

## COMPLAINTS HANDLING PROCEDURE

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Related Documents	Complaints Policy Request for Service Policy & Procedure Internal Review of a Council Decision Policy & Procedure Hardship Policy Safe Environment Policy & Reporting Procedure Whistleblower's Protection Policy Fraud & Corruption Prevention Policy Elected Member, Employee, Volunteer and Safe Environment Codes of Conduct Protocol – Ombudsman Enquiry Procedure Australian Standard ISO 10002-2006, Customer satisfaction –guidelines for complaint handling in organisations
Applicable Legislation	<i>Local Government Act 1999, s.270</i> <i>Ombudsman Act 1972</i> <i>Whistleblower Protection Act 1993</i> <i>Children's Protection Act 1993 (SA) &amp; Regulations 2010 (SA)</i> <i>Disability Services Act 1993</i> <i>Aged Care Act 1997 &amp; Principles 2014</i>

### Introduction

Alexandrina Council provides an extensive range of services, facilities, programs and infrastructure to its community, and discharges obligations under many pieces of legislation. Council is committed to the provision of quality service to customers and regards feedback and complaints as an opportunity to improve practices and procedures, as well as resolve any matters.

Council receives service requests, complaints and feedback across all areas of operations and clarification may be necessary to make the distinction for the purposes of this procedure.

This Procedure commences at the point that a complaint is received and covers processes for:

- defining whether the issue is a complaint, request for service, general feedback or a request to review a decision of Council
- resolving or escalating the complaint
- referring complainants to other relevant agencies
- mandatory notification relating to Safe Environments (children and vulnerable people)
- using complaint investigations to directly inform service improvements.

The aim of this procedure is to ensure complainants receive a fair, consistent and structured process that allows staff to manage complaints regarding actions of the Council, staff or other Council representatives.

This procedure does not apply to matters that do not fall within Council's jurisdiction or responsibility. These types of issues will be referred to other agencies. Complaints which are about matters that are not Council's responsibility, such as disputes between neighbours or complaints about State or privately owned infrastructure (some roads, streetlights, power etc), will not be handled under this policy. Where possible, information regarding the relevant authority will be provided to the complainant.

As required under s.270 of the *Local Government Act 1999*, Council maintains a procedure regarding complaints about the actions and decisions of the Council, employees of the council, or other persons acting on behalf of the council. In these instances, please refer to the Council's *Internal Review of a Council Decision Policy & Procedure*.

Communication with the complainant is an important ongoing process while undertaking the actions necessary to resolve a complaint. When immediate resolution is not possible, the complainant must be regularly kept informed of progress, either by email, letter or personal contact.

### **Principles underlying the procedure**

This procedure and the policy it accompanies are based on five principles, which will be fundamental in the way Council approaches complaint handling. They are:

1. *Fairness*: treating complainants fairly through impartiality, confidentiality and transparency at all stages of the process
2. *Accessibility*: Council will ensure that policies, procedures and contact options are available to the public through the website, by phone or in person at Council offices during normal business hours
3. *Responsiveness*: will be achieved by providing sufficient resources, well trained staff, on-going review and improvement of the systems
4. *Efficiency*: complaints will be resolved as quickly as possible, while ensuring that they are dealt with at a level that reflects their complexity
5. *Integration* of different areas of Council will be undertaken where the complaint overlaps functional responsibilities.

### **Definitions**

- An *Employee* is any person who is employed by the Council, but may also include any contractors, volunteers, trainees, work experience students and consultants undertaking work for, or on behalf of the Council whether they are working in a full-time, part-time or casual capacity.
- *Business Day* means a day when the Council is normally open for business, ie Monday to Friday, excluding public holidays.
- A *complaint* is defined as "An expression of dissatisfaction with a product or service delivered by the Council or its representatives that has failed to reach the standard stated, implied or expected. This includes complaints about a service that has been, or should have been delivered". Where Council has failed to meet the normal standards for a service which has been, or should have been, delivered this procedure applies. A complaint may also be defined as behaviour or actions carried out by an employee or other defined person under this procedure.
- *Feedback* can take the form of comments, both positive and negative, about services provided by Council without necessarily requiring a corrective action, change of services or formal review of a decision. Feedback may, however, influence future service reviews and delivery methods.
- A *Request for Service* is an application to have Council or its representative take some form of action to provide a Council service. (See *Request for Service Policy*)

Except for minor responses, (See Procedures for resolving complaints below) Council will try to ensure that, whenever possible, complaints will be handled independently of the original decision-maker or officer involved in the matter that is the subject of the complaint.

