

## 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](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.