

Unreasonable Complainant Conduct Policy

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Policy statement

This policy aims to aid identification of unreasonable complainant conduct (UCC) and outlines the approach taken by the Department of Regional NSW (the department) to respond to these complaints to ensure health, safety, resource, and equity issues for the parties to the complaint are effectively managed. The Code of Ethics and Conduct contains the department’s commitment to managing complaints. In some instances, complainants are not reasonable, and this policy provides guidance on how to manage unreasonable complainants.

This approach provides for all complainants to be treated with fairness and respect with the substance of their complaint, dictating the level of departmental resources dedicated to resolving their issue. The approach is not necessarily linear in escalation, for example, any threats of violence will immediately be determined as unreasonable complainant conduct and treated as level 2 or 3 – with appropriate restrictions put in place.

This policy extends to unreasonable complainant conduct on department owned social media channels which are subject to the [DRNSW social media guidelines](#).

Scope

The policy applies to all employees, consultants and contractors of the department and its related entities in responding to a complaint by a current or former customer and/or a member of the public, where the complainant’s conduct is deemed unreasonable as defined below.

Roles and responsibilities

- All Staff – be familiar with the policy so they can manage inappropriate behaviour
- People leaders – help their staff manage inappropriate behaviour (including managing WHS risks where they arise) and brief the relevant Deputy Secretary/Director General/Chief Executive if it is wished to have a person declared unreasonable
- Deputy Secretary/Director General/Chief Executive – determine whether the complainant is unreasonable and the appropriate response (including nominating a future contact person)
- Director Governance, Information & Privacy (or other independent senior executive) – provide advice, conduct reviews of decisions, and maintain a central register of UCCs.

Identifying unreasonable complainant conduct

Unreasonable complainant conduct is any behaviour by a complainant which, because of its nature or frequency raises substantial health, safety, resource or equity issues for the department, our staff, other service users and complainants or the complainant themselves. It includes unreasonable persistence, demands, arguments, behaviours, and lack of cooperation such as:

- providing disorganised, excessive, or irrelevant information, being unwilling to consider other valid viewpoints or refusing to clearly describe their complaint
- arguments that are not based in reason or logic, that are incomprehensible, false, inflammatory, trivial or refuse to accept other reasonable interpretations
- behaviour or conduct that repetitive, harasses, utilises foul or abusive language, or compromises the health, safety and security of our staff, other service users or the complainant themselves.

In a small number of cases, complainants may become aggressive and verbally abusive towards our staff, threaten harm and violence, make unnecessary and excessive contact via phone or email, make demands on our time that are disproportionate to available resources or refuse to accept our decisions and recommendations in relation to their complaint. When complainants behave in these ways, we consider their conduct to be 'unreasonable'.

The department will not tolerate any harm, abuse or threats directed towards our staff or people performing duties on our behalf. Any conduct of this kind will be dealt with under this policy, and in accordance with our duty of care and work health and safety responsibilities.

Response levels

Warning Letter - Level 1

If a complainant's conduct is deemed unreasonable the department, in the first instance, will provide the complainant with a written warning letter about their conduct.

The letter provides details of the relevant behaviour, assessed as unreasonable, and warns the individual of what will happen next, if the behaviour continues.

If the complainant's conduct continues or if their initial conduct poses a substantial risk to the health and safety of staff or other related parties, the department will send a further notification letter immediately restricting their access to our services.

Restricting a complainant's access to our services - Level 2

If a complainant's conduct continues to be unreasonable or is excessive in the first instance, the department will consider restricting their access to our services. Decisions are made to protect health and safety of staff (or others) and ensure equity and fairness in the distribution of the department's resources. Discretion will be used to adapt restrictions to suit the complainant's personal circumstances and level of competency or literacy skills. Restrictions the department will consider include, but are not limited to:

- a. Restrict complainant contact to one staff member, who will exclusively manage their complaints. A secondary contact may be provided where the primary contact is unavailable.
- b. Restrict subject matter of communications that the department will respond to.

- c. Restrict the time, day, length of time or frequency which a complainant can contact the department.
- d. Restrict the locations where a complainant can contact the department. Locations may include a secure department facility, a local police station or a local community centre.

In addition to the above, the department may choose to no longer respond to any matters that have previously been raised and addressed, unless new information is provided that relates to the matter and the department decides a response is warranted.

Any verbal communications received that does not comply with the above restrictions may be terminated. Any written communications received that do not comply with the above restrictions will be read and filed without acknowledgement.

These restrictions will remain in place for 6 months at which time the department will conduct a review into these restrictions to ascertain whether they should be maintained, amended, or withdrawn. However, until the UCC is otherwise notified these restrictions remain in place.

No Direct Contact - Level 3

If the behaviour continues and/or escalates it may be necessary, that all future contact **MUST** be made in writing and forwarded to the department via registered mail.

All staff will be asked to block the complainant's calls and that any text or other messages should not be responded to. Written communications will only be accepted when delivered to a specified address via registered mail. These will be read and filed without acknowledgement unless new matters or concerns are raised. Any response will be provided at the discretion of the department.

These restrictions will remain in place for another 6 or 12 months, at which time the department will conduct a review into these restrictions to ascertain whether they should be maintained, amended, or withdrawn. However, until the UCC is otherwise notified these restrictions remain in place.

Monitoring and periodic reviews

Once a complainant has been issued with a warning letter or notification letter, the department will review the complainant's record and restriction every 6 or 12 months, on request by a staff member, or following any further incidents of unreasonable complainant conduct, to ensure that they are complying with the restrictions and that the arrangement is working.

If the restrictions have been ineffective in managing the complainant's conduct or are otherwise inappropriate the department will consider modifying restrictions or imposing further restrictions up to and including no direct contact.

Depending on the nature of the complainant's conduct, they may be invited to participate in the review process. The complainant will receive written notification of the outcome of the review.

Reviews of decisions

Complainants are entitled to one review per notification letter to change or restrict their access to our services. This review will be undertaken by a senior staff member who was not involved in the original decision to change or restrict the complainant's access. This staff member will consider the complainant's arguments along with all relevant records regarding the complainant's past conduct. The complainant will receive written notification of the outcome of their appeal within sixty days.

If a complainant continues to be dissatisfied after the appeal process, they may refer the matter to an appropriate oversight agency, such as the Ombudsman.

Related policies

- Code of Ethics and Conduct – Managing complaints
 - DRNSW social media guidelines
 - Work Health & Safety Policy
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Other related documents

- Managing Unreasonable Complainant Conduct, Practice Manual (2nd Edition) – NSW Ombudsman
 - Managing Unreasonable Complainant Conduct – a Model Policy and Procedure, NSW Ombudsman
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Superseded documents

Nil.

Revision history

Version	Date issued	Notes	By
1.0	16 June 2022	Approved	Fiona Dewar, Deputy Secretary Strategy, Corporate and Performance

Contact

Legal and Governance at governance@regional.nsw.gov.au