

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.