emotions</i></p>	<p><i>Don't react to aggression and 'triggers'. You could say instead:</i></p> <ul style="list-style-type: none"> • <i>Yes, I know some people believe this</i> • <i>You are entitled to your view</i> • <i>I see</i>
<p><i>Show empathy for their stress and anger.</i></p>	<p><i>Don't allow your empathy to affect your objectivity.</i></p>
<p><i>Echo what they are saying. This can show you are listening.</i></p>	<p><i>Don't echo what they are saying if you don't fully understand what they have said. Don't put words in their mouth, and don't echo offensive language as it may escalate the situation.</i></p>
<p><i>Acknowledge their point of view without agreeing. You might say:</i></p> <ul style="list-style-type: none"> • <i>I can see that you believe</i> • <i>I do understand that your position is</i> 	<p><i>Don't disregard their point of view. People can have different but equally valid viewpoints, interpretations, perceptions and recollections of the same issue or event.</i></p>
<p><i>Anticipate likely counterarguments/objections the person may raise and address them initially:</i></p> <ul style="list-style-type: none"> • <i>I can see that you may say that ... so let me explain why things have happened this way.</i> 	<p><i>Don't present counterarguments unfairly or in a way that might be seen as confrontational or disrespectful.</i></p>
<p><i>Find things you and the person can agree on, without accepting their whole argument.</i></p> <ul style="list-style-type: none"> • <i>I agree that \$2,000 is a lot of money to lose.</i> • <i>Two weeks does seem like a long time to wait.</i> 	<p><i>Don't make promises or agree to something that you will have to go back on later.</i></p>
<p><i>Use 'I' and 'we' messages. These create a connection, demonstrate respect and build trust.</i></p>	<p><i>Don't use 'you' messages in a way that might be perceived as confrontational or accusatory.</i></p>

I Part two

DO	DON'T
<p>Ask questions to keep a conversation under control. 'When', 'what', 'where' or 'how' questions can help to respond to accusations and other claims.</p> <ul style="list-style-type: none"> • What has made you think I am not taking you seriously? 	<p>Don't use 'why' questions if they can be avoided. Some people see why as an attack, and it can lead to a defensive response.</p>
<p>Avoid jargon and use a communication style that is comfortable for the person.</p>	<p>Don't say things to make the person feel inferior or excluded.</p>
<p>Use 'I' and 'we' messages. These create a connection, demonstrate respect and build trust.</p>	<p>Don't ignore what is not being said. What is the person avoiding discussing?</p>
<p>Clarify the issues in dispute and the impact these are having on the person.</p>	<p>Don't forget to outline what they can expect from you, and also what you expect from them.</p>
<p>Ask for clarification if you are unsure about something. You might say:</p> <ul style="list-style-type: none"> • I understand the situation is Is that correct? 	<p>Don't assume anything.</p>
<p>Explain carefully why you are following certain processes or procedures.</p>	<p>Don't be too formal or bureaucratic, as this can make people feel inferior and frustrated. Avoid saying:</p> <ul style="list-style-type: none"> • That's the law. • I just follow the policy.
<p>Be personable and build rapport.</p>	<p>Don't be too informal or joke around. This could make it seem like you are not taking someone seriously.</p>
<p>Give someone space and time to think something through or control their anger and frustration. You could do this by taking a break to talk to a supervisor or check a piece of information.</p>	<p>Don't tell the person they need time to 'cool off' or 'calm down'.</p>
<p>Admit mistakes and apologise.</p>	<p>Don't make excuses, defend or deny.</p>

2.13.4. Knowing your triggers

Triggers are those things that people say and do that can cause you to become angry or frustrated. It may be their choice of words or their tone of voice. Whatever it is, it can sometimes cause even experienced practitioners to lose control and say or do things they then regret.⁸

It is important that you identify these triggers because you cannot reason properly, process information or problem solve while you are angry – making it difficult to manage your interaction with the person you are dealing with.

You should also be careful, in cases where you do not have full control over your anger, not to ever express it in ways that are likely to escalate your interaction with the person you are dealing with. This includes sighing, rolling your eyes, muttering things under your breath, laughing inappropriately, or being defensive or overly reactive. In these situations, it may be best for you to take some time out and return to the conversation when you have had time to cool off.

What are your triggers?⁹

Take some time to figure out your triggers. Ask yourself:

- What things do people say or do that push my buttons?
- How do I normally react when those buttons are pushed? With confrontation do I give in, become dismissive or am I unaffected?
- What types of interactions cause me the most concern – face-to-face interviews, home visits, phone calls? Why?
- How do I deal with such situations? How do my reactions compare to the suggestions in this manual?

2.13.5. Using self-talk to manage your own anger¹⁰

To manage your emotions and anger when dealing with challenging situations, you might try using self-talk. Self-talk is what you say to yourself in your head when you are dealing with a challenging situation. Constructive self-talk can help you to keep things in perspective and recognise that a person's anger is likely to be due to their circumstances rather than anything you have done. As a starting point, you need to leave your ego out of it. Provided you have not done something inappropriate that has triggered the behaviour, recognise that while it might look, sound and feel personal, the person would in all likelihood be angry and reacting in the same way no matter who was in your shoes.

Some examples of positive/constructive self-talk to manage your anger and frustration include:

- They aren't really angry at me personally.
- I can handle this.
- Boy, do they have it rough.
- This person really needs some help.

8. Bacal R, *Defusing Hostile Customer Workbook*, p 40.

9. Office for Children, Department of Human Services 2005, *Staff safety in the workplace: Guidelines for the protection and management of occupational violence for Victorian Child Protection and community-based Juvenile Justice staff*, Victoria, p 25.

10. For more examples of self-talk, see Bacal R, *Defusing hostile customers workbook*, p 42.

- I am better than this. I will not stoop down to that level.
- I'm not going to be suckered into this.
- I will remain calm and cool.
- I'm going to approach this as a challenge to not get angry.

Some examples of negative self-talk to avoid include:

- I'm so useless at dealing with these people.
- Why do I always get the difficult ones?
- Oh gosh. I hope no one is listening to this. They'll think I can't cope.
- This is so unfair.
- He has some nerve saying that
- I don't deserve this.
- Why are they doing this to me?
- Oh my god. What do I do?
- I'm not paid enough to deal with this crap.
- I feel put upon because they are so angry.
- There goes my day.

Most of the examples of negative self-talk would indicate that someone has taken the person's comments and anger personally.

2.14. Tips to resolve or avoid escalating conflict

2.14.1. Expectations

Manage expectations

Conflict often arises out of different expectations about how an issue /dispute will be dealt with or its outcome.

Manage expectations from the outset, if possible – both yours and the other person's. Point out what you can do and cannot do, and will do and will not do. If later you discover that the other person's expectations are unrealistic, attempt to explain why this is so.

Clarify limits on discretion

Sometimes a conflict is triggered by a decision made by a person or organisation in circumstances where they have either no control or very limited discretion. For example, there may be jurisdictional or power issues, or other fixed and immutable statutory requirements or practical realities. In such cases, the issue is actually with the law or lack of resources (that is, responsibilities of government), not the implementation (that is, responsibilities of the decision-maker).

Where possible, identify any causes of the conflict over which you and/or your organisation have no control or very limited discretion. If relevant, point this out to the other person – noting that this means you have no or very limited responsibility or ability to act.

Accept differences of opinion

Accept that people can have valid perspectives, perceptions or recollections that are different to yours – that there can be alternative valid interpretations and opinions.

Accept limitations on logical argument

Accept that it is unlikely you will be able to reason a person out of a view they did not arrive at through reason.

2.14.2. Approach

Show empathy

Show empathy for the other person's feelings by showing sympathy if appropriate.

Be careful about saying 'I understand'. Saying 'I understand' about the information conveyed by the complainant is ok. Saying 'I understand' about the complainant's situation or experience is probably not ok.

Acknowledge or validate the other person's feelings/emotions and point of view without necessarily agreeing with their perspective. For example, *'I've got a sense how strongly you feel about this', 'I can hear that you are very upset about this', 'I can see that you've gone to a lot of trouble to get all this material together', or 'I hear how hard ... has been for you'*).

Show respect

No matter what is said or done, it is operationally imperative to treat the other person respectfully.

Admit mistakes and apologise

If a problem has been caused (in whole or part) by a mistake, omission or delay by you or your organisation, admit the mistake and apologise.

Allow space and time to think

Allow time for the other party to think through an issue – for example, people who are upset may not be thinking clearly.

If in doubt, it is better to slow down rather than speed up the discussion.

Create physical and thinking space, if necessary, by having breaks in discussion to allow people time to think/reflect.

Focus

Focus on the issue/problem/task not the person. Don't allow the focus to move from the issue to the person, from constructive responses to destructive responses.

Focus on the issue, not the emotions

Focus on the issue, not on your emotional response to the issue.

While showing empathy, try to influence the other person to focus on the issue, not their emotions – for example, by asking questions about the facts to move the person from a feeling state to a thinking state.

2.14.3. Communication**Use 'I' and 'We' messages, not 'You' messages**

'I' messages are about communicating and sharing your concerns, about articulating worries. 'I' messages do not make demands or try to persuade somebody to change their views. The aim should not be to criticise or condemn the other person, or to get the other person to act in a particular way or change their behaviour. 'I' messages take responsibility.

'We' messages are about cooperation and inclusion – for example, 'We could look at it this way ...' or 'How can we resolve this?'

Avoid confrontational language when asking questions

Where possible, avoid 'Why ...?' questions in non-adversarial context in favour of 'What ...?', 'What happened ...?', 'When ...?', 'Where ...?' and 'How ...?', 'How come ...?' questions that are less likely to be seen as confrontational.

Find something to agree with

Find something to agree with, without necessarily agreeing with the other person's point of view. For example – 'I agree that \$2,000 is a lot of money to lose', 'I agree that not hearing back from [the organisation] would be very annoying', or 'I agree that having your pension reinstated would be a great help'.

Listen with interest

Engage. Paraphrase, or at least echo or repeat the other person's key words back to them. If face-to-face, make eye contact but do not stare.

Listen to what is being said, but also listen for what is not being said – for example, what is underlying what is being said, what is being avoided, etc.

Do not argue

- Don't argue, defend or deny – keep your ego out of it.
- Acknowledge the other person's position or understanding and state that you or your organisation's position or understanding is different (for example, 'I can see that you believe ..., however we have come to a different conclusion', or 'I do understand that your position is ..., however our position is a little different').
- Where a problem has been caused by a mistake, omission or delay on your part or on the part of your organisation, while explanations are acceptable, excuses are generally counterproductive.

Anticipate and address counterarguments

- Anticipate the likely counterarguments/valid objections and address them up front – for example, 'at this point you may well say that ...'. Counterarguments should be presented fairly and seriously, showing respect for different viewpoints and that they are valid.

2.14.4. Clarification

Admit ignorance/seek clarification

- When in doubt, ask questions seeking explanation/clarification (for example, 'As I understand it, the situation is Is this correct?' or 'From what you tell me it seems Is this the case?'). Asking questions prevents hasty and polarised responses, and involves both parties using the 'thinking' parts of their brains.
- Do not interpret and do not assume. In particular, in the absence of clear evidence, do not attribute adverse motives or assume adverse intent.

Clarify boundaries – what you do not want to happen

- Communicate your boundaries to the conflict (sometimes referred to as 'non-values') – that is, the course of events that you do not want to occur or the boundaries or limits that you set on yourself to limit or minimise damaging effects that might flow from the dispute. For example, 'I don't want ...' followed by an explanation of what you do not want to occur/achieve.
- Communicating boundaries also shows that you are taking responsibility for your actions or omissions or those of your organisation.
- It is important to seek consensus on the boundaries of the dispute as a preliminary to seeking consensus on 'positive' values.

Clarify the issues in dispute

Identify the issues in dispute:

- clarify what each party sees as the issues in dispute
- clarify the points the parties agree on, for example, by listing and comparing the contentious issues of each party and acknowledging common points and differences.

Once the core issues are agreed on:

- break down these issues into their different aspects and then into the various components/ dimensions of those aspects – this helps to clarify and define the core questions
- at this stage no statements should be made for or against the different positions, that is, do not discuss content at this point
- begin by agreeing to discuss the less emotive issues/questions in order to achieve a few quick successes.

Clarify the impact of the problem

- Clarify what impact the problem has had on the other person – this may be necessary to be able to show appropriate sympathy/empathy, and will be necessary to identify the needs (and therefore the objectives) of the other person.

Clarify the process to be followed

- Clarify and get agreement about the process to be followed to address the conflict/ resolve the problem.

2.14.5. Behaviour

Manage anger

- Be assertive, not aggressive or passive.
- Anger in itself is a natural emotion and can be positive if it signals that personal boundaries have been violated or rights infringed. However, everyone is responsible for how they act on their anger. Anger only becomes unacceptable if it becomes rage that is expressed through abuse, hostility or threats or violence.

Avoid overreaction

- Remain calm, no matter how the other person behaves.
- Set limits when it appears that rudeness, anger, threats or aggression may transgress your personal boundaries.
- In setting limits, offer choices (not ultimatums) which have consequences.
- Explain what behaviour is inappropriate and why.
- Adopt a zero tolerance response to threats and violence.

Show respect

- Show respect and courtesy in all your dealings, no matter what the provocation.

Respect personal space

- Do not invade the other person's personal space.

Be aware of your non-verbal communication

- Keep your non-verbal cues non-threatening – be aware of your tone of voice, facial expressions and gestures.
- If standing, adopt a non-threatening stance – including not standing eye-to-eye and toe-to-toe (for example, by turning your body partially sideways, showing palms and wrists with hands pointing down, etc).

2.14.6. Outcomes

Be clear about your objective

- Be clear about whether your objective is to avoid or resolve conflict, or to attribute blame.

Be creative

- Recognise there is generally no single 'right' solution.

Seek finality

- Aim to resolve conflict in constructive, conciliatory and mutually acceptable ways that are sustainable and likely to provide finality to the dispute.
- The best outcome is a 'win-win' situation that both parties can live with. This may be because both parties have achieved their objectives, or one or both parties have changed their expectations as to what is an acceptable outcome – possibly through a better understanding of the process or limitations that apply.

2.15. Ten steps for responding to threats, hostility and aggression

2.15.1. Recognising danger signals and reviewing risk

- Recognise the signs of anger – whether or not the anger is directed at you.
- Ask yourself: ‘Am I in danger?’
- If ‘yes’ – remove yourself from harm’s way as quickly as possible. Walk through the nearest door into a more secure area, and then inform the person that the interview has/ will be terminated – for example, ‘I cannot continue this interview while you are behaving in an angry way or making threats.’
- If the threat abates – that is, the person’s behaviour improves – then you can restart the interview based on clear behavioural ground rules.