A person can make a complaint in a number of ways:

- Through the Council website via the 'Contact Us' button, or through the 'Community Consultation' button, using the 'My Say' site
- Telephone
- Fax
- Email
- Letter
- In person at the Council customer service desk.

All complaints will be recorded in Council's records management system in such a way that the information can also be analysed for service improvement opportunities.

Complainants will be advised of the likely timeframe required to investigate and resolve a complaint and regularly updated as to progress where necessary, and advised of the outcomes at the completion of the process.

Employees will be trained to manage complaints efficiently and effectively, and provided with a level of delegated authority appropriate for the nature of complaints they are expected to resolve.

## **RESPONSIBILITY**

This procedure applies to all Council staff who may be involved in receiving or processing a complaint in the course of their work.

Officers will act reasonably and transparently, demonstrate good customer service, undertake their responsibilities in a proficient manner and use their judgement where necessary to ensure an outcome in line with Council's *Complaints Policy*.

Elected Members are to forward customer complaints to the Chief Executive Officer for action.

The complaints responsibility and resolution process consists of a tiered scheme:

- *Immediate response to resolve the complaint* - All staff are empowered to handle complaints in the first instance and it is preferable that they are dealt with promptly at the initial point of contact and at the appropriate officer level.
- *Complaint escalated to a more senior officer* - A complaint will be directed to a more senior officer in the Council, where circumstances indicate that the complaint would be more appropriately handled at a higher level. This may occur, for example, where an officer has been involved in the matter that is the subject of the complaint, where the complaint is about an issue that requires a decision to be made at a more senior level, or where a complaint concerns a matter that ranges across more than one Council work area.
- *Internal review of a Council decision by statutory process* - Internal review of a Council decision is available under s.270 of the *Local Government Act 1999* (see Council's *Internal Review of a Council Decision Policy and Procedure*). This is a process established by legislation that enables a Council to reconsider all the evidence relied on to make a decision, including new evidence if relevant. This process is generally a last resort in the complaint handling process, but may also be used in situations which are not able to be resolved by other means, such as a complaint about a decision of the Chief Executive Officer.
- *Mandatory Reporting Requirements* - Council has a mandatory reporting obligation under the *Children's Protection Act 1993 (SA)*, s.11 to report any complaint of or suspected abuse of children. All complaints or suspicions must be forwarded to the Council's Safe Environment

Contact Officer. Council will also manage any reports or complaints of suspected abuse of vulnerable people (disabled, elderly, socially isolated etc), in accordance with the Council's *Safe Environment Reporting Procedure*.

Complaints may vary greatly in their level of complexity and seriousness. Wherever possible complaints will be resolved by staff when first reported, but if necessary officers will escalate complaint handling as set out below.

While Council prefers to work with its customers to resolve complaints quickly and effectively, a complainant will always retain the right to seek other forms of resolution, such as contacting the Ombudsman, or taking legal action at any time. Note however, that as a general rule, the Ombudsman prefers a complaint to be addressed by Council in the first instance, unless this is not appropriate in the circumstances. (See Council's *Protocol – Ombudsman Enquiry Procedure*)

### **Transfer Required**

If it is necessary to refer the matter to another staff member (either at the same tier, or as a Tier 2 or 3 process), ensure that this person is fully briefed and able to make a decision. Having their complaint transferred can be frustrating for the complainant, so ensure that they do not have to explain everything again.

Advise the complainant of the reason for the transfer of responsibility and explain the process and timeframes which will be followed.

Ensure that the complaint has been logged and updated before transferring.

