

Dealing with unreasonable complainant conduct

Since its establishment in 1972, Ombudsman Western Australia has dealt with thousands of complaints. Over time, we have observed that some complainants are difficult to satisfy and take up a disproportionate amount of time for agencies attempting to deal with their complaints.

This fact sheet provides practical information to help agencies handle complainants whose behaviour makes them a challenge to deal with. It is intended to contribute to good public administration in complaints handling.

In cases where the complaint has arisen as a result of matters under the agency's control, such as agency error, remedial action should be taken as promptly, courteously and efficiently as possible. Where matters raise questions of law or are contentious, further professional or legal advice should be sought.

Understanding complainant behaviour

As a general rule, when a person approaches an agency with a request, application, concern or complaint they first need to be heard, understood and respected. They need to:

- Have the matter dealt with quickly, fairly and properly;
- Be given information or an explanation;
- Be given an apology, if required; and
- Have action taken to address their concern or fix their problem.

For the small percentage of individuals whose conduct is genuinely unreasonable to deal with, special measures outside the agency's standard complaint handling policies and procedures are required.

Unreasonable complainant conduct tends to fall into three broad groupings, as follows:

- Habitual or obsessive conduct. This includes behavior by a person who:
 - Cannot 'let go' of their complaint;
 - Cannot be satisfied despite the best efforts of the agency; and
 - Makes unreasonable demands on the agency where resources are substantially and unreasonably diverted away from its other functions or unfairly allocated (compared to other customers);
- Rude, angry and harassing conduct; or
- Aggressive conduct.

Agency options for responding to unreasonable complainant conduct

- Let staff and customers know about expected standards of courtesy and behaviour.
- Adopt and publicise a policy stating that correspondence to the agency containing personal abuse, inflammatory statements or material clearly intended to intimidate will be returned to the sender and not acted upon.
- Where such comments or statements are made in telephone conversations or interviews, these may be terminated at the discretion of agency staff after warning callers of that intention.
- Consider limiting access to agency staff and resources.

Hints for agency staff

- Don't be rude or abusive to customers, even when provoked.
- Avoid making or recording inappropriate statements or comments about complainants. Stick to objective, descriptive comments such as "he spoke rapidly, with increased volume, and shook his finger at me" rather than "he was crazy and threatening".

Administrative controls

Deciding to restrict, withhold or withdraw the provision of service to complainants whose conduct is unreasonable is a serious step to take. Before doing so, these threshold tests should be met:

- The agency's complaint procedure must have been correctly implemented and no material element of the complaint overlooked or inadequately addressed;
- The behaviour of the complainant must have become so habitual, obsessive or intimidating that it constitutes an unreasonable demand on the agency's resources; and
- All internal review or appeal procedures have been exhausted.

Balance empathy with objectivity

Empathy for an individual whose complaint is motivated by tragic events or significant incidents must not compromise an agency's responsibility to uphold the public interest, which requires matters to be considered objectively.

If the agency decides to restrict access to its services for a complainant showing unreasonable conduct, this decision should only be made by the CEO (or a senior delegate in large agencies). This senior officer should also approve and sign any letters to that effect. This step should only be taken in extreme situations, where a failure to do so would compromise the agency's obligations as an employer or divert resources from other complaints deserving attention.

Types of administrative controls

When the complainant makes constant calls or visits:

- Only take calls at specific times on specific days; and
- Require an appointment to meet with staff.

Where all internal appeals have been exhausted but the complainant will not accept the agency's decision:

- Notify them of their right to take the matter to the Ombudsman;
- Consider limiting all future dealings to writing; and
- Advise that you will only respond to future correspondence which provides significant new information about the complaint or raises new issues which the agency believes requires fresh action.

At all times maintain adequate documentary records.

Angry complainants

Manage the anger first. It is only possible to deal with key issues once the complainant's emotion has been diffused. Staff members confronted with an angry complainant must keep in mind that the anger is not about them personally, but about the complainant's circumstances. Their task will be to solve the problem, not get involved in responding to a highly emotive situation.

In these circumstances, it is useful to:

- Obtain details about the complaint and then about the complainant;
- Seek to understand what the person is looking for;
- Be direct and clear about what can be done, how long it will take and what it will involve; and
- Give clear and valid reasons why requests cannot be met, if this is the case.

At all times, take detailed file notes.

Aggressive behaviour

Aggressive behaviour may be at any point along the scale from verbal aggression to actual physical violence. For behaviour at the lower end of the scale, try to put aggressive people at ease and calm them down. If the behaviour continues however, they should be calmly told that such behaviour is totally unacceptable, the interview terminated and the person asked to leave the premises.

Staff should never continue or persevere with interviews when they feel distressed or threatened.

Recommended actions for agencies

Develop a policy outlining your general commitment to public access, but describe why this may be restricted in particular circumstances, such as where full access would be likely to:

- Compromise the agency's obligations as an employer;
- Be an unreasonable invasion of a person's privacy;
- Be excessively wasteful of agency resources; and/or
- Encourage or allow behaviour which disregards the rules of common courtesy.

Adopt a policy which defines aggression and guides staff in how to deal with it, ensuring the safety of staff and other customers is paramount. Develop and promote your approach to dealing with people who threaten, harass or intimidate staff, whether in writing or on the phone.

Nominate a senior officer to maintain a list of people whose access to the agency has been restricted, including specific directions for each person. Appropriate notations should be inserted on all relevant hard copy or computerised case records.

Resources

Managing Unreasonable Complaint Conduct Practice Manual

Ombudsman Western Australian has been involved in a national research project coordinated by the New South Wales Ombudsman to develop better strategies for managing complainants whose behaviour is challenging. The result of this project is the [Managing Unreasonable Complainant Conduct Practice Manual](#) which provides information, strategies and practical tools, including scripts, to help agencies deal with unreasonable complainant conduct.

Other Ombudsman Western Australia Publications

The following Ombudsman Western Australia publications provide further details that may be useful in the development of complaint handling systems and for staff involved in handling complaints:

- [Effective handling of complaints made to your organisation – An overview](#)
- [Making your complaint handling system accessible](#)
- [Complaint handling systems checklist](#)
- [Guidance for Complaint Handling Officers](#)
- [Investigation of complaints](#)
- [Conducting administrative investigations](#)
- [Procedural fairness](#)
- [Remedies and redress](#)
- [Good record keeping](#)

For further information about the role of the Ombudsman and guidance for complaints management, visit our website at www.ombudsman.wa.gov.au.



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