Repeating

- Make sure threats are clarified (made overt) and the person takes ownership of the threat by repeating the statement as close to verbatim as possible – for example, ‘You have just said to me that’
- Ask if this is what the person meant to say and whether it is in fact a threat to cause harm – for example, ‘Is that what you meant? Are you threatening me?’

Reacting

- React to all threats by explicitly acknowledging them – whether they are overt or covert threats to you, to themselves or to others.
- Always show some reaction to a threat, even if minimal – for example, take a five-minute break.
- Do not overreact or mirror the threatening language or the threatening behaviour.
- Continue to show respect even when the person is being rude or threatening.

Responding

- Ask the person to stop the behaviour – ‘Mr ... stop shouting at me’ – while informing the person of the organisation’s protocols for responding to threats.
- Communicate clearly and consistently what the consequences will be if the behaviour continues.

Redirecting

- Redirect or distract the attention of the person with actions or comments that do not reward the behaviour.
- Ask questions about the substantive issue to try to move the person from the ‘emotional’ state back into a ‘cognitive’ or thinking state.
- Take a five-minute break or offer a cold drink, if needed.

Refocusing

- If you are able to help the person bring their emotions under control, refocus attention on their issue.
A question about the facts can change a person's focus from feelings to thinking about the substance of their issue.

Raising concerns

- If you feel threatened, activate a silent alarm (if available) or leave the room and call for assistance from other staff.

Running

- If all else fails and you feel an imminent risk of harm – run (or at least move quickly) to a safe location.

Recording

- Always make a 'verbatim' record of all threats and put a copy on the relevant file.

Reporting and reviewing responses

- Report the matter to a supervisor/manager so that both of you can review your responses to the threatening behaviour and identify strategies to manage or control any future interactions with the person.
- You may want a formal or informal debrief after the incident.

Part 3.

Communication and unreasonable conduct

3.1. Effectively managing complainants and their expectations from the outset

Initial interactions with complainants are one of the most important stages in the complaints process. The way you start the first contact with a complainant is likely to significantly affect all future interactions. Complainants are more likely to respond positively to you, your organisation and the complaints process if right from the beginning they feel listened to, understood, and treated fairly and with respect.

A positive start also includes a thorough explanation of:

- the process
- what will happen next
- likely timescales
- the possible or likely outcomes in their matter.

If a complainant seems to have unrealistic expectations, make sure you explain to them the impossibility of such unlikely outcomes.

3.1.1. Communication styles and patterns

Your initial contact with a person who has or is about to make a complaint, whether on the phone or in person, is the best time to assess their dominant communication style and decide how to adapt your own questioning, listening or even speaking styles. You may not get it right the first time but it is much better to start with a questioning mind than to incorrectly assume you both share a similar idea of what respect and courtesy look and sound like.

Most of us evaluate other people's communication based on the way we like to communicate, so understanding others means we first have to understand ourselves. Think about how you present information and how you prefer to receive it. This will help you adapt, rather than be judgemental when you receive it in other styles. Thinking about another person's behaviour in terms of categories of communication – rather than in judgemental terms, such as longwinded or dishonest – may allow you to treat them as someone who is culturally different rather than unreasonable.

See – 3.3. Cultural communication styles.

3.1.2. Establishing the ground rules

Many of the people we perceive to be acting unreasonably do not recognise that for their issue of concern to receive the attention and consideration it needs, they need to exercise their 'right' to complain in ways that respect the rights of the other parties involved in the issue they are complaining about. This includes:

- treating the people handling their matter with courtesy and respect and clearly identifying their issues of complaint
- providing all relevant information about their issue – to the best of their ability
- cooperating with any requests for information, inquiries or investigations
- acting honestly.

These responsibilities may seem obvious to complaint handlers, but many people whose behaviour becomes problematic are either unaware of or give little thought to them. Some are also unaware of or overlook that exercising their own rights is, in most cases, conditional on accepting and respecting the rights of others to do the same. This includes the rights of a case officer to dignity, physical and emotional safety, and respect. It also includes the rights of other people to an equitable share of public resources.

To help complainants clearly understand their rights and responsibilities, organisations should consider adopting a set of ground rules or 'rules of engagement' for accessing their services. These should include the rights and responsibilities of all key parties to the complaints process. This information should be clearly available on the organisation's website.

Complaint handlers should be responsible for ensuring that all parties to the complaint process are aware of these ground rules. In particular, complainants should be made aware of the ground rules either when they make their complaint or when their conduct starts to be problematic. Any questions they may have about those ground rules should be answered, within reason.

3.1.3. Managing expectations

People who raise issues of concern with you or your organisation are unlikely to be aware of your organisation's role, procedures and practices for dealing with complaints. They may believe they can dictate one or more of the following in relation to their matter:

- how your organisation will handle it
- what priority will be given to it
- who within the organisation will deal with it
- the type and level of involvement they will have
- how long it will take to deal with their matter
- what the outcome will be – for example, not uncommonly expecting that they will receive significant financial compensation or that someone will be fired.

It is essential to check and manage complainant expectations as early as possible to minimise the chance of disappointment, anger or frustration at a later stage.

As early as possible in the process, complainants should be informed about:

- the roles and functions of the case officer and your organisation as it relates to their issue of concern
- the complaints processes and procedures that will be followed by the organisation
- how their matter will be dealt with – in general terms
- the likely time frames for completing key tasks relating to their matter
- the likely and unlikely outcomes that you or your organisation might be able to achieve
- their responsibilities – including acting honestly, cooperating with and respecting the case officer
- the responsibilities of the organisation and the case officer in relation to them and their complaint.

Information to help manage or check complainant expectations can be communicated at a number of different stages:

- Before a complaint is made – in publicly available information materials such as brochures and leaflets and on the organisation’s website.
- When a complaint is made – during an initial interaction with a complainant, either over the phone or in person.
- Immediately after a complaint is made – in a letter acknowledging receipt of their complaint.
- While the complaint is being dealt with – during any interactions with the complainant about the progress of their complaint, either over the phone, face-to-face or in written or electronic communications.
- Immediately before the final letter is sent or in the final letter – in a telephone or face-to-face conversation explaining the outcome of the complaint and the reasoning behind it.
- After a complaint has been closed (possibly on an ongoing basis) – in cases of extreme persistence, it may be necessary to continue managing the complainant’s expectations after you have sent the final letter, or even after the decision on the complaint has been reviewed.

The following section has some ideas and suggestions for checking and managing a complainant’s expectations that you can use during your interactions with them.

3.1.4. Testing and managing expectations

Testing expectations

This requires finding out what the person expects and wants.

- What can we do to resolve this in a way that is fair to everyone? – this is likely to be a particularly effective question, as you are asking them to think about their issues from the perspective of all parties. What were you hoping to achieve by bringing your issue to our attention?
- What did you hope to achieve when you decided to contact us?
- What do you think our organisation can do for you?
- What outcome are you hoping for?
- Let’s have a look at your goals in this situation.
- How do you propose that we resolve this?
- Let me explain what happens when you make a complaint.
- Do you understand how the complaints process works at this organisation?

Defining the issues of complaint

This requires clarifying the complainant’s issues to determine whether they can be dealt with by your organisation.

- As I understand it, your issue (s) is/are about ... and ... Is this correct? [allow for clarification] And you want ... to happen. Is that correct?

- Your issue(s) appear(s) to be about ... and Is this correct? [allow for clarification] ... is an issue we can look at, but ... and ... aren't things we can take up because
- Are you saying that ...?
- Let me see if I understand your issue(s).
- And am I correct that you want ... to happen?
- Can you share that with me one more time just to make sure I understand you completely?
- Thank you for going to the trouble of explaining this to me. As I understand it you're saying

If the complainant is rambling, you could say:

- I don't need that level of detail to be able to do something about your issue of concern. Tell me about
- So I don't waste your time, why don't you tell me about
- Tell me what the key issue is that you're complaining about.

Retesting and reframing expectations

This requires correcting any misunderstandings and expectations that are unrealistic or unreasonable.

- Are you aware of what our organisation can do? [often the answer is 'not really'] Perhaps I could tell you a bit about how we work and what we can and can't do.
- Let me give you an idea of what our organisation can do.
- ... is what we can do We can't do
- I realise that you want We can/can't do ... because
- ... won't happen because However, ... might be possible.
- We won't do ..., but we may/will be able to
- So that you're not disappointed later on, I should clarify now that it is very unlikely that we'll be able to do ... because
- It seems to me you're hoping we can do I have to tell you now that this will not be possible because

Redefining expectations

This requires correcting any unrealistic or unreasonable expectations, especially those relating to timeliness.

- I'm calling because I said that we would get back to you by Unfortunately due to [state reasons] we haven't been able to do this. I can call you in a couple of days, if you like, to let you know exactly when we can have it done. I apologise for the delay.
- I know you were expecting that ... would happen today, but it will not be possible. It is likely that it will happen
- I'm sorry, but we won't be able to However, we can

Preparing the person for disappointment

This requires Delivering bad news as early as possible to avoid the person developing unrealistic expectations about how their issue will be handled and possible outcomes.

- I wanted to call you and tell you about my/our decision/the outcome of your complaint before I send out my letter, because I know the outcome isn't what you'd hoped for [explain].
- I wanted to call you and tell you directly why we won't be able to take up your complaint, before I send you a letter saying this [explain].
- I will, of course, send you my decision in writing, but speaking with you means I can also answer any questions you may have about my decision/the outcome.

Although these conversations are not easy, they allow you to discuss the 'bad news' on your own terms and at a time when you are mentally prepared to do so – instead of some hours, days or weeks after you have sent the complainant their final letter and they have had time to script or rehearse a response to your bad news.

Case study – Managing expectations

A woman complained to an Ombudsman about an agency's decision to suspend and then cancel her 'Parenting Payment' welfare benefit. The agency claimed that they sent the complainant a letter notifying her that she had surplus payments owing to her and – when she failed to respond – they cancelled her payments. Although the complainant's payments were restarted sometime later, the agency refused to pay her the surplus amount and so she appealed the matter to the Social Security Appeals Tribunal and then the Administrative Appeals Tribunal (AAT).

Both tribunals affirmed the agency's decision stating that it complied with the relevant legislation – that is, that surplus amounts may not be paid if a decision to cancel payment is subsequently overturned and a review is not requested within 13 weeks – which the complainant had failed to do. At the same time, the AAT acknowledged that the complainant had provided correct bank account details and that there was evidence of mail regularly going missing in her neighbourhood. This substantiated her claim that she had not received any letters notifying her of the surplus owing to her.

Upset with what she believed was a gross injustice against her, the complainant complained to the Ombudsman with high expectations that they could do something to assist her in recouping the surplus payments.

The Ombudsman's office assisted the complainant to make a claim for Compensation for Detriment caused by Defective Administration (CDDA). However, because the issues involved were quite complex and because English was a second language for the complainant, a lot of time was spent explaining how the legislation worked as well as the CDDA scheme. Staff of the Ombudsman regularly had to manage her expectations by reminding her of the role of the Ombudsman and the fact that the Ombudsman could not force a CDDA decision to be made in her favour. They also had to regularly remind her that although there was a reasonable prospect of success through the CDDA scheme, they were unable to make any guarantees of success.

The complainant's application was subsequently denied. Although she felt that there was an injustice, her understanding of the process, purposes and roles of the relevant schemes and bodies allowed her to rationalise and accept the decision and ultimately put it behind her.

3.1.5. Managing your own expectations

Sometimes we may also have unrealistic and unreasonable expectations about people who make complaints and the complaints process. These expectations can include:

People making complaints will have realistic and reasonable expectations

Some complainants are looking for vindication, retribution, revenge, or for significant compensation or someone to be seriously punished for the wrong they have suffered – things that a complaint handling system is not designed to deliver. Some complainants may also insist on outcomes that are completely inappropriate, impossible or unrealistic.

I can bring all complainants around to my way of thinking if I explain things well enough

Explaining and logical reasoning will not always work, especially when a person has not arrived at their point of view through logical reasoning. Also, some people are so emotionally committed to a particular position that no amount of reasoning will lead them to change their views, acknowledge other more reasonable views, or admit to changing their views if they have indeed done so.

I can resolve all issues to a complainant's satisfaction and maintain good relationships with all complainants

Some complainants will never be satisfied despite your best efforts to resolve their issue. Also some problems may never be fixed. The fact that a person is not satisfied with a decision you have made or the outcome of their complaint does not always mean you have failed or have been unsuccessful in the way you handled their matter. Provided you have done your job properly – including acting fairly, reasonably and impartially – and have reached an outcome that you and your organisation consider to be reasonable and appropriate in the circumstances, the complainant's satisfaction will not be an appropriate measure of your performance.

I can help people who appear to be spiralling out of control over a relatively insignificant issue

Some people cannot be helped out of this situation. They get so consumed and invest so much time and energy into pursuing their issue that they lose perspective and allow their issue to dominate everything in their lives – when it should not. Often the best way to help a person in this situation is to deal with their issue as promptly as possible – giving it due consideration, of course. Otherwise, you may just fuel them and their issue unnecessarily.

3.1.6. Recognising barriers to communication

There are various barriers to effective communication. As a person who deals with people's issues on a daily basis, you may believe that you have communicated effectively with the various parties to a complaint – but this may not have been the case due to a range of factors. These factors may include:

- reasoning challenges – including jumping to conclusions and conspiracy theories
- reasoning capacity – including mental health issues, intellectual disabilities or reduced cognitive capacity
- recall capacity – such as poor recall and selective recall
- distorted or false recollection
- selective attention
- how messages are framed and the order in which information is conveyed
- differing perceptions about fairness and reasonableness
- perceptions about competency
- perceived disrespect
- differing cultural communication styles.

People handling complaints need to recognise the communication problems that can arise because they and the parties to a complaint may well have very different perspectives, objectives, information and knowledge:

- **Perspectives:** The perspective of people who make a complaint is likely to be subjective, biased in their favour and influenced by emotions. The perspective of the people handling a complaint on the other hand should be more objective, impartial and neutral.
- **Objectives:** The outcome a person who makes a complaint may perceive as 'fair' (based on their subjective assessment) may well be different to the outcome the person handling the complaint may consider to be 'reasonable' (based on a more objective assessment).
- **Information:** People who make complaints may jump to conclusions on the basis of the limited information they have, being unaware that there could well be other relevant information. On the other hand, people who handle complaints should recognise the possibility that there is relevant information they are currently unaware of.
- **Knowledge:** Most people who make complaints can be expected to have little or no knowledge about the complaint handling process or the methodology likely to be used in an investigation.