### **When to Immediately Transfer a Complaint**

There are other complaint procedures which apply to particular types of complaints. If the complaint would be more properly dealt with by another process this should be explained to the complainant at the outset. For example:

- Freedom of Information applications
- Child or vulnerable persons reports or complaints
- Insurance claims
- Emergency or illegal situations
- Decisions made under legislation other than the *Local Government Act 1999*, such as the *Development Act 1993* or *Expiation of Offences Act 1996*
- Where the issue is the responsibility of another agency. Wherever possible, ensure that the complainant has sufficient information regarding the alternative process, including contact details.

There are some types of complaints which must be automatically transferred to Tier 2 or 3. These include:

- Complaints about a decision of the Elected Council policy, procedure, fee or charge (*Internal Review of a Council Decision Policy*), unders.270 of the *Local Government Act*, are to be sent to the Internal Review Contact Officer (IRCO)
- Complaints in relation to a Council Member or the Chief Executive Officer
- Where the problem is clearly outside of the staff member's delegation or area of expertise
- Complaints or allegations regarding child or vulnerable person abuse or neglect (to be transferred immediately to the Safe Environment Contact Officer)

- Complaints alleging fraud, corruption or other criminal behaviour, which should be referred to the Anti-Corruption Branch or other relevant branch of SAPOL.
- Complaints involving an allegation of serious or controversial conduct by a staff member where disciplinary action is a possible outcome.

Ensure that the complaint is documented and lodged with records management, or request immediate assistance from a senior officer, depending on the circumstances and nature of the complaint.

### **Internal Review of a Council Decision (s.270 Review)**

Internal review of a Council decision is available under s.270 of the *Local Government Act 1999*. This more formal process, which is established and mandated by statute, is generally a last resort in the complaint handling process. However, this process may also be used in relation to more serious situations which require an immediate, high level response, such as a complaint about a decision of the Chief Executive or a resolution of Council (see Council's *Internal Review Procedure*).

### **Handling Complaints at a Senior Level**

A complaint should be directed to a more senior officer in the Council, where circumstances indicate that the complaint would be more appropriately handled at a higher level. Examples include where the complaint:

- ranges across more than one service area within Council
- concerns a contractor or consultant
- alleges improper conduct by a staff member
- has a high degree of complexity
- if a complainant is not satisfied with the outcome or handling of the complaint on the frontline.

In the great majority of cases, complaints should be resolved to the satisfaction of all parties at this level.

### **Process of Assigning a Senior Officer**

Council's records management and customer services staff are trained to assign complaints to an appropriate officer with the skills, knowledge and authority to investigate and determine the matter.

As a matter of good practice, complaints should be escalated to the appropriate manager of the areas to which the complaint is directed, provided that the manager has not been involved in the matter that is the subject of the complaint and is able to bring an objective mind to the resolution of the complaint.

Ensure that the referral occurs promptly and the complainant understands the process and timeline for the next action.

Document your involvement to date in the complaints handling system. While Council prefers to work with its customers to resolve complaints quickly and effectively, a complainant will always retain the right to seek other forms of resolution, such as contacting the Ombudsman, or taking legal action at any time. However, as a general rule, the Ombudsman prefers a complaint to be addressed by Council in the first instance, unless this is not appropriate in the circumstances. (See Council's *Protocol – Ombudsman Enquiry Procedure*)

## **PROCEDURES**

The following steps will be followed by staff to ensure complaints are dealt with efficiently and effectively:

1. Acknowledge complaints promptly, without allocating blame or assuming responsibility

2. Assess the complaint – some issues may not need to be investigated, but others will need to be escalated or forward to an appropriate officer
3. Plan the investigation where one is warranted
4. Investigate the complaint
5. Respond, in writing if possible, to the complainant with a clear decision or outcome
6. Follow up any customer service concerns
7. Consider whether there are systemic issues which need correction

All complaints must be recorded in Council's records management system in such a way that the information can also be analysed for service improvement opportunities.

