

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.