Some people who make complaints hold views so firmly that it is unlikely that facts or reasoning will change their minds. They do not want to believe and are likely to discount contrary evidence. However, there will be some holding strong views who are merely mistaken or who want to believe something to be true, but will still listen to reason. As people who handle complaints might not be able to initially distinguish between the two, it is important to try to correct any misunderstandings about relevant facts and circumstances.

3.1.7. Treating people who make complaints with respect

Complainants who feel they have not been respected or taken seriously can become focused on a quest for vindication, retribution or revenge. Many entrenched disputes and unresolved conflicts can be traced back to an initial real or perceived violation of a person's dignity or sense of identity. Consistently showing respect is fundamental to good complaint handling.

Dignity and respect are different, but closely related concepts. Showing respect can involve an acknowledgement of a person's fundamental or innate right to dignity as a birthright. Respect can also take the form of the recognition of a person's legal rights, acknowledgement of a person's status or position (deference, honour), recognition of a person's achievements (something earned, esteem), or even the way a person is addressed (courtesy).

Psychologist Donna Hicks has suggested a number of essential elements of dignity that people would like for themselves, including:

- Acceptance of identity – to perceive they are not being negatively judged.
- Inclusion – to perceive they belong.
- Safety – to perceive they are safe from bodily harm and humiliation.
- Acknowledgement – to perceive they are getting your full attention.
- Recognition – to perceive they are appreciated.
- Fairness – to perceive they are being treated fairly.
- Benefit of the doubt – to perceive they are trusted.

Violations of a person's dignity can include any action or treatment that makes the person feel unfairly treated, unworthy or without value. For example:

- humiliation, bullying, exclusion, intimidation or threats
- any other conduct which people perceive as implying or inferring that they are inferior or of little value – including demeaning criticisms, patronising comments, ridicule, contemptuous behaviour or dismissive responses
- behaviour that creates a perception of discrimination based on factors such as gender, race or disability.

The following strategies can help people handling complaints to avoid disrespecting a person who has made a complaint, or try to address violated dignity:

- using inclusive language
- avoiding language of dominance, power or control
- avoiding unnecessary challenges to the person's sense of identity
- active listening
- reflective listening
- acknowledging feelings
- demonstrating that the complaint has been taken seriously
- managing expectations
- focusing on the person's conduct and not labelling the person
- apologising for any procedural failings.

3.1.8. Writing letters

Communicating effectively is also important when you are writing to a person who has made a complaint, particularly a final or review letter/email. Many people who make complaints place a lot of importance on these communications so you need to take time to draft them carefully.

Final letters/emails should be written as 'standalone' documents that clearly explain the:

- issues of complaint
- issues that were investigated and explanations for any that were not
- factors that were taken into account for those that were investigated
- methodology and actions taken
- reasons for the decisions/outcomes reached.

If the conduct of the person who made the complaint is perceived to have been unreasonable, the letter/email should also:

- identify the nature and number of interactions between the person and the organisation and/or its staff – if those interactions were excessive or inappropriate
- in serious cases, identify and explain the nature of the unacceptable conduct in which the person has engaged.

This type of approach can be effective in cases where you know or suspect that the recipient:

- will be very unsatisfied with the contents of the letter/email
- has or will escalate their complaint up the hierarchy – say to the CEO or Minister – or externally to the media for sympathy or for a more favourable outcome.

A comprehensive final letter/email can in these cases be used as the basis for (or attached to) a briefing note response if the escalation is to the CEO or Minister. Alternatively, if the escalation is to a journalist you can ask whether the journalist has been shown the letter by the complainant and, if not, suggest the journalist should ask to see it.

It is also best to give the decision at the end of the final letter/email rather than the beginning to encourage the complainant to read the reasoning underpinning the decision first. This may increase the likelihood of the decision being understood and accepted. Some people – when faced with an adverse decision at the beginning of a letter/email – do not bother to read the whole letter/email before calling to express their dissatisfaction or demand a review.

A letter advising a person of the outcome of a request for review should be short and concise. Long and detailed review decisions sometimes encourage a response arguing about specific details while ignoring the substance of the decision.

We suggest that organisations adopt a 'one review' policy. Review letters/emails should be signed/sent by a senior manager to make it clear to the recipient that the matter has been escalated and considered by management and that there is no benefit in trying to escalate the matter further within the organisation. The letter should include a statement and explanation about how further communications relating to the person's issue of concern will be dealt with. For example, further correspondence about this issue will be 'read and filed without acknowledgement' unless the organisation considers that it requires further action.

If possible, reviews should also generally be done by a different officer – preferably someone more senior – who is likely to be more impartial to the situation.

3.2. Quick guide – effective communication strategies

3.2.1. Do:

- Show respect (always, no matter what)
- Stay calm (always)
- Allow venting (to a degree)
- Acknowledge emotions (without saying ‘*I know how you feel!*’)
- Show empathy
- Acknowledge their point of view (without agreeing)
- Find something to agree with
- Paraphrase, or at least echo what they say (to show you are listening)
- Use non-confrontational language
- Listen actively
- Clarify (when unsure)
- Check understandings and manage expectations
- Allow space to think, if necessary
- Admit and apologise (where appropriate)
- Seek resolution (where appropriate)

3.2.2. Do not:

- Argue, defend or deny
- Give excuses (explanations are different)
- Be perceived as being confrontational, verbally and non-verbally
- Be overly formal or bureaucratic in your responses
- Be too informal and be wary of humour as it can be misinterpreted
- Respond to fighting words
- Suggest the person needs therapy or counselling
- Suggest the person is being unreasonable – instead of labelling the person, focusing on your perceptions about the person’s conduct and how that is affecting you is likely to be more effective
- Invade the person’s personal space

3.3. Cultural communication styles

The following information provides some guidance on various different global communication styles, and the way they can influence interactions with people who have made a complaint.

3.3.1. Globally recognised communication styles

We all rely on our acquired set of norms to develop what we see as appropriate, polite and respectful patterns of communication. Over time we are exposed to a wide variety of styles and patterns of communication that expand our own understanding and ability to interact successfully with others. However, there are times when the logic of someone's communication does not appear clear and the meaning is lost, misinterpreted or simply dismissed. In situations such as these, understanding and appreciating different communication styles can help to reduce or avoid conflict and confusion.

The descriptions below are basic outlines of eight communication styles you may come across when interacting with people from different cultures: linear, circular, direct, indirect, expressive, restrained, intellectual and relational. They form a useful basis for questioning assumptions about people's behaviour and may help you to understand why someone is acting in a certain way. You may even be able to adapt your own behaviour when you receive information in a way that is outside what you or your organisation are used to dealing with.

Linear

Information is provided in a straight line, almost like an outline. A leads to B which leads to C – all getting to 'the point'. It is frustrating for these communicators to be 'diverted' from what they consider to be the point when they are speaking or listening. It is up to the speaker to provide information clearly and concisely. This is a dominant style for most native English speakers.

Circular

Information is provided in a roundabout way, telling stories and restating things in many different ways – sometimes getting to the same point that a linear person might. However, some circular communicators leave 'the point' unstated. This can be a much longer process than linear conversations. It can be up to the listener to analyse and reach 'the point' based on the details provided and the context. This is an important style for some Africans, Arabic speakers, Indians and many Latin Americans.

Direct

Information is provided through unambiguous statements with a strong focus on speaking rather than writing. It is up to the speaker to state explicitly what they mean. People who use this style might make statements like: 'I tell it like it is!' French, Russian, Dutch and many other Northern Europeans, plus Israelis, favour direct communication. This is also a dominant style for most native English speakers.

Indirect

Information is provided through suggestion, implication and non-verbal behaviour. Active listening is required to follow and understand the various strands of communication. It is possible that messages will be sent through a third party. This style allows a person to avoid

confronting another person or causing them to lose face. Responsibility lies with the listener to analyse information and reach conclusions based on the context and communication methods other than spoken words. Often the words used are not meant to be taken literally. Most Asian societies prefer this style in disagreement or conflict.

Expressive

Important issues are discussed with feeling and emotion, a loud tone, use of hands and other gestures. All of these methods convey the speaker's personal stake in the outcome, their passion. It is important for more restrained communicators not to misinterpret this passion as threatening or aggressive. It is also important to remember that expressive communicators are seeking empathy and understanding, so if you make explicit statements about 'calming down' they may very well become more expressive in an attempt to show you how important the issue is. Provide empathy – by showing (rather than just stating) your understanding of their feelings rather than shutting them down. This style is common in most of the Mediterranean area as well as being used by Arabic speakers, African Americans, some Africans, Indians and others.

Restrained

Important issues are discussed with calmness and 'objectivity', conveying the speaker's ability to weigh all the factors impersonally. These speakers feel that it is important to be composed and that – if it is important – it should not be tainted by personal bias. This style can be interpreted by more expressive communicators as coldness and lack of caring. Most Northern Europeans favour this style. It also dominates professional settings in the English-speaking world.

Intellectual

Any disagreement is stated directly – with the assumption that only the idea, not the relationship, is being attacked. People who use this style might make statements like: 'We're just arguing – don't take it personally!' These speakers may argue for fun and in order to get to know and build trust in others. This style is found in some European countries, such as Russia and France, as well as Israel.

Relational

Disagreements are handled in a subtle and non-confrontational manner. In a debate or disagreement, it is important to tread softly. If relational people cannot find some common ground on an issue that is difficult or important for them, they will 'agree to disagree' or use indirect language in their disagreement. People who use this style might make statements like: 'If you don't like my idea you obviously don't like me.' This style is often the source of communication where 'yes' seems to mean 'no' and requires open-ended questions rather than closed ones. When relational communicators apparently answer with a direct 'yes', they may very well follow up with a more indirect or circular 'no'. If you fail to recognise this communication pattern you may judge them as dishonest or manipulative, when in their mind they were being very clear that their answer was 'no'. Indians and some East Asians use this style to prevent loss of face. Aboriginal English often favours relational communication, especially with non-Aboriginal people or authority figures.

3.3.2. Interpreting courtesy

Courteous behaviour is highly culturally dependent and implies a shared set of communication styles and other shared cognitive and behavioural patterns. Discourteous behaviour can mean breaking simple etiquette rules, such as shaking hands or not, through to more serious infringements – such as speaking the name of the dead. When interacting with people who are culturally different from you, even if they speak your language, remember that you may have to be more explicit in your behavioural and communication expectations of them. It may not be enough to say, ‘You must be courteous and respectful’. You may have to provide a list of behavioural expectations for what you mean by these terms.

Interpreting hierarchy

People who come from more hierarchical backgrounds than what is normal in Australia and New Zealand (most countries in the world are more hierarchical) may make false assumptions about you and your organisation based on what you see as normal behaviour. For example, if you encourage people to call you by your first name they may assume you have befriended them – as only friends use first names in many societies. This may mean they expect you to behave as a friend, supporting their claim ‘no matter what’ or advocating for them throughout the complaints process. In other cases, people may themselves be quite high in rank or status in their own community and expect to be treated differently to others during their complaints process. When you do not do this, they may say you have been rude or disrespectful of them. There are many other situations in which the person’s understanding of the role of hierarchy in organising the world leads them to misinterpret you, your organisation or the complaints process.

You will not change your policies or procedures in these cases, but – to help some people understand your actions and how your process works – you may have to provide more explicit information about your own behaviour, expectations and possible outcomes. You cannot assume that your own unwritten etiquette rules and behaviours will be universally understood, even by those who speak your language fluently.

Interpreting honesty

Direct and intellectual communicators, such as most English-speakers, use the term ‘honesty’ to mean telling the truth, ‘saying it like it is’ or being transparent in their actions and communication. The listener has little responsibility but to pay attention. For more indirect or relational communicators, ‘honesty’ involves a very different set of actions – often in order to save face for themselves, their listener or others. They tend to rely on the listener to interpret the entire context of the communication and rely much less on words. Culturally appropriate listening skills require not only paying attention but also analysing, interpreting and questioning the entire context of the communication in order to find the speaker’s meaning.

Interpreting respect

Respectful behaviour is very different across different cultural contexts. For intellectual communicators, engaging in argument is a form of respect – as it shows esteem for people’s ideas and ability to communicate. For more relational communicators, agreeing with others is a form of respect – as it shows a willingness to set aside your own ideas for them. Expressive communicators will feel highly disrespected if you ask them to ‘calm down’ or if

you remain restrained instead of showing them that you understand them and their point of view (understanding is not agreeing). Of course, for restrained communicators, respectful behaviour is the opposite – they expect calmness and an even tone.

As with courtesy, when interacting with people who are culturally different from you even if they speak your language, remember that you may have to be more explicit in your behavioural and communication expectations of them. It may not be enough to say, 'You must be courteous and respectful'. You may have to provide a list of behavioural expectations.

3.3.3. Aboriginal and Torres Strait Islander people

The terms 'Indigenous', 'Aboriginal' and 'Torres Strait Islander' are commonly used now, but it is important to note that these names are the legacy of colonisation and are terms imposed on a range of people with diverse cultures and languages.

The term 'Indigenous' is usually used when referring to both First Nations people of Australia – Aboriginal and Torres Strait Islander peoples. This term is generally used by the Commonwealth Government as they have a charter of providing services and programs to both Aboriginal and Torres Strait Islander people at the national level. The term 'Aboriginal' refers specifically to the Aboriginal people of mainland Australia and does not necessarily include Australia's other Indigenous population – Torres Strait Islanders.

Many Aboriginal and Torres Strait Islander people are opposed to the term 'Indigenous' being used as it generalises both cultures. It is important to remember that while both are First Nations of Australia, Aboriginal and Torres Strait Islander cultures are very different – with their own unique histories, beliefs and values. It is respectful to give each their identity.

When referring to both cultures, it is appropriate to use the term 'Aboriginal and Torres Strait Islander'. In other circumstances – for example, in states and territories where Aboriginal people are the original inhabitants – use Aboriginal. The first letters of Aboriginal, Elder, Torres Strait Islander and Indigenous are always capitalised. Not doing so is similar to misspelling a person's name or another country's inhabitants.