### **Be Understanding of Complainants**

Make contact with the complainant as soon as possible and arrange to meet if necessary to fully understand the concerns. How the first contact with a complainant is handled is extremely important. When people complain they want to:

- Feel secure
- Be listened to
- Be heard but not judged
- Have their point of view understood and acknowledged
- Be treated as an individual, with respect and courtesy
- Be provided with an explanation
- Be given an apology
- Have corrective action taken as soon as possible
- Make sure the problem does not happen again.

Even when the outcome is not what they want, people should feel that they have been treated decently and that the process has been fair. Sometimes resolving the complaint involves:

- Giving more information
- Providing an explanation
- Suggesting a solution
- Expressing empathy and understanding where there is no solution
- Giving an apology, regardless of rights or wrongs, to acknowledge that the complainant feels aggrieved, without passing judgement on the nature of the grievance or alluding to any likely outcome.

### **Deciding How to Proceed**

Each complaint must be assessed to determine its nature, how it should be dealt with, when it should be dealt with, who should be involved and whether further information or investigation is required.

The first step is to assess the nature of the complaint, as not all complaints require investigation. Many complaints involve communication problems or misunderstandings that can be resolved informally by talking to the complainant or discussion between the parties, or through other processes such as mediation.

Certain types of investigations such as Whistleblower complaints are subject to particular legislative requirements. In these cases, the assessment of the complaint and the nature of the investigation must be undertaken in light of the relevant legislative framework – please refer to the Council's *Whistleblower Protection Policy*.

Determine what course of action is most appropriate in the particular circumstances. Issues to consider in the assessment of a complaint include:

- how serious the complaint is and the significance it has for the complainant and for Council
- the need and requirement of immediate action
- complexity
- whether it indicates the existence of a systemic problem
- whether an alternative and satisfactory means of redress is available
- whether the parties are agreeable to informal resolution of the complaint
- whether the complaint is trivial, frivolous or without merit
- the time that has elapsed between event and complaint.

If an investigation is not warranted, contact the complainant to provide a formal response or propose other actions.

Document all actions in the records management system.

### **Undertaking an Investigation**

For more guidance on planning an investigation, gathering evidence and making a decision see Attachment A.

Every effort should be made to finalise the complaint at this level. See section 'Remedies' below.

Ensure that the complainant receives regular updates about the progress of the investigation and a formal response including reasons for the decision.

Document all actions in the complaints handling system/ records module.

### **Remedies**

Where a complaint is considered justified, the next step is to determine an appropriate remedy or response to the complaint. By working to address the complaint, Council is making a commitment to meeting the complainant's needs, improving internal processes and maintaining its reputation.

An apology which is not an acceptance of liability is normally appropriate. Other remedies offered should be fair and reasonable for both Council and the complainant. The range of possible outcomes includes:

- an explanation
- an apology
- mediation
- an admission of fault
- a change in decision
- a change to policy, procedure or practice
- a correction of misleading records

- financial compensation, including a refund of any fees
- the waiving of a debt
- the remission of a penalty
- protection to the complainant
- disciplinary action
- referral of a matter to an external agency for further investigation or prosecution.

The remedy or response may be just one, or a combination of these actions. The chosen remedy needs to be proportionate and appropriate to the failure in service and take account of what people are looking for when they complain. Normally remedies other than compensation will satisfy a complainant. Compensation is therefore a final option and will apply only in cases where the loss or suffering is considered substantial.

The Elected Council and the Chief Executive Officer are the only representatives authorised to offer financial compensation and may consult with the Local Government Association Mutual Liability Scheme before taking any such action.

Ideally, remedies should be implemented as soon as possible. In cases where a remedy is provided to a complainant, it may also be necessary to provide a remedy to other people similarly affected, even if they have not made a complaint. If an apology is required the best thing to do is apologise promptly and advise the complainant that appropriate action will be taken to ensure the problem is not repeated.

### **Unreasonable complainant conduct**

All complaints received by Council are treated seriously. However there may be occasions when the conduct of a complainant is unreasonable, resulting in a decision to take no further action on a complaint. Special delegations and procedures apply. See Attachment B for further guidance on unreasonable complainant conduct. What can be termed 'unreasonable' will vary depending on a number of factors and Council aims to manage these situations in a fair and equitable manner.

