

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.