Respect and sensitivity

Like all genuinely mutual and productive relationships, engagements with Aboriginal people and communities need to be based on respect. You need to offer and earn respect, particularly in dealings with community Elders and leaders. Elders and community leaders not only hold key community knowledge but they also have a great deal of influence over when, how and if a community will work with those from outside. This is also true for other representatives of the local community. An Elder or leader may not necessarily be an older person. They may also be a younger person who is well respected within their community and holds significant community knowledge. Many Aboriginal people acknowledge Elders and leaders as Aunty or Uncle, even if that person is not blood-related or kin, as this is a sign of respect. The same courtesies accorded to dignitaries should be applied to Elders.

Managing expectations

Numerous policies and programs have been developed by government promising Aboriginal people many things that have often not been delivered. For this reason, managing expectations is important. Be honest and upfront. Providing feedback is also critical.

You need to explain what your organisation can do, and make sure that people clearly understand any processes and limitations you may have when providing assistance and advice. Aboriginal people would rather you be honest and tell them if you cannot help them, or if it is not within your organisation's capacity to help them. Alternatively, if you cannot provide them with the advice they need immediately, explain to them that you need to research the problem or seek advice from your supervisor and you will contact them with the information. Make sure that you do this, even if it is not good news.

Credibility

It is not wise to say to an Aboriginal person 'I will look into it for you' as in most Aboriginal communities this means you are a 'looking glass man/woman' – meaning you will look into the problem like you do into a mirror, but do nothing about it. Remember that the 'grapevine' or the 'bush telegraph' is very effective and efficient – and you can be certain the whole community will know in a very short time what you did or didn't do. Providing feedback, even if it may not be what people want to hear, is critical to an organisation's or individual's credibility.

Language

Since colonisation, Aboriginal and Torres Strait Islander people have experienced prejudice, discrimination and misunderstanding and their interests, rights and concerns have often been dismissed or ignored.

For example, after European colonisation, Aboriginal people were forbidden from speaking their traditional languages, and English was used to communicate with and describe Aboriginal people. Given the beliefs and perspectives of the colonists at that time, the terminology that was developed was often inaccurate and discriminatory towards Aboriginal and Torres Strait Islander people.

Having an understanding of how to use appropriate terminology and language, and understanding some of the ways in which many Aboriginal people use language differently to non-Aboriginal people, is fundamental to effective communication and to developing strong relationships with Aboriginal community members.

Inappropriate terminology

As the relationship between Aboriginal and non-Aboriginal Australians continues to evolve, the language that is considered appropriate also changes. There are a number of terms which, while still in common use, are out of step with what many Aboriginal people believe is appropriate or offensive. It is important to understand that opinions on what is appropriate will vary between different locations and between individuals. If you are not sure about using a particular term, ask the local Aboriginal community to identify what term they believe is the most accurate and respectful.

Aboriginal English

Aboriginal English is the name given to the various kinds of English spoken by Aboriginal people throughout Australia. Technically, the language varieties are dialects of English. They have much in common with other varieties of Australian English, but there are distinctive features of accent, grammar, words and meanings, as well as language use. Aboriginal English often shows continuities with the traditional Aboriginal languages. In many subtle ways Aboriginal English is a powerful vehicle for the expression of Aboriginal identity.

Swearing

It is common for some Aboriginal people to use swear words in their regular vocabulary and in general conversation. Swearing is not considered to be as offensive as it is in non-Aboriginal culture. If this happens, try not to take any offence. This does not include a person swearing directly at you in a derogatory, threatening or offensive manner – this behaviour should not be tolerated by anyone.

Non-verbal communication

Aboriginal English makes considerable use of non-verbal signs. These are an integral part of the communication process and should not be ignored.

Differences between Aboriginal non-verbal features and those of other cultures provide additional scope for misinterpretations. This is especially so for people of Anglo-Celtic descent who usually downplay non-verbal communication. Non-verbal communication includes hand and facial gestures, eye contact and silence. If there are concerns about misinterpreting non-verbal communication, clarify by rephrasing the question or repeating the non-verbal response back by using verbal language. For example, if you are asking a person how many children they have and they hold up three fingers, clarify by asking back 'So you have got three children, right?'

Be sensitive to the use of non-verbal communication cues, which are a part of Aboriginal communication patterns. The use of silence does not mean Aboriginal people do not understand – they may be listening, remaining noncommittal or waiting for community support. During discussions, Aboriginal people may delay expressing a firm opinion – preferring to listen to other people's opinions first before offering their own. Remember that language issues are extremely sensitive because so many Aboriginal languages have been lost and many of those that survive are endangered.

Communication tips

- Be sensitive to the use of non-verbal communication cues, which are a natural part of Aboriginal communication patterns.
- The use of silence does not mean Aboriginal people do not understand. They may be listening, remaining noncommittal or waiting for community support.
- Use indirect eye contact – which is a sign of respect in Aboriginal culture.
- Time delays (sometimes lengthy) before communities provide requested information – or a less direct communication style – are common in Aboriginal communities.
- To be direct may be seen as confrontational.
- During discussions, Aboriginal people may delay expressing a firm opinion even though they may hold one. Instead, they may listen to others before offering their own view.
- If their view conflicts with others, they will often tend to understate it.
- The question 'why?' is virtually absent from the language of remote Aboriginal communities. Instead, observation is used as a learning device.

3.4. Guidance on disability and mental illness

The following brief summaries, based on the work of Ombudsman Victoria, outline some of the disabilities and mental illnesses that can have an impact on a complainant's behaviour.

3.4.1. Acquired brain injury

An acquired brain injury (ABI) is any damage to the brain that occurs after birth. It can be caused by:

- traumas such as car accidents, falls or assaults
- stroke or vascular disease
- drug or alcohol use
- brain infection such as meningitis
- diseases such as dementia or tumours
- lack of oxygen, including near drowning.

The Australian Institute of Health and Welfare estimates that 1 in 45 Australians have an ABI.

The effects of an ABI vary from person to person and range from mild to severe.

They can include fatigue, memory problems, problems processing information, a shorter attention span, irritability and anger, and impulsive or disinhibited behaviour.

If you are speaking with a person with an ABI that affects their communication and comprehension, the following may help:

- Use short clear sentences and questions.
- If the person has memory problems, write down important information or repeat information regularly.
- Check that the person has understood you – ask them to summarise what you said in their own words.
- If the person has not understood, try again using different words.
- Be patient. Give the person time to process information and respond. Do not finish their sentences for them.

The following may help you if a person with an ABI exhibits challenging behaviour:

- Stay calm and keep an even tone.
- Use non-threatening hand gestures.
- Give clear, simple and immediate feedback. For example, 'I would rather you don't talk about ...'
or
'I hear you're frustrated but I don't like it when you shout at me'.
- Recognise when to disengage. It may be better to end the discussion and try again another time.

3.4.2. Autism spectrum disorders

Autism is a lifelong neurodevelopmental condition that affects the way people relate to other people and their environment. Its cause is unknown.

The Australian Bureau of Statistics estimated that there were 164,000 Australians with autism in 2015.

Autism presents differently in different people, hence the use of the word 'spectrum'. Some people with autism live independently and have families and jobs. Others have no or limited language and need lifelong support.

Autism often presents in social communication and patterns of behaviour such as:

- Difficulty interpreting verbal and non-verbal communication – such as tone of voice, metaphors or jokes. They may take what you say literally.
- Difficulty with social skills. People with autism may appear to be insensitive, or act in ways that are socially inappropriate.
- Preferences for certain routines.
- Repetitive or unusual behaviour.
- Sensitivity to certain things such as noises and light.

If you are speaking to a person with autism, the following may help:

- Use the person's name to attract their attention.
- Use short clear sentences and questions.
- Do not overload the person with information or questions.
- Ask specific rather than open questions for example, 'Did you write to X about your car? On what date?' rather than 'How have you tried to resolve this with X?'
- Avoid metaphors, sarcasm and irony.
- Consider visual information to support your communication.
- Give the person time to process what you have said and respond.
- If the person does not respond, rephrase the question.

The following may help you if a person with autism exhibits challenging behaviour:

- Stay calm and keep an even tone.
- Remove the source of discomfort if that is the cause for example, reduce noise or light.
- Tell the person what to do, rather than naming the behaviour – for example, 'Put your hands down'.

3.4.3. Intellectual disability

Intellectual disability is characterised by impairment in intellectual functioning and adaptive behaviours.

It can be caused by genetic conditions such as Down syndrome, problems during pregnancy or birth, or health problems during childhood.

The Australian Institute of Health and Welfare estimates that 3% of the population has an intellectual disability.

Intellectual disability can range from mild to severe.

It can affect the person's:

- communication – they may take longer to understand information, have difficulty with abstract concepts or instructions or have a shorter attention span
- social skills
- self-care and ability to live independently.

If you are speaking to a person with an intellectual disability, the following may help:

- Use the person's name to attract their attention.
- Use short clear sentences and questions.
- Raise one idea or question at a time.
- Avoid abstract concepts, acronyms and metaphors.
- Use body language or visual information to help you communicate.
- Consider communication aids, Easy English or other accessible communication strategies.
- Check the person's understanding – for example, ask them to repeat what you have said in their own words.
- Give them time to process information and respond.
- Allow them to take a break if needed.

3.4.4. Mental illness

Mental illness describes a group of conditions that significantly interfere with a person's thinking, emotions and/or behaviour. They include:

- anxiety disorders – such as social anxiety or post-traumatic stress disorder
- mood disorders – such as bipolar disorder or depression
- psychotic disorders – such as schizophrenia.

The Australian Bureau of Statistics estimates that 45% of adult Australians experience a mental illness in their lifetime.

The impact on an individual will depend on the type of mental illness. A person with depression may feel sad or flat, have trouble with sleep and appetite, and have impaired thinking or concentration. A person with schizophrenia may experience psychosis for example, delusions or hallucinations. A person with post-traumatic stress disorder may have intrusive memories or be anxious or irritable.

Mental illness is treatable. Some people experience it once and recover. For others it is recurring and episodic.

The effect of mental illness differs from person to person so it is best to ask the person what they need.

Consider adjustments such as giving the person more time to collect their thoughts and explain their complaint.

It is not true that people with mental illness are more violent than other people. However, mental illness is sometimes associated with behaviours that are challenging for complaint handlers.

If you are speaking with someone who says things that appear out of touch with reality – for example, that people are listening to their thoughts – you do not want to fuel a delusion or be confrontational. It is better to:

- Be respectful.
- Do not argue or tell the person they are wrong or need help.
- Acknowledge and empathise. Regardless of whether what the person is telling you is true or not, they are experiencing it as true and their distress is genuine.
- Explain that you cannot act without evidence. For example, 'You're explaining this well. We need clear evidence before we can take action though, so I don't think we can help you'.

Remember that the person may still have a legitimate complaint.

If you have other concerns about the person's behaviour:

- Talk to them calmly but firmly.
- Give clear directions for example, 'I hear you're frustrated but please stop shouting'.
- If the person does not stop, give them time to calm down somewhere they feel safe.
- If you are concerned for their safety or the safety of other people, contact the mental health unit at your nearest hospital or the police.

3.5. Online UCC

In 2016–17, 87% of Australians were internet users. Social networking, shopping and banking were equally popular online activities – with each attracting 80% of internet users.

It is not surprising that people are increasingly using social media platforms to express their views and opinions about issues. A survey in the United Kingdom found that one in four social media users used platforms such as Facebook, Twitter, Instagram or Google+ to make a complaint over a three-month period.

People have a right to complain about an issue in the way they want to, including online. Online complaints are only problematic when justifiable complaining becomes inappropriate and/or involves unlawful attacks on organisations and their staff. This type of behaviour can cause serious psychological or reputational harm because it can be very public and often vicious, and must be dealt with decisively and swiftly – in the same way as other more traditional forms of UCC.

3.5.1. When does online conduct become problematic?

If online conduct occurs during or as a direct result of services provided or work done by an organisation or its staff and is considered to be unacceptable (and in some cases unlawful), then it can legitimately be characterised as UCC and must be dealt with as an organisational issue. However, the level and type of response needed will vary depending on the circumstances of each case.

Some examples of inappropriate and unreasonable conduct by people complaining online include:

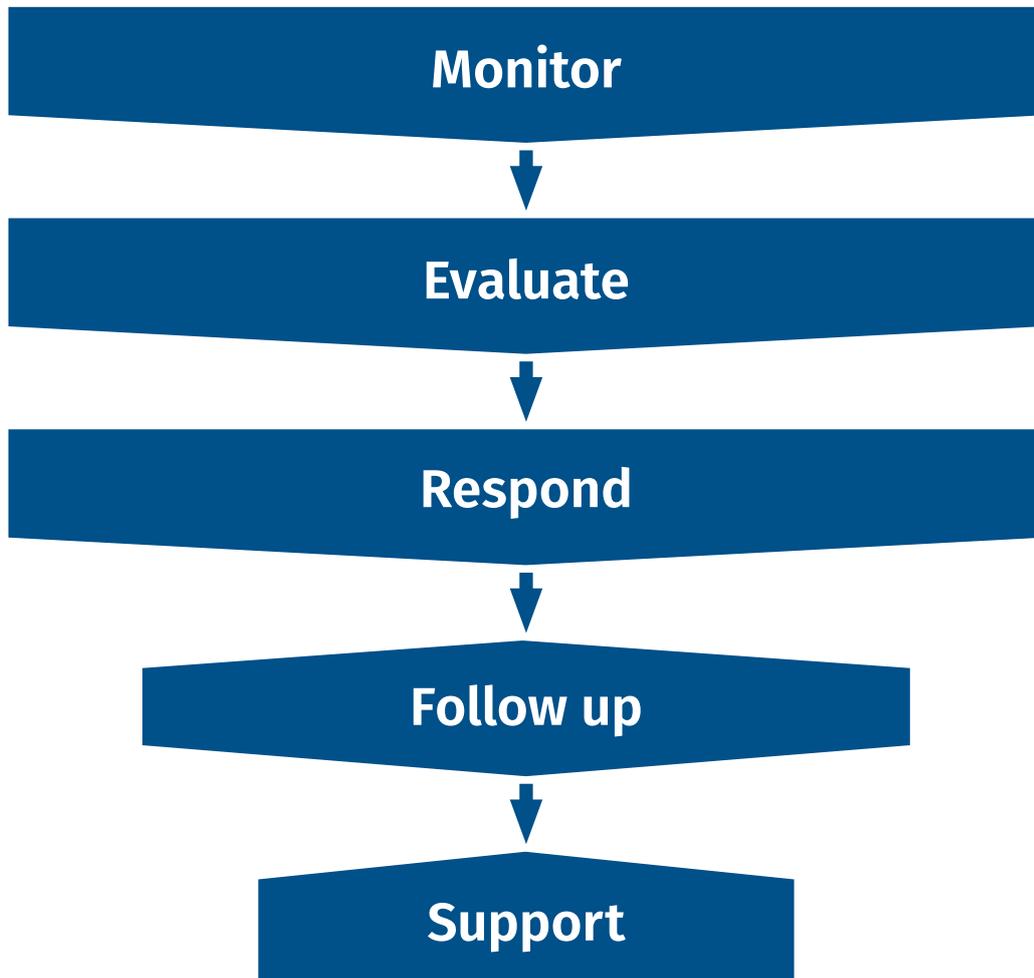
- Posting lies and defaming organisations and their staff (and in some cases their family members) – such as making corruption allegations or commenting about their personal lives or alleged sexual activities.
- Creating unpleasant websites with rude comments, photos or videos depicting members of an organisation or their family members.
- Stalking (repeated attempts to make contact/unsolicited or unwanted communications) or bullying (creating pages or online groups targeted at an organisation or its staff).
- Sending messages or posting comments that contain harassing or offensive language – including sexual references, inappropriate nicknames or jokes, racial slurs, rude or deliberately offensive comments.
- Ridiculing organisations and/or their staff to intentionally embarrass or humiliate them or worse.
- Conducting snide online polls about organisations and their staff.
- Sending threatening, harassing, verbally abusive or confronting messages/comments/emails/posts.
- Posting personal information about staff members of an organisation – including their phone number or contact details, name, address or vehicle details.
- Posting links to other disreputable or inappropriate websites, and hacking or uploading viruses or other materials that are harmful to an organisation's network.
- Posting comments to incite others – including encouraging illegal activity or engaging in violent conduct towards a staff member.