Where a complainant's behaviour consumes an unwarranted amount of Council resources or impedes the investigation of their complaint, a decision may be made to apply restrictions on contact with the person. Before making any decision to restrict contact, the complainant will be warned that, if the specified behaviour(s) or actions continue, restrictions may be applied.

Any decision to suspend action on a complaint will be made by the Chief Executive Officer or their delegate and communicated in writing to the complainant.

### **Service improvement**

Learning from complaints is a powerful way of helping to improve Council's processes and procedures and increase trust among the people who use Council services. Council therefore should have systems to:

- record, analyse and report on the outcomes of complaints and remedies
- apply the information to improve customer service

Part of a remedy may be to ensure that changes are made to policies, procedures, systems, staff training or all of these, to ensure that the maladministration or poor service is not repeated. It is important to ensure that lessons learnt are put into practice.

All complaints must be recorded in Council's records management system in such a way that the information can also be analysed for service improvement opportunities.



- At intervals determined by the number of complaints received, the data on complaints is reported to Executive Management in order to ensure that systemic problems are identified and addressed.

Council is provided with reports containing data about complaints, actions taken to address to them and changes made as a result of complaints at least annually

### ALTERNATIVE PROCEDURES

There are also other complaint procedures which apply to particular types of complaints. If the complaint would be more properly dealt with by another process, this will be explained to the complainant at the outset. For example:

- Complaints against a Councillor or the Chief Executive Officer
- Freedom of Information applications
- Insurance claims
- Decisions made under legislation other than the *Local Government Act*, such as the *Development Act 1993* or *Expiation of Offences Act 1996*.

In some instances, it may be appropriate to consider mediation, conciliation or neutral evaluation under the Council's scheme authorised by s.271 of the *Local Government Act*. Costs and expenses of the appointment and work of a mediator, conciliator or evaluator will be shared equally between the Council and the other party.

To this end, staff are expected to:

- Treat complaints seriously and complainants with sensitivity, respect and courtesy
- Give the complainant an opportunity to have their complaint dealt with by an officer not previously involved in the matter
- Ensure all conflicts of interest are disclosed and acted upon
- Judge complaints on their merits and facts, after obtaining and considering all relevant information
- Give equal treatment to all people
- Ensure an appropriate remedy is provided where the complaint is substantiated
- Provide all parties with clear reasons as to why any actions have been taken
- Inform complainant of any further avenues of review.

Being responsive to complainants reflects Council's commitment to quality service and can prevent the escalation of complaints. Complaints are to be dealt with quickly, transparently and within established timelines:

- Advise complainants of the process to be followed and how long it will take to deal with the complaint
- Keep them informed of progress and the reasons for any delays
- Resolve or make further enquiries as soon as possible
- Where a complaint is not resolved to the customer's satisfaction, explain the decision clearly and offer any possible alternative actions or review opportunities.

## Mandatory Reporting Requirements

Council has a mandatory reporting obligation under the *Children's Protection Act 1993 (SA)*, s.11 to report any complaint of abuse of children. Council will also manage any reports or complaints of suspected abuse of vulnerable people (disabled, elderly, socially isolated etc), in accordance with the Council's *Safe Environment Reporting Procedure*.

## Privacy

Council must handle complaint information according to the privacy policy, which is set out in Council's *Complaints Policy*. Council's policy states that "the identity of complainants will be made known only to those who need to consider or know about the complaint and will not be revealed to any other person or made public by the Council, except where required by law". Confidentiality is not to be used as an excuse to avoid dealing with a complaint.

Information gathered during the complaint process will only be:

- Used in order to deal with and resolve the complaint or to address systemic issues arising from a complaint
- Shared with Council staff on a need to know basis
- Disclosed only in accordance with legal requirements, including the *Freedom of Information Act* and after consultation with person affected.
- Reported under the mandatory reporting requirements of the *Children's Protection Act 1993 (SA) & Regulations 2010 (SA)*.

Please note that regardless of privacy considerations, all documented complaints may be available to the public through Freedom of Information processes. Information may also be disclosed publicly in a de-identified format for annual reporting, training and other purposes required by legislation.

## Record management

All documents, notes, photographs and correspondence must be retained and stored in accordance with Council's Records Management protocols as required by s.125 of the *Local Government Act*.

## Availability of Procedure

This procedure will be available for inspection at Council's principal office during normal business hours and on the Council's website [www.alexandrina.sa.gov.au](http://www.alexandrina.sa.gov.au). Hard copies will also be provided to interested members of the community upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

## Attachments

Attachment A - How to investigate a complaint

Attachment B - Managing Unreasonable Complainant Conduct –Excerpt from Practice Manual

## Attachment A

### How to investigate a complaint<sup>1</sup>

#### Planning

Complaints that are straightforward can often be resolved on first contact. If this is not the case and the complaint requires investigation, a short written plan should be prepared. The plan should:

- define what is to be investigated
- list the steps involved in investigating the complaint and state whether further information is required, either from the complainant or from another person or organisation
- provide an estimate of the time it will take to resolve the complaint
- identify the remedy the complainant is seeking, whether the complainant's expectations are realistic or need to be managed, and other possible remedies
- note any special considerations that apply to the complaint—for example, if the complainant has asked for their identity to be withheld from others or if there is sensitive or confidential information that needs to be safeguarded.

A written plan will focus attention on what is to be investigated. This will ensure that important matters are not overlooked and that the investigation does not wander off course. A plan also allows a supervisor and other officers to review the course of the investigation. This is especially important if the investigation cannot be completed by the officer to whom the complaint was initially assigned. A common cause of inefficiency and delay in complaint investigation is that responsibility for investigating a complaint is passed from one officer to another, without adequate handover or planning.

Planning and conducting an investigation is a dynamic and ongoing process. It is not always possible to know at the outset how an investigation will develop, and more complex investigations can take a long time. It is important to revisit the investigation plan regularly and make adjustments as circumstances change and new information becomes available.

#### Investigation

The purpose of an investigation is twofold: to resolve the complaint by reaching a fair and independent view on the issues raised by a complainant, and to provide an appropriate remedy.

The three principles of fair investigation are:

**Impartiality** Each complaint should be approached with an open mind, and the facts and contentions in support of a complaint should be weighed objectively.

**Confidentiality** A complaint should be investigated in private, and care should be taken when disclosing to others any identifying details of a complaint.

**Transparency** A complainant should be told about the steps in the complaint process and be given an opportunity to comment on adverse information before a complaint is dismissed.

These three principles echo the requirements of administrative law, which public sector agencies must also observe during complaint investigation. The administrative law requirements are outlined in five best-practice guides published by the Administrative Review Council (at [www.ag.gov.au/arc](http://www.ag.gov.au/arc)). The following are among the requirements that are relevant to complaint investigation:

- A finding on a disputed factual matter must be based on evidence that is relevant and logically capable of supporting the finding - not on guesswork, preconceptions, suspicion or questionable assumptions

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<sup>1</sup> Extracted from the 'Better Practice Guide to Complaint Handling' endorsed by Australian Parliamentary Ombudsman



- A written record should be kept of evidence that is provided orally
- A complainant is not obliged to substantiate each fact or element in their complaint, although it is reasonable for the investigator to ask them to assist the investigation by providing documents they have or explaining things they know
- The rules of evidence that apply in court proceedings do not apply to administrative investigation, and an investigator can use reliable information obtained from any source
- To accord natural justice, a complainant should be given an opportunity to comment on contrary information or claims from another source before a decision is made to dismiss the complaint.

It is not always possible to resolve each disputed matter. The evidence available to the investigator might be scant, inconclusive or evenly balanced, and this should be explained to the complainant. Thought should also be given to resolving the complaint differently, by exploring the options for reaching a settlement or understanding between the complainant and those being complained about.