- Using an automated system to repeatedly send the same message to your network so that it overloads or crashes.
- Altering or misrepresenting information or correspondence from an organisation or its staff, inappropriately using an organisation's trademark or letterhead or otherwise violating copyright laws. This usually happens when online comments and postings are copied by a complainant to appear as though they are their own.
- Creating fake online profiles to impersonate someone or so that they cannot be identified (anonymity).

3.5.2. Taking a risk management approach to online UCC

Employers need to adequately protect themselves and their staff from risks to health and safety and liabilities that can happen as a result of online and electronic communication. Preferably, this should happen whether or not an organisation has a social media or online presence and should include clear protocols and procedures for dealing with UCC in e-communications. These protocols may be part of a broader UCC policy or can be a separate document. They should include a risk assessment process to help staff to determine when and if so how to respond to UCC in such situations.

The following risk assessment process is largely based on the work of Mike Kerwin, executive writer at Levick Strategic Communications LLC and Alyssa Gregory, founder of Avertua LLC.



Step 1 – Monitor

Maintain

- an ongoing system for researching and keeping track of postings and online comments about your organisation and staff.
- Encourage all staff to report any inappropriate or questionable online content that they discover which relates to your organisation or a member of your staff.
- Use online listening tools and alerts – such as Google Alerts, Social Mention, Technocrati, TweetBeep and Boardtracker etc. Google Alerts, for example, can send email updates of the latest online mentions about your organisation whether it is on a blog, a news item, in a video or tweet – eliminating the need for manual searches.
- Designate an authorised staff member (or response team) to monitor online content. This person should also be responsible for evaluating identified online content and deciding whether a response is needed – and if so what that response will be.

Step 2 – Evaluate

Once you are aware of the online content, the next step is to look at what response, if any, is needed. It is essential that this occurs promptly so that you can avoid or minimise the likelihood of these situations spiralling out of control. The following issues may be considered:

Content

- Does the online content contain constructive criticism, an observation or negative criticism?
- Is the online content relatively moderate in its tone or does it contain grossly inflammatory or offensive content that will require some form of action?
- Is the online content grossly misinformed or misleading or does it contain misrepresentations or lies that could reasonably mislead others?
- Does the online content contain personal information about staff members – such as their names, photos, videos, contact details (personal or at the organisation) or any information that could be used to identify the staff members or members of their family?
- Does the online content contain defamatory information or threats, violate trademark or copyright laws, or contain otherwise unlawful content?
- Does the online content contain profane, indecent, vulgar or obscene sexual content and/or unsubstantiated allegations about staff?

Apparent purpose/objective

- Does the online content appear to be dedicated to degrading others? Is it part of a smear campaign or a publicity stunt?
- Does the online content incite others to engage in a particular act or omission – such as boycotting your organisation or taking part in illegal conduct?
- Does the online content appear to have been created with the intention to embarrass or humiliate or as part of a joke?
- Does the online content seem to have a valid basis – raises a valid issue for which you or your staff are responsible and should take steps to rectify?

Visibility and credibility

- Is the online content on a website that is highly visible and easily accessible? For example, is it on Facebook (with approximately 16 million Australian users) or is it on an obscure website that has been viewed by a relatively small number of people – the person’s inner and/or extended circle of friends and family?
- Has the online content taken on a life of its own – possibly even being reported in the news media and therefore requiring a relatively comprehensive response?
- Could the online content be perceived to be credible or is it so farfetched that it will not be believed by a reasonable person?

Impact

- Could the online content significantly damage your organisation’s reputation or that of a staff member?
- Is the online content having (or likely to have) an impact on your workplace environment, on relationships between colleagues or with people who have made or may make complaints, or on cohesion in the workplace? If so, some form of action will be required.
- If the online content is about a staff member, how do they feel about the posting? Have they (or their family) been affected by it in a substantial way?
- Could your organisation be open to duty of care, WHS or legal issues if some form of action is not taken in response to the online content?
- Could the online content be interpreted as a representation made by or on behalf of your organisation? Has the person represented themselves as a member of staff or another relevant authority figure?
- If relevant, is the person hijacking the communication stream in a way that is affecting its effectiveness or the ability of other people to use it in the intended way? This applies if your organisation is running a blog, Facebook or Twitter page or other online communication stream.

Context

- What is the timing of the online content? For example, has it been created at a time when your organisation (or a staff member) is under unusual public scrutiny – for example, because of a highly controversial report or for inappropriate conduct? If so, a response may be needed for ‘damage control’.

Step 3 – Respond***Is a response needed?***

If a response is required, it should be done promptly – within hours if not minutes of the online content being identified – before it has a chance to be picked up and spread widely. A timely response can also be pivotal to whether or not you can defuse the situation or a whether a comment spreads out of control.

Depending on the circumstances, reasons for responding to online content could include that:

- there is a significant risk that the online content could mislead others – because it contains gross misrepresentations or is highly misinformed
- it is extremely inflammatory, offensive, defamatory or otherwise unlawful

- it could cause significant reputational and psychological harm
- it discloses highly personal information about staff or their families or would give rise to legal or WHS issues for the organisation if it is not acted on
- it is highly visible and accessible, has gone or could go 'viral'
- it appears to be credible even though it is not or could cause others to be grossly misinformed
- it is having a significant impact on the workplace and relationships between colleagues and with people who have made or may make complaints
- it has been created at an inopportune time for your organisation.

There are a number of options for responding to online content. Responses can be public or private, they can take the form of a comment, a rebuttal or rejection, or they can include a statement on the website or forum where the inappropriate online content was discovered, or on your organisation's website, or be delivered by email, a telephone call, a face-to-face interview or in a letter. The most appropriate method for response will depend on the circumstances of each case.

Should it be a public or private response?

When deciding whether a response should be public or private you may consider the following issues.

Public response

If the online content is on a website that is highly visible and accessible or includes gross and repeated false and misleading information, a public response may be appropriate. A public response can either be done on the website where the offending online content was discovered, on your organisation's website, blog or social media page, or in an online newsletter etc.

It is important for public responses to be unemotional. They should show restraint and treat the complainant with dignity and respect.

Public responses should offer to correct problems if your organisation or staff have done something wrong. If all else fails, responses should thank the person for their comment and move on as quickly as possible. The reality is that the public audience is more likely to be looking for how you respond, rather than the person who posted the online content. If you respond badly, then you will do more damage than the person who posted the content ever could do.

The following suggestions have been taken from Robert Bacal's *Defusing Hostile Customers Workbook*. Bacal suggests that these are the most effective layouts for responding to people through electronic mediums, including posts on social media websites, to ensure that your key messages stand out and that readers see them quickly and pay attention to them. These suggestions can also minimise the likelihood for misunderstandings:

- Use short paragraphs, with double spacing between each paragraph. Six to ten lines per paragraph.
- Use short sentences and simple sentence structures. Complex structures will be even more confusing online than on the printed page.
- Use proper headings – assume your reader is going to take a quick look at the page overall to see if what they are looking for can be found in the headings.

- Make sure that the main content of the page is readable without scrolling down the page. That does not mean that everything that is important needs to be at the top, but it does mean visitors should be able to quickly see what is on the rest of the page by looking at the top.

Once you have responded publicly, shift to private responses/correspondence with the complainant by email, telephone or face-to-face.

Private response

If the online content is not publicly accessible, then a private email response, letter or phone call may be appropriate and adequate. A private response can be used to clarify issues – including when your organisation or staff have done something wrong – or to give the person who posted the content an opportunity to remove the online content before taking more decisive action. The latter should always be done in private because it could be viewed negatively online.

Both public and private responses

If the online content has taken on a life of its own and has spread virally across the internet or other communication platforms, a more comprehensive response strategy may be required. This response strategy could include press and/or media releases and interviews, proactive outreach to relevant people, corrective messaging in social media and/or on your website or blog, or responses in any other relevant publications produced by your organisation.

It can be difficult to know when an online posting or website will be picked up and spread. Online listening tools can be helpful to alert you to all mentions of your organisation. As the number of mentions about a particular issue increases, you will have an opportunity to make a comment or even deal directly with the source of the posting before things get out of hand.

No response needed

If a response is not needed, then usually no further action is required. In some cases, it may be appropriate to copy and make a record of the content to identify recurrent behaviour. It may also be important to provide assistance and support to any staff members affected by the comments.

Step 4 – Follow up and follow through

Once the online content has been responded to – either directly or indirectly – you should continue monitoring to identify new comments and track old comments to see if they are picked up elsewhere or revived.

Also, if a person's concerns were valid and/or your organisation or staff have done something wrong, consider following up with the person a couple of weeks after the incident to make sure that you have satisfactorily addressed their concerns. By keeping in touch, you convey a sense of approachability and increase the likelihood that they will contact your organisation in the first instance next time around – before turning to the internet.

Step 5 – Support affected staff members

If the online content poses a significant risk of psychological or reputational harm to staff, it may be important to consider providing the affected staff with a public message of support – as part of your public response. This message of support will be important in discrediting and rejecting the person’s remarks and making staff feel (and the public recognise) that they and their work are valued and supported by the organisation. You should also take appropriate steps to make sure staff receive adequate counselling and support services.

Staff should also be advised on the legal avenues that they can take in such situations and, in appropriate cases, should be supported to do so. Depending on the circumstances, there are legal mechanisms that could be used to deal with online UCC under relevant Commonwealth and state legislation.

For example, in NSW this could include an action under the:

- *Anti-Discrimination Act 1977* (NSW)
- *Broadcasting Service Act 1992* (Cth)
- *Copyright Act 1879* (NSW)
- *Copyright Act 1968* (Cth)
- *Crimes Act 1900* (NSW), in particular Part 6 – Computer Offences
- *Criminal Code Act 1995* (Cth), particularly:
 - s 147.1 – Causing harm to a Commonwealth public official
 - s 147.2 – Threatening to cause harm to a Commonwealth public official
 - s 474.14 – Using a telecommunications network with intention to commit a serious offence
 - s 474.15 – Using a carriage service to threaten to kill another person or entity
 - s 474.16 – Using a carriage service for a hoax threat against another person or entity
 - s 474.17 – Using a carriage service to menace, harass, or cause offence to another person or entity in such a way as would be regarded as offensive by reasonable persons.
- *Defamation Act 2005* (NSW)
- *Privacy Act 1988* (Cth)
- *Privacy and Personal Information Protection Act 1998* (NSW)
- *Racial Discrimination Act 1975* (Cth)

A carriage service under the Criminal Code Act is any service that facilitates communication through electronic energy. This includes telephones or mobile phone services, the internet (and any facility on it like email or social networking websites), and using facsimile or other electronic means.

Case study – An example of online UCC

A man approached an Ombudsman in 2010 complaining about an agency's investigation and review of his complaints about his former employer for breaches of work health and safety legislation. He also complained that the agency had not responded to his complaints about safety breaches in an appropriate manner and alleged that – because of the agency's negligence in not referring to the legal evidence he had provided them – he had lost his employment, finances, retirement investments and worst of all his good health.

The Ombudsman accepted his complaint and decided to make inquiries into the issues he had raised. During our inquiries, we discovered that the person had created a website about his issue.

Ombudsman staff visited the website which seemed to target the person's former employer and its board of directors, whom he compared to former Chinese Communist regimes. The website also targeted a wide range of people and organisations that had rejected his allegations and included copies of correspondence involving them along with photos – some with speech bubbles added to the photos. There were also more than 60 links on the website's home page to the correspondence he had either sent or received from these people and organisations, accusing many of them of being biased and fraudulent. A number of the letters on the website had been altered to draw attention to certain sentences which were responded to either in typed script or with scribbled comments in the margins.

The website also made allegations of taxpayer-funded sex and child abuse and made references to other controversies. This appeared to have been done to support his allegations of bias and corruption – though they were completely unrelated to his complaint. There were accusations about criminal activity and negligence, fraud, discrimination and violence among other things, and – in an apparent attempt to make the website credible – included more than 30 union, government and company trademarks and logos copied onto the website's home page. Some of these had been altered to include the name of his former employer in different fonts, colours and sizes.

The home page also had approximately 10 scrolling messages about his former employer. One bounced, five scrolled to the left, while another scrolled to the right. One scrolled upwards and another went downwards and one was identified as 'breaking news'. It even offered a \$5,000 reward for any evidence on his former employer's alleged work health and safety violations and directed people to his Twitter and Facebook pages which had also been created as 'part of [his] pursuit to expose [the CEO's] OHS crimes'.

3.6. Apologies

Mistakes, delays, omissions and misunderstandings happen, complaints can be mismanaged, and processes and procedures can be unresponsive to the needs of certain people who have made a complaint. When these things happen we should correct them as soon as possible. This includes providing the person with a ‘full’ apology – an apology in which we admit fault or responsibility.

A full apology is one of the most effective ways to defuse a situation and prevent it from escalating. It is also essential in any circumstances where our initial conduct or response to a complaint has triggered or contributed to a person’s conduct becoming unreasonable. A full apology, given at the right time, can:

- restore dignity, face and reputation
- provide an acknowledgement that the recipient was indeed right
- assure the recipient that they are not at fault
- prevent escalation of the matter and the associated costs in terms of time, resources and stress.

Most of us do not like confrontation – particularly with an angry person. Some of us fear that by apologising we will make an angry person even angrier, so we avoid them instead – waiting for the situation or problem to ‘blow over’. Unfortunately, this rarely occurs and the situation escalates unnecessarily.

This section briefly discusses apologies. For more information and practical examples, see NSW Ombudsman website *Apologies – A practical guide*. https://www.ombo.nsw.gov.au/___data/assets/pdf_file/0013/1426/Apologies_A-practical-guide.pdf

3.6.1. Giving an apology

An apology needs to be made properly and should be given at the earliest practical opportunity. This could be, for example, once responsibility for a wrong is apparent or immediately after an investigation into the issue giving rise to the need for an apology. If an apology is made too late, it can be interpreted as ‘damage control’ – rather than a sincere expression of regret. A partial apology (saying sorry, but not why) or an otherwise inappropriate apology can do more harm than good.

To be effective, an apology also needs to be given by the right person – the one who is responsible for the wrong, or a person who is clearly perceived as speaking on behalf of the agency responsible for the wrong. Otherwise, it may be perceived as being insincere. It is best to assume that in most cases the person who deserves an apology needs that apology to be sincere. This may not always be the case – for example, if the person’s need is for the fact of an apology, such as when a person is stridently demanding that they be given an apology.

Apologies should also be given to the right person, the one who was harmed. Apologising to a third party is generally not appropriate.

3.6.2. What should an apology include?

The most appropriate form and method of communicating an apology will depend on the circumstances of the particular case. However, the most effective apologies generally incorporate the following five key elements:

- Recognition – an explicit acknowledgement and recognition of the act or omission (the wrong) to which the apology applies. This also means acknowledging the harm caused by the wrong – for example, the person suffered embarrassment, hurt, pain, damage or loss.
- Responsibility – an express acceptance of responsibility or fault for the wrong that caused the harm.
- Reasons – a clear, plain English explanation of why the wrong happened.
- Regret – a statement of apology that expresses sincere regret and/or sympathy, sorrow or remorse as appropriate.
- Redress – a proposed or actual action taken to address the problem. An express promise not to repeat the wrong.

Communicating with sincerity is an important indicator of the level of regret of the person or organisation apologising. Although while demonstrating sincerity is always preferable, in practice – if the harm caused to a person is primarily embarrassment or loss of face – it can be assumed that the fact of the apology will generally be more important to the person than the sincerity of the apology.

To be effective, a full apology has to meet the needs of the recipient. To achieve this outcome, you may have to talk to the complainant first to clarify what those needs might be. An effective apology might follow a process of communication and possibly negotiation. This may need to include a package of measures to address each of the five elements listed earlier.

Although it cannot be guaranteed to work in every case, the more that an apology addresses these five elements, the greater the likelihood it will be effective in meeting the needs of the recipient – and in that way reduce anger, restore a damaged relationship, and help the person to ‘move on’.

3.6.3. What if an apology fails?

If an apology fails and you or your organisation are required to maintain an ongoing relationship with the recipient, you may need to try remediation or alternative dispute resolution strategies such as conciliation and mediation. Alternatively, you could work with your supervisor and try to reassign the person to another member of staff if this will defuse the situation.

If you have made an appropriate apology and sufficient remediation has been offered, the person will not be justified in engaging in further unreasonable conduct and action may need to be taken to manage their conduct.

See – Part 2. Staff strategies for responding to unreasonable conduct.

See – 4.1. Management roles and responsibilities.

3.6.4. Will I get myself or my employer in trouble if I admit fault?

The most difficult thing about apologising for most professionals is the fear that the recipient of the apology will use that admission against them. Many people are worried that by apologising they are accepting legal liability or blame, or providing evidence for the recipient to use against them in court.

In New South Wales (NSW), Queensland (Qld), South Australia (SA) and the Australian Capital Territory (ACT), people are generally protected from liability when they apologise. For example:

- In those jurisdictions, in most circumstances people are protected from incurring civil liability for ‘full apologies’ – that is, apologies that include an admission of fault or responsibility.
- In the other states and territories, people are only protected from incurring civil liability for ‘partial apologies’ – that is, apologies that do not include such an admission.
- All states and territories in Australia have legislated to protect ‘full’ apologies from incurring liability in their defamation legislation.

Case law also states that even if a person makes an apology that includes an acceptance or admission of fault or responsibility, this will not necessarily be regarded by a court as an admission that creates legal liability in civil proceedings. See *Dovuro Pty Ltd v Watkins* [2003] HCA 51 (11 September 2003).

What this means in practice is that – at least in NSW, Qld, SA and the ACT – you have little to fear about incurring legal liability if you make a ‘full’ apology, and you can accept that making an appropriate and timely apology is the right thing to do and serves a good purpose. You will, however, need to consult your relevant supervisors or senior managers about the circumstances when it will be appropriate for you or your organisation to make an apology.

3.7. Alternative dispute resolution

Alternative dispute resolution (ADR) may help to resolve a conflict and rebuild the relationship with the other party to the conflict, especially if your organisation:

- cannot terminate their contact with the person
- has considered and/or attempted other reasonable and possible management strategies to manage the dispute
- bears some responsibility for causing or exacerbating the person's conduct.

ADR is a term used to describe a wide range of different processes that can help people to settle their disputes and conflicts by means other than litigation. ADR can be facilitative, advisory, determinative or a hybrid of these approaches to suit a particular conflict or dispute. As a result, each case will need to be assessed on its own facts to determine which approach will be effective.

When using ADR in a UCC context, it is also important to ensure that the ADR process is managed by a skilled independent and impartial third party who can help you and the complainant reach a solution you can both accept in the circumstances. Having a third party as a facilitator or mediator may also minimise the likelihood for negative perceptions and imputations about bias or collusion. In cases involving UCC, it is particularly important that the facilitator is well trained and experienced in ADR processes.

3.7.1. The pros and cons of ADR to address unreasonable conduct

ADR may be useful to:

- Make sure the person knows they are being recognised and respected as a person with a problem, rather than just being a problem.
- Help the person to feel that they are being listened to and their matter is being taken seriously.
- Obtain information about their issues, interests and position and help both parties to understand the underlying factors contributing to the dispute.
- Encourage both parties to change from 'position based' to 'interest based' discussions.
- Permit a wider range of options for settlement than traditional court based dispute resolution processes.
- Allow both parties to convey and understand the impact of the behaviour, the dispute and interactions on each other and others.
- Permit better communication around the person's expectations about the types of things that can be achieved/possible outcomes and the organisation's capacity to fulfil these.
- Allow any emotional dimensions to the dispute and relationship to be expressed and acknowledged.
- Allow parties to gently challenge each other's perceptions and encourage them to consider a different perspective in a non-adversarial setting.
- Bring about a change in the relationship with the person – it may also be less damaging to your relationship with the person as compared to other options.

- Support the other party to consider options they may not otherwise be open to, particularly if they have a friend, advocate or support person assisting them in the process. The ADR process may be the first time these individuals become aware of the history involved and the other party's perspective. These support people can often reassure and/or gently encourage distressed people to more fully consider options put to them during the process, and may remind them of the desirability of finalising the matter – as long as they personally consider the options to be reasonable/explicable.
- Provide a more cost and time effective process, rather than allowing the conflict to continue for years and affect members of staff over a long period.
- Encourage the parties to look to the future and consider a liveable solution rather than focusing on past conflicts, behaviours and 'winning'.
- Solve the problem or establish that there is no available solution within the organisation's control.

Depending on the circumstances of each case, ADR can be ineffective in an unreasonable conduct context if:

- The other party is unwilling to participate in good faith, is uncooperative, resistant to compromise or unwilling to work towards a solution that is fair to all parties.
- The other party refuses to agree to keep confidential all matters disclosed in the process – which allows participants to feel able to fully disclose all relevant information – or one party doubts the other's commitment to or ability to comply with this. This can also limit the chances of a successful process, and may pose additional risks to the organisation.
- The person's identity may have become so enmeshed with their issue that they are no longer able to identify or accept possible options for resolution, no matter how reasonable or accommodating the options may appear.
- It could give the person false ideas about the importance of their issue.
- It is too expensive, particularly if a skilled independent third party is retained to facilitate the process. If the other party exhibits unreasonable behaviour and a complaint runs over years, significant initial preparation may be required – increasing the costs. The cost of ADR should however be balanced against the costs associated with continuing to deal with the person in other ways.
- It is too time consuming – again this should be balanced against the possibility of the conflict being ongoing and unresolved for years.

3.7.2. Some common ADR strategies

The following are some of the more common ADR strategies that could be used in an unreasonable conduct context.

Mediation

In mediation, the parties to a dispute – with the assistance of a neutral third party (the mediator) – identify the issues in dispute, develop options, consider alternatives and try to reach an agreement. The mediator has no advisory or determinative role in the content or resolution of the dispute. The role of the mediator is to help both parties to identify their interests, understand alternative views and arrive at a mutually acceptable solution. When a resolution is reached, the parties can decide to draft a mediation agreement – a document signed by all the parties agreeing to the outcome reached in the mediation.

Facilitation

In facilitation, the participants (usually a group) – with the assistance of a dispute resolution practitioner (the facilitator) – identify problems to be solved, tasks to be accomplished or disputed issues to be resolved. Facilitation may conclude there, or it may continue to help the participants to develop options, consider alternatives and try to reach an agreement. The facilitator has no advisory or determinative role on the content of the matters discussed or the outcome of the process, but may advise on or determine the process of facilitation.

Facilitated negotiation

In a facilitated negotiation, the participants to a dispute – who have identified the issues to be negotiated – use a dispute resolution practitioner (the facilitator) to help them negotiate the outcome. The facilitator has no advisory or determinative role on the content of the matters discussed or the outcome of the process, but may advise on or determine the process of facilitation.

Conciliation

In a conciliation, the participants – with the assistance of the dispute resolution practitioner (the conciliator) – identify the issues in dispute, develop options, consider alternatives and try to reach an agreement. A conciliator can provide advice on the matters in dispute and/or options for resolution, but will not make a determination. The conciliator is responsible for managing the conciliation process, and may have professional expertise in the subject matter in dispute.

Conferencing

In conferencing, meetings are organised – with a conference chair or convenor – for the participants and/or their advocates to discuss the issues in dispute. Conferences are often used by organisations with a regulatory or statutory responsibility, and the conference chair or convenor may provide advice on the issues in dispute or possible options for its resolution. The term ‘conference’ is often used to refer to processes in courts, tribunals and regulatory agencies that are similar to conciliation and may sometimes be referred to as ‘conciliation conferences’.

Conflict coaching

Although it is not formally an ADR process, conflict coaching may also be an option for dealing with conflicts with complainants – particularly internal complainants. It is a form of interactive problem-solving that involves a ‘coach’ helping a ‘coachee’ (in this case the person who made the complaint or complaint handler) to resolve their conflicts. The process encourages the coachee to reflect on and examine their conflicts and develop new and more productive strategies for managing them. The conflict coach does not provide advice to the coachee, nor do they act as an advocate, representative or mediator for the coachee. The coach also does not judge the coachee or any other party involved in the conflict.

Various negotiation training programs are available to help frontline staff to strengthen their negotiation skills when dealing with complainants.

More information about alternative dispute resolution is available at the [Commonwealth Attorney-General’s website – www.ag.gov.au](http://www.ag.gov.au).

Part 4.

Management responsibilities and supporting staff

4.1. Management roles and responsibilities

4.1.1. Understanding the role of supervisors

Supporting and protecting frontline staff should be a key priority for supervisors and senior management. Supervisors need to make it clear to their staff that they have their full support in dealing with unreasonable conduct by people who have made complaints (or for that matter anybody else the staff may interact with) in accordance with the strategies provided in this manual and any policy adopted by the organisation for managing unreasonable conduct. This support enables staff to make clear and confident decisions and take decisive action in the face of such conduct.

When it is clear that unreasonable conduct is a factor in a particular case – and it seems that it will be ongoing, is already or may well use up an unreasonable amount of time and resources, and/or may have an unreasonable impact on the health, safety or wellbeing of the staff concerned – it is essential that you (as a supervisor) discuss it with the officer concerned. You can then work together to:

- make a plan about how the case will be managed
- stick to the plan as closely as possible without being inflexible.

When deciding on a plan, it is important that you do not just look at the conduct of the person acting unreasonably – but also consider whether that conduct is attributable to any deficiencies in the way the person and/or the person's issue was dealt with by the organisation or any of its staff. If so, you should ensure that appropriate steps are taken to rectify the issue with the person concerned.

Also, as a supervisor, you should ensure that – as far as the person who made the complaint is concerned – supervision happens behind the scenes. You should avoid becoming visibly involved in a matter, unless it involves a complaint about your staff or the staff member has asked you to be involved because they think it will help to defuse the situation. Otherwise, complaints should not be escalated to you simply because a person has demanded it. This will only give the person the perception that they can control how their issue is dealt with and by whom. This approach may not be applicable for organisations that operate in a competitive commercial environment where managers are likely to have greater authority to make decisions – for example, offer discounts, waive fees, etc – to retain a customer/client.

4.1.2. Responsibilities of senior management

Developing and implementing strategies to manage unreasonable conduct (particularly aggression and violence) by people who interact with the staff of an organisation is a management responsibility. Under workplace health and safety legislation, employers have a duty to take all reasonably practicable steps to protect the health and safety of their employees at work. This duty requires employers to take proactive steps to identify hazards that have the potential to affect the health and safety of their employees and implement measures to eliminate or control those hazards. This includes reducing the risk of exposure to violent and aggressive conduct as well as ensuring that staff have the training and skills they require to deal with such aggression. It also includes having appropriate policies and procedures in place for managing all types of common or likely unreasonable/unacceptable conduct that can significantly affect staff or the resources of the organisation. This includes ensuring that staff are involved in developing and reviewing these policies and procedures, and that appropriate environmental design practices and procedures are in place for preventing relevant hazards.¹¹

11. Comcare, 2007, *Bullying in the workplace A guide to prevention for managers and supervisors*, OHS 65, Canberra, p 11.

As a senior manager, to ensure compliance with these obligations – and for the approach in this manual to be effective – you should take steps to ensure that you create a safe and supportive workplace environment and culture and have systems in place for identifying, assessing and managing conduct related risks.

Safe and supportive workplace culture

A safe and supportive workplace culture is one where:¹²

- Staff safety is a foremost consideration. You need to be able to demonstrate a zero tolerance approach to violence against your staff.
- Both staff and senior managers openly and actively recognise the realities of dealing with unreasonable conduct, in particular the possibility that some people who interact with your staff may be violent and aggressive.
- The stressful nature of dealing with unreasonable conduct and its impacts is recognised and staff are encouraged to learn and practice self-care techniques.

See 4.4. – Managing Stress.

- Staff have access to support mechanisms such as Employee Assistance Programs (EAPs), counselling and trauma services and each incident involving unreasonable conduct is treated individually in terms of assessing staff support needs.
- Unreasonable conduct related policies and procedures are implemented and communicated across the organisation, with staff at various levels of the organisation involved in developing and reviewing these policies and procedures.
- All new and existing staff are trained to deal with or otherwise appropriately respond to unreasonable conduct and the strategies that they are authorised to use to manage or respond to it.
- Unreasonable conduct related issues (including security procedures) are regularly discussed and staff feel comfortable raising any doubts, fears, uncertainties or concerns they may have about dealing with unreasonable conduct.
- Incidents involving unreasonable conduct, or inappropriate strategies engaged in by people interacting with your organisation or its staff, are used as learning opportunities that inform your organisation's policies, procedures and practices for dealing with such conduct – as well as identifying new potential risks.
- It is recognised that when one staff member is subjected to unreasonable conduct, it can have an impact on their entire team and possibly even their office – so mechanisms must be in place for debriefing and providing counselling services for all staff who may be affected, if needed.¹³

You can strengthen your organisation's compliance with health and safety obligations by:

- setting up a centralised case management system for recording information about unreasonable conduct affecting your organisation or its staff, and the people engaging in such conduct
- having appropriate risk management processes for identifying, assessing, controlling and reviewing actual and potential risks associated with unreasonable conduct
- drafting clear ground rules and making them available to people who have made a complaint

12. Comcare, *Prevention and management of customer aggression*, OHS 33, Canberra, p 9.

13. Department of Human Services, *Staff safety in the workplace*, p 23.

- contacting the police in appropriate cases and having frontline staff complete formal reporting requirements, such as critical incident reporting and keeping appropriate records
- monitoring staff use of the strategies in this manual and the associated model code, and reviewing them to ensure they do not conflict with your internal protocols and procedures
- promoting a consistent approach to how unreasonable conduct is dealt with by the staff in your organisation.

Systems for identifying, assessing and managing unreasonable conduct related risks

When the approach in this manual and associated model policy is systematically applied, it should provide a robust risk management approach that helps to ensure that you meet your workplace health and safety obligations towards your staff.

However, you should also make sure that your organisation continually identifies, assesses, controls and reviews current and potentially new related risks.

Identify the nature of the potential risks

This includes assessing the workplace environment for any physical hazards that a person can use to cause harm to themselves or others. It also includes going through any records you have of incidents of unreasonable conduct or workplace violence. This might reveal whether there are problem areas that need to be addressed or if any patterns are emerging.

Assess the risks

This includes making a judgement about the seriousness of each hazard, and deciding which hazard requires the most urgent attention. Develop a list and rank the hazards from highest to lowest priority based on the level of risk, and regularly review and update the list as needed.

Control the risks

This includes addressing the hazards and potential risks that have been identified. The primary goal will be to remove the risks, where this is at all practicable, or otherwise to mitigate the risks or their consequences. For example, if the risk involves a person throwing things like staplers around the interview room, then staplers should be removed from all interview rooms.

If it is not possible to completely remove a risk, you may be able to manage it as well as possible. For example, you might consider the design layout of your office to make interview rooms more visible to all staff members in the immediate vicinity – for example, installing large or floor-to-ceiling windows in the internal walls of interview rooms. Alternatively, you might consider changing the ways certain jobs are done or have face-to-face interviews conducted by at least two staff members at a time.

Whatever the available resources, you will find that there is usually a wide range of options for addressing many risks – with little or no expense in some cases.

See – 4.3. Dealing with internal hazards through environmental design.

Regularly review the risks

This includes continually monitoring your workplace environment and assessing off-site visits to make sure that any potential new hazards are immediately identified. Staff participation will be important with this. If necessary, safety procedures may need to be changed and systems evolved to ensure they are still effective.

4.2. Recording and reporting incidents

4.2.1. Recording incidents of unreasonable conduct

Managing unreasonable conduct will only be effective if you keep accurate and contemporaneous records of such interactions. Good record keeping will ensure that all incidents of unreasonable conduct – as well as any trends – are identified and dealt with. It can also help to ensure transparency and accountability in any actions taken or decisions made to modify or restrict a person’s contact as a result of unreasonable conduct.

Records should accurately reflect what has happened and should include the following details:

- the name of the person whose conduct was unreasonable
- the name of the person making the record
- the location of the interaction and details of who was present
- the start and finish time and date of the interaction
- a summary of the nature of the unreasonable conduct, and where applicable any questions asked, advice given, and verbatim records of any threats or abusive words
- any other relevant details.

These records should never include statements of opinion about the mental health of the person involved or speculation about what their motivation may be. The records should only include statements of fact about what was said, what has been written and/or what was observed about the conduct of the person in question.

Correspondence (letters or email) containing inappropriate or offensive content should be added to the relevant case file (paper and/or electronic) and reported to the relevant security officer or senior manager. Depending on the circumstances, such correspondence could be returned to the author with advice that the content will not be dealt with until the inappropriate or offensive content is removed, and that any further correspondence containing similar content will be read and filed without acknowledgement.

If possible – and if it will not lead to conflict with the person concerned – it may be appropriate to try to get the person to sign and attest to the accuracy of your records. This could be, for example, after a face-to-face interview where an agreement was reached with the person about future conduct.

4.2.2. Reporting incidents of unreasonable conduct

Ensuring that staff report all incidents of unreasonable conduct to appropriate managers and supervisors is also important to effectively manage such situations – both individually and across the board. Reporting ensures that incidents are dealt with appropriately and in a timely manner to minimise any actual or potential risks for your staff, third parties and the person concerned.

Reporting can be verbal or in writing, and staff should consult your organisation’s relevant protocols on this issue.

See *Unreasonable Conduct by a Complainant: A model policy and procedure for organisations* – available at www.ombo.nsw.gov.au.

4.2.3. Monitoring further incidents

Once a person's contact with the organisation and its staff has been modified or restricted, all staff are responsible for observing and monitoring their conduct during further contact between the person concerned and the organisation. This includes noting any attempts by that person to circumvent the restrictions that have been imposed on their access. Any unauthorised behaviour should be acted on by immediately enforcing the restriction and notifying the appropriate senior officer. They will decide on the appropriate course of action – which may include placing further restrictions on the person's access or withdrawing access all together, provided your organisation has the discretion to do so.

4.3. Dealing with internal hazards through environmental design

One way of minimising the risks posed by violent and aggressive conduct is to consider the environmental design or layout of your premises. The concept of Crime Prevention Through Environmental Design (CPTED) suggests that certain building design features can discourage violent or criminal activity. It is based on the idea that if you enhance certain design features within your office you can discourage violence – particularly by considering space, layout and psychology concepts such as the behaviour of people in relation to colour, lighting, temperature and queuing. Some examples of CPTED strategies that might discourage unreasonable conduct include:

- Using building security if available or station employed security guards at entry points that are visible to complainants. This can be full or part-time, with the guards only present when particular people attend the office.
- Increasing the number of staff around the office at high-risk times.
- Separating the access points to the building, different floors of the building or lifts for staff and the public.
- Clearly differentiating between public and employee space by using different carpet, tiles, etc.
- Requiring visitors to identify themselves and sign in and out of the workplace.
- Having closed circuit television – this has been proven to have a deterrent effect, particularly when there are obvious monitors so people can see themselves being recorded.
- Prominently posting signs that you are video monitoring.
- Prominently posting signs setting out expected behaviours of visitors.
- Having wider and/or higher front counters that make it more difficult for a person to reach across, jump over etc.
- Making sure that objects are fixed and cannot be used as projectiles.
- Having designated safe rooms where staff can gather if a threat arises.
- Installing double exit doors in interview rooms.
- Having shatterproof glass in interview rooms and public areas of the office.
- Controlling public access to interview rooms and non-public areas of the office – for example, needing key card access to enter.
- Having minimal furniture in public areas and furniture that is large enough that it cannot be easily picked up and thrown.
- Minimising the number of entrances to the workplace, while maintaining fire code regulations.
- Installing metal detectors at building entrances – depending on the nature of the services provided.
- Fitting duress alarms to walls or desks or having staff wear them during interviews – these alarms can be silent internally but with a link to computers that raise automatic emergency responses.

- Having a planned approach to queuing – such as taking a number or setting out a clearly defined queuing area.
- Making sure waiting rooms are comfortable and spacious and there is adequate seating – to minimise discomfort.
- Making sure that there are proper ventilation and temperature controls.
- If complainants will be waiting for extended periods of time, having televisions and/ or reading materials in the waiting area that are suitable for them – but do try to minimise waiting.
- Make sure that there is adequate lighting in car parks surrounding the workplace.
- Using relaxing music and calm colours in paintwork to reduce potential violence.
- Ensuring that all or certain visitors are escorted when in non-public areas.
- Installing airphones to allow what is happening in a public area throughout the office.

The suitability of these strategies will depend on the type of services your office or organisation provides.

4.4. Managing stress

Dealing with people who are upset, particularly those whose conduct is unreasonable, can be extremely stressful – and at times distressing or frightening. It is perfectly normal to get upset or experience stress when dealing with difficult situations, particularly after a critical incident. The approach advocated in this manual, when systematically applied, goes a long way towards reducing this stress and fear.

However, critical incidents can occur. In complaint handling, your staff are more likely to experience minor difficult incidents – such as abusive phone calls – although more extreme situations can sometimes occur.

A critical incident is an event that disrupts your office's normal functions and that you, your colleagues or staff perceive as being a significant personal or professional danger or risk. Some examples of critical incidents are:

- threats of harm to self or others
- serious injury
- actual or threatened death
- deprivation of liberty
- severe verbal aggression
- bomb or hostage threats.

Some common myths about critical incident stress are:

- If staff members are experiencing critical incident stress, they are not competent or not suited for the job.
- Experiencing critical incident stress is a sign of psychological weakness.
- Talking about the incident will only make the stress worse.

4.4.1. Recognising the signs of stress

Everyone reacts to stressful situations differently. Some are more susceptible to critical incident stress than others. This could be due to events in their personal lives, their personality type or their perception of an incident with a complainant. Some people also react immediately after a stressful incident, while others will react much later on. Also, for some people stress can be cumulative – often resulting in a strong reaction to a series of minor events. Others can be affected by a critical incident even if they did not experience it firsthand because of how they perceive the incident.

Because the possible responses to stress vary so considerably, it can be difficult to identify whether a colleague or a member of your staff is suffering from stress or will experience stress after a critical incident. The following list of common signs of stress will help you recognise stress within yourself, your colleagues or your staff so that appropriate action can be taken to manage that stress.

Physical signs

- shock
- nausea
- fainting immediately after the event
- chest pains
- headaches
- muscle soreness
- fatigue
- gastrointestinal problems
- elevated heart rate
- elevated blood pressure

Emotional responses

- anger
- fear
- depression
- feelings of isolation
- crying or feeling tearful
- feeling powerless

Intellectual signs

- difficulty thinking clearly
- difficulty making decisions
- difficulty concentrating on the job

Behavioural changes

- increased irritability
- withdrawing from people
- insomnia
- nightmares
- resorting to alcohol, cigarettes or prescription/non-prescription drugs more frequently or in greater quantities
- interpersonal problems
- social withdrawal
- anxiety
- depression

4.4.2. Effects of critical incident stress on the organisation

Critical incidents can significantly affect team dynamics and functioning as well as the wider work environment. Work effectiveness and productivity can become impaired and there may be a higher than usual rate of absenteeism or a sudden rise in staff turnover rates. Levels of morale may fall and group problem-solving abilities may become compromised. Mistrust towards complainants may also take hold.

Supervisors and senior managers should therefore check for signs of stress in their staff and ensure that appropriate support services – like debriefing and counselling – are available to them. This will also be important for meeting duty of care and work health and safety obligations.

4.4.3. Debriefing

Many of us ‘debrief’ after a difficult interaction with a person without realising that we are doing it. For example, after an abusive phone call many of us immediately turn to a colleague to tell them about the horrible things that the person said to us and seek reassurance that they – not us – were being unreasonable. Doing this helps us to off-load the stress (and sometimes the anger) that we were feeling during our interaction. It also gives us an opportunity to say things that we could not say to the person on the phone.

Debriefing is an important part of managing stress. As the example before suggests, it is usually a voluntary process – with the exception of operational debriefs. These can occur in a number of different ways:

- Professional debrief – an external professional service is used to provide the service on an as-needs basis (such as EAPs).
- Internal management debrief – provided by a supervisor or senior manager. Any supervisors or senior managers who provide debriefing to staff should be trained in debriefing techniques.
- Informal peer debrief – debriefing after a minor incident can be provided by peers. It is an immediate opportunity to express your thoughts and feelings and receive appropriate support from your peers, for example, over a drink or a walk. If this method is used, management needs to make it clear that it is a legitimate component of the work of each staff member to help a colleague to debrief if they are asked for this assistance.
- Informal group debrief – frontline staff meet together to discuss recent or particular difficult incidents of UCC.
- Operational debrief – this is to review operational issues after an incident. It is intended to deal with people’s personal issues and usually occurs after people have worked through those issues via alternative means. What happened and whether things could have happened differently, or better, should be considered.

Key components of debriefing

Some key components of debriefing include the following:

- It aims to assist recovery from critical incident stress and avoid future problems such as post-traumatic stress syndrome.
- It generally needs to occur 24 to 72 hours after an incident, depending on the readiness of the affected staff member(s).

- As some people can display a delayed reaction, debriefing may occur weeks or even months after the event.
- Formal and operational sessions are always private and discussions are confidential.
- Participation is voluntary, though staff should be encouraged to attend.
- Follow-up sessions may be necessary.
- An educational component about stress-related symptoms that may be experienced and how to manage them should be included.

The affected staff members may need support for a period beyond debriefing – such as a lighter workload for a while, changed duties, part-time work or leave.

A debriefing report should be prepared at the end of each session. This should be a confidential document that relates to the organisation's operations and should be kept separate from the affected staff member's personnel file.

4.4.4. Employee assistance programs and counselling services

Sometimes you may feel more comfortable talking to a person outside the office – to someone other than a colleague or senior manager. You may just want time to work through an incident, particularly if you are experiencing other stressful life events or may need ongoing or additional support through a confidential counselling service like the EAPs. EAPs are work-based intervention programs designed to improve the emotional, mental and general psychological wellbeing of all employees and their immediate family members. It aims to provide preventive and proactive interventions for the early detection, identification and/or resolution of both work and personal problems that may adversely affect performance and wellbeing. These problems and issues may include health, trauma, substance abuse, depression, anxiety and psychiatric disorders, communication problems and coping with change.

Most public sector organisations will have information about EAPs readily available. If not, you should consider asking your supervisor or senior manager about the availability of these services.

Part 5.

Restricting and controlling access

5.1. Modifying or restricting access to staff, premises or services

5.1.1. Decisions to modify or restrict access

There will be cases when the strategies and approaches in this manual will not be effective or appropriate to manage certain incidents of unreasonable conduct. In these situations, it may be necessary to modify or restrict contact with the people involved to ensure equity and fairness in relation to other users of your organisation's services, improve efficiency, and protect staff health and safety – and the safety of third parties.

Decisions to modify or restrict a person's ability to access your premises, communicate with your staff or use your organisation's services as a result of unreasonable conduct are a management responsibility and should always be approved by your CEO or a senior delegate. These decisions should be the exception rather than the rule – and should only be made after careful consideration of the factors that may be influencing a person's behaviour. For example the person's personal circumstances, including any disability or cultural background, and any role your organisation or your staff may have played in exacerbating or perpetuating the unreasonable conduct. Any decision to modify or restrict access to staff, premises or services should include a time limit, before the end of which a review should be undertaken for a decision to be made as to whether it needs to continue.

Some recent court and tribunal cases in Victoria – including the case study below – have shown what can happen when these factors are not properly considered, or when the decision to modify or restrict access is not tailored to the relevant behaviour.

Case study – Not tailoring a response

A Victorian City Council resolved to expel a ratepayer from Council's Access and Equity Committee. It went further, passing a resolution designed to 'uphold public safety and in reliance of its obligations to provide a safe working environment'. It prohibited the man from attending any building that was owned, occupied or managed by the council 'until further notice'.

Under the *Summary Offences Act 1966 (Vic)*, breaching the notice could result in arrest and a penalty of \$2,500 or imprisonment for six months. The ban was maintained from April 2009 until October 2014. The man's request for the ban to be reviewed in 2012 was rejected.

The banned individual had bipolar disorder, post-traumatic stress, compulsive or impulse control disorders, a compulsion to behave in a rude, offensive and insulting manner, and hearing loss. He had made thousands of verbal and written complaints to the council on a range of issues since 1998. In these communications and in his interactions with council staff and councillors, he had used 'threatening, intimidating and aggressive' language and behaviour that they found inappropriate and offensive. The issue for the council was the content of his communications. When the man took the matter to the Victorian Civil and Administrative Tribunal, the tribunal noted that 'no evidence was given to support a finding that he presented any physical harm to anyone'. This included staff, councillors or members of the public using council premises.

The tribunal accepted that the nature and tone of his communications with council were at least one of the reasons for the ban. However, the council was unable to convince the tribunal to apply the exception provided by the *Equal Opportunity Act 2010 (Vic)* for otherwise discriminatory conduct that is reasonably necessary to protect the health and safety of any person.

The tribunal believed the council had not sufficiently considered whether there were non-discriminatory alternatives to the ban from all council places that would give employees and/or members of the public protection from risk. The tribunal noted that there was no evidence that the health or safety of members of the public was directly affected by the man's conduct. He was also banned from places where he had not caused any problems, as well as from places where he had.

The tribunal concluded that the ban was 'blunt, broad and insufficiently tailored' and could not 'remain in place forever'. The tribunal noted that council could have lawfully provided an appropriate measure of protection to its employees and/or the public through 'proportionate and tailored strategies' informed by research and training, which were subject to regular review. On this basis the tribunal held that, as there were less restrictive means reasonably available to achieve council's purposes, the conduct of the council constituted direct discrimination in the area of provision of services on the grounds of disability – in breach of the *Equal Opportunity Act* and the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

The tribunal ordered the council to:

- revoke its declaration
- provide training to councillors and senior staff on the charter
- pay the man \$14,000 compensation.

What this case demonstrates

If a person's unreasonable conduct might result from a disability, be careful when developing and implementing strategies to address that conduct. Carefully assess the risk the person's conduct poses to the work of your organisation, and to the health and safety of your staff and members of the public using your premises. Any strategies used must not be more restrictive than they need to be to address the detrimental impact on your organisation, your staff and/or members of the public using your premises or services.

Any restriction should have a set time period and be regularly reviewed.

Your organisation's policy should refer to the relevant legislation in your jurisdiction, such as equal opportunity/anti-discrimination/charter of human rights legislation.

5.1.2. Making alternative service arrangements

Alternative service arrangements involve modifying or restricting usual service delivery methods. In the unreasonable conduct context, alternative service arrangements can be used to modify or restrict the ways in which you, your staff and your organisation interact with or deliver services to a person to minimise the impacts and risks posed by that conduct. For example, they can be used to restrict:

- **Who** – a person can make contact with in your organisation. For example, a person may be limited to dealing with one staff member within your organisation if they have engaged in persistent and otherwise unmanageable forum shopping, reframed their complaint to get it taken up again, raised minor irrelevant issues, and made regular, frequent and unwarranted contact etc.
- **What** – subject matter your organisation will respond to. This option will usually apply if a person has repeatedly raised the same issue with your organisation, reframed their complaint to get it taken up again, has been persistent in wanting your organisation to pursue trivial issues, has made unreasonable and illogical arguments, has demanded inappropriate or protected information – that is, information that cannot be disclosed etc.
- **When** – a person can make contact with your organisation. This could include restricting the person to a particular time, day or length of time, or curbing the frequency of the person's contact if they have engaged in persistent and/or lengthy contact with staff when this is not warranted, or have been aggressive, threatening or confrontational towards staff.
- **Where** – a person can interact with your staff face-to-face. For example, if a person has engaged in persistent and otherwise unmanageable aggressive, confrontational, threatening or violent conduct, and the person needs to meet with a member of your staff face-to-face, you may need to take steps to ensure that the interview is held in a safe facility or area – on your own premises or at another location like a local police station, library, etc.
- **How** – a person can contact your organisation. For example, restricting contact to writing only, prohibiting access to your premises, only allowing contact through a representative, restricting access to direct staff emails and only allowing access through the organisation's general email portal etc – if the person has engaged in persistent and otherwise unmanageable aggressive, confrontational, threatening or violent conduct, or sends a constant stream of communications, telephones constantly or visits repeatedly.

For more information on possible strategies for modifying or restricting a person's contact/ access to services and procedures see: *Unreasonable Conduct by a Complainant: A Model Policy and Procedure for Organisations* – available at www.ombo.nsw.gov.au.

5.1.3. Withdrawing access to services

An organisation should only consider withdrawing a person's access to services if the person:

- is consistently abusive, threatens, harasses, stalks or intimidates a member of your organisation and/or their family members
- is physically violent and/or causes property damage while on your premises
- makes threats to staff or other members of the public using the services or at the agency's premises
- produces a weapon or makes bomb threats
- engages in conduct that is otherwise unlawful.

All unlawful behaviour, including physical violence and assault or producing a weapon, should immediately be reported to police. However, if the services provided by your organisation are important or essential to the physical or mental wellbeing of the person concerned, it may be preferable to modify the way you deliver services to the person using the types of alternative service arrangements suggested earlier – rather than withdrawing or withholding it completely. This could include having security guards or police present during face-to-face interactions with the person, holding interviews at your local police station or other secure facility (either on your premises or elsewhere), or using specially trained staff for interviewing such people. You might also consider having relevant materials delivered to the person's home, rather than having them collect them from your organisation.

5.1.4. Public interest considerations governing access restrictions

It is important that decisions about limiting access to an organisation are made within the wider framework of public access rights and responsibilities.

These decisions must be based on a clear understanding that:

- In a democracy, people have a right to complain. Criticism and complaints are a legitimate and necessary part of the relationship between government agencies and their customers or communities, and may be dynamic forces for improvement within agencies.
- Nobody, no matter how much time and effort is taken up in responding to their complaints or concerns, should be unconditionally deprived of the right to raise those concerns and have them addressed.
- In the absence of very good reasons to the contrary, members of the public have a right to access government agencies to seek advice, help or the services the agency provides.

Organisations also have an obligation to use resources efficiently and effectively. So, at some point, it may be necessary and reasonable for them to decide to limit the nature or scope of their responses to complainants whose conduct is unreasonable. However, these situations should be the exception rather than the rule.

5.2. Using legal mechanisms to restrict access

5.2.1. Taking legal action

In extreme cases of unreasonable conduct, it might be necessary to consider supporting members of your staff to exercise their legal options. We believe legal mechanisms should be used sparingly, and only in situations of apprehended or actual violence, threats, intimidation, stalking, online defamation or other unlawful conduct by individuals. They should never be used to deal with a person who merely causes your staff some discomfort or whose behaviour your staff find difficult to manage.

However, if a staff member becomes a victim of any unlawful conduct, they have the right to exercise their legal rights in response to such conduct – including seeking a legal order such as an apprehended violence order (AVO).

In NSW, an AVO is a legal order that is issued by the Local Court under the *Crimes (Domestic and Personal Violence) Act 2007* (NSW). It aims to protect people from personal violence, threats, harassment or intimidation by restricting the conduct and movements of their aggressor.

For unlawful conduct that occurs on your organisation's premises – for example, a person assaults a member of your staff or damages property – it may be appropriate for your organisation to obtain a trespass order under the relevant legislation in your jurisdiction. For example, in NSW the *Inclosed Lands Protection Act 1901* (NSW) provides a basis for taking civil and/or criminal action in relation to trespass and empowers owners, occupiers, or people in charge of 'inclosed lands' to require another person to leave their premises in certain circumstances.

However, extreme caution needs to be used when deciding whether legal mechanisms are an appropriate course of action for dealing with unreasonable conduct. These options can have significant implications – particularly for the person who may become criminally liable or may be prevented from accessing services that they need for their health or welfare.

See – **Applying the provisions of the *Inclosed Lands Protection Act 1901* (NSW)**, NSW Ombudsman, available at www.ombo.nsw.gov.au.

Case study – Situations where legal action may be needed to deal with unreasonable conduct

A man complained to an Ombudsman's office in February 2009 and again in April 2009, January 2010 and February 2010 about his local council. His complaints generally concerned a local development application and the conduct of the General Manager of the council.

None of the Ombudsman's inquiries found any wrongdoing, but the person persisted in contacting the Ombudsman's office about his allegations. In the period between his first and last formal complaints in February 2010, the complainant sent more than 100 emails and made more than 16 phone calls about his issues with the council. He sent numerous copies of media articles relating to the council, copies of correspondence and complaints between him and the council, and copies of appeals he had made to the then Administrative Decisions Tribunal. He was asked to restrict his emails, but he refused. The Ombudsman's office blocked his email access and notified him by letter.

Upset that restrictions were placed on his access, the person tried to avoid the restrictions by changing his email address and sending more complaints. The Ombudsman's office did not respond and continued to block each new email address. Almost 90 of the person's emails were blocked.

The council involved had also placed restrictions on his email access after he sent them over 300 emails within a six-month period. The council were concerned about the impact of the person's conduct on their resources, as they had to dedicate a senior staff member two days a week to deal with his matters. The council were also worried about the content of the emails that the person had sent to their staff. The emails made intrusive personal observations about staff and threatened their jobs if they did not respond to his demands. A staff member who provided the person with her name when he approached the front counter subsequently received emails to her personal email account from him. It was not clear to council or the staff member how the person obtained this address.

After several incidents where the person approached council officers – particularly the General Manager and the Mayor (and their families) – in public places and was verbally abusive towards them, each of them sought and was granted AVOs against the person for five years, an unusually long period of time.

When granting the orders, the local magistrate made the following observations:

... The complaints relate to ... voluminous correspondence both written and electronic which appears to have been sufficient to justify the installation of a duress alarm in [the GM's] assistant's office, the back base home security at his own home and blocks on emails being received from [the person] to the Council. It is clear that there has been an attempt by [the person] to circumvent the processes to ... put himself in the company of [the GM] and [the Mayor] with a view to raising matters of council business

These contacts have been made not only at the business premises [of the council] but attempts also at [the Mayor's home] and it would seem, attempts to unsettle [the GM] by being in the vicinity of his private residence and making it very clearly conspicuous to [the GM] that [he] was in fact there.

...

With respect, I have formed the view that he is a person I believe possibly suffers from some form of mental disorder which has manifested itself in the form of persecution of two public figures for his own deluded gratification and to inflict elevated levels of concern not only on those two people directly, but also extending the concern to members of their respective families in the form of disturbing and unsolicited correspondence. Whilst those persons in public office must expect that their activities and performance of their various roles will be subject to the normal levels of scrutiny and review, what [the person] purports to do by presuming to be in a position to have the mayor and the general manager of the council respond to his voluminous requests and demands exceeds the broadest interpretation of reasonable accountability levels for public servants.

The magistrate granted the following AVO restrictions for the GM and Mayor respectively. The person could not:

- assault, molest, harass, threaten or otherwise interfere with
- engage in any other conduct that intimidates
- stalk
- enter the premises where [the GM] resides or works
- approach [the GM] by any means whatsoever except through a legal representative.

Part five

For the Mayor (and any person he has a domestic relationship with), the person could not:

- assault, molest, harass, threaten or otherwise interfere with
 - engage in any other conduct that intimidates
 - stalk
 - enter or loiter within 100 metres of any premises where [the Mayor] resides or works.
-

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Part five

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Managing unreasonable conduct by a complainant

NSW Ombudsman

Level 24, 580 George Street
Sydney NSW 2000

General inquiries 02 9286 1000

Toll free (outside Sydney metro) 1800 451 524

National Relay Service 133 677

Email training@ombo.nsw.gov.au

Web www.ombo.nsw.gov.au