**Attachment B**

**Framework of strategies for managing unreasonable complainant conduct**

The unreasonable complainant conduct commonly seen by many agencies can, in most cases, be grouped into five categories:

- unreasonable persistence
- unreasonable demands
- unreasonable lack of cooperation
- unreasonable arguments
- unreasonable behaviour.

The table below<sup>2</sup> sets out these conduct categories, the associated trigger conduct and the corresponding strategy for managing that conduct. This framework is a guide – it should be applied flexibly, bearing in mind that more than one category of conduct may need to be managed at one time. The use of these strategies must also be based on the clear understanding that:

- every complainant deserves to be treated with fairness and respect
- in the absence of very good reasons to the contrary, members of the public have a right to access the agency
- no complainant, regardless of how much time and effort is taken up in responding to their complaint, should be unconditionally deprived of having their complaint properly and appropriately considered
- a complainant whose conduct is unreasonable may have a legitimate complaint
- the substance of the complaint dictates the level of resources allocated to it, not the complainant’s wishes, demands or behaviour.

**Management strategies:**

Conduct category	Unreasonable conduct (trigger)	Management strategies
<p><b>Unreasonable persistence</b></p>	<p><b>Unreasonable persistence includes:</b></p> <ul style="list-style-type: none"> <li>• persisting with a complaint even though it has been comprehensively considered by an agency, and all avenues of review have been exhausted</li> <li>• reframing a complaint in an attempt to get it taken up again</li> <li>• showing an inability to accept the final decision</li> <li>• insisting that a particular solution is the correct one in the face of valid</li> </ul>	<p><b>Strategies for dealing with unreasonable persistence are about saying ‘no’. They include:</b></p> <ul style="list-style-type: none"> <li>• communicating clearly and transparently – eg telling complainants firmly that something is ‘not going to happen’</li> <li>• to the ‘where-do-I-go-to-now’ question, telling complainants that not all problems have an institutional solution and they</li> </ul>

<sup>2</sup> extracted from the 'Managing Unreasonable Complainant Conduct Practice Manual' endorsed by Australian Parliamentary Ombudsman



	<p>contrary or alternative arguments</p> <ul style="list-style-type: none"> <li>● persisting in interpreting the law or policy in a way that is not in accordance with generally accepted or expert views on the issue and insisting that action be taken accordingly</li> <li>● persisting in wanting to know where to go next, when it has been explained that there is nowhere else to go.</li> <li>● demanding a review because it is available, but not arguing a case for a review.</li> <li>● making an issue out of anything</li> <li>● getting gratification from the process of regular contact with the case officer, possibly including inventing unnecessary reasons for having such contact.</li> </ul>	<p>may have reached the end of the line, unless a realistic referral can be made</p> <ul style="list-style-type: none"> <li>● requiring complainants who want a review to provide an argument for one – eg to tell the agency how it has erred or provide new information – and, if they don't, their file will remain closed</li> <li>● providing one review only</li> <li>● maintaining a 'no means no' stance following review</li> <li>● adopting, when appropriate, a firm no-further-correspondence or contact stance and requiring any variation from this to be authorised at a high level</li> <li>● not allowing complainants to reframe the complaint to re-enter the process, unless they raise new and important issues</li> <li>● ending telephone calls that are unproductive</li> <li>● asserting the agency's position – eg 'I acknowledge that your view is ..., we see it differently', or 'I acknowledge that your view differs from ours, however, our job is to make a decision about ... and this is what we have decided'</li> <li>● making it clear that our decision is final and, for better or worse, we have made our decision.</li> </ul> <p><b>Managing unreasonable persistence also includes:</b></p> <ul style="list-style-type: none"> <li>● managing expectations from the beginning, including ensuring initial expectations</li> </ul>
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		<p>are realistic</p> <ul style="list-style-type: none"> <li>• adopting a firm and authoritative communication style both in writing and verbally</li> <li>• defining key issues and keeping the focus on them.</li> </ul>
<p><b>Unreasonable demands</b></p>	<p><b>Unreasonable demands include:</b></p> <ul style="list-style-type: none"> <li>• insisting on outcomes that are unattainable</li> <li>• insisting on a ‘moral’ outcome eg justice in the community interest, when really a personal interest is at stake</li> <li>• demanding an apology or compensation when no reasonable basis for expecting such outcomes exists</li> <li>• wanting revenge, retribution</li> <li>• wanting what is not possible or appropriate – eg copies of sensitive documents, names and contact details of staff, other complainants or whistleblowers</li> <li>• issuing instructions and making demands about how a complaint should be handled</li> <li>• providing supporting details that are extraordinarily detailed when such detail is not relevant to the complaint</li> <li>• making unreasonable resource demands, out of proportion to the seriousness of the issue</li> <li>• wanting regular and lengthy phone contact where this is not warranted</li> <li>• showing reactions or demand for action that are out of proportion to the significance of the issue</li> <li>• moving the goal posts – changing the desired outcome</li> <li>• shopping for a sympathetic ear in the</li> </ul>	<p><b>Strategies for dealing with unreasonable demands are about setting limits. They include:</b></p> <ul style="list-style-type: none"> <li>• letting complainants know in advance how the agency intends to deal with the complaint – having a plan and sticking to it</li> <li>• making sure the complainant is clear that the agency decide how the complaint should be handled</li> <li>• clarifying the limitations of the particular complaint handling system</li> <li>• avoiding being drawn into hypothesising, catastrophising, conspiracy theories, unproductive argument and personal attacks more generally</li> <li>• restricting contact to defined times and staff members where necessary responding only to emails and mail addressed to the agency directly – not responding to mail where the agency is copied in</li> <li>• ending telephone calls that are unproductive</li> <li>• limiting contact to writing only</li> <li>• not doing for unreasonably demanding complainants something the agency would</li> </ul>



	<p>agency – demanding to talk to a supervisor or the manager personally</p> <ul style="list-style-type: none"> <li>• placing the agency on an extensive email copy list and expecting responses to these emails</li> <li>• consistently creating complexity where there is none</li> <li>• presenting as overly needy or dependent – eg wanting to transfer responsibility for their wellbeing to the complaint handler or agency.</li> </ul>	<p>not normally do for any other complainant, just to appease them</p> <ul style="list-style-type: none"> <li>• as a last resort, informing the complainant that the agency finds their interactions unreasonably demanding and setting defined limits for further contact.</li> </ul> <p><b>Managing unreasonable demands also includes:</b></p> <ul style="list-style-type: none"> <li>• managing expectations from the beginning, including ensuring initial expectations are realistic</li> <li>• adopting a firm and authoritative communication style both in writing and verbally</li> <li>• defining key issues and keeping the focus on them.</li> </ul>
<p><b>Unreasonable lack of cooperation</b></p>	<p><b>Unreasonable lack of cooperation includes:</b></p> <ul style="list-style-type: none"> <li>• presenting a large quantity of information which is not organised, sorted, classified, summarised, where the complainant is clearly capable of doing this</li> <li>• presenting information in dribs and drabs – refusing to present all information at the outset</li> <li>• refusing to define issues of complaint – ‘the attached (usually a large amount of information) speaks for itself’ – where the complainant is clearly capable of doing this</li> <li>• focusing on principles rather than substantive issues</li> <li>• changing the complaint and raising new issues while the complaint is in the process of being considered</li> <li>• displaying unhelpful behaviour – eg</li> </ul>	<p><b>Strategies for dealing with unreasonable lack of cooperation are about setting conditions. They include:</b></p> <ul style="list-style-type: none"> <li>• requiring complainants to organise or summarise the information they have provided before the agency will look at the complaint (where they are capable of doing this)</li> <li>• requiring complainants to define what their issues are or to pursue further inquiries before the agency will look at the complaint</li> <li>• telling complainants that the agency will not look at their complaint until all the information has been presented</li> <li>• ending the agency’s</li> </ul>

	<p>withholding information, being dishonest, misquoting others, swamping the agency with documents.</p>	<p>involvement in the complaint if it is discovered that the complainant has been wilfully misleading or untruthful in a significant way.</p> <p><b>Managing unreasonable lack of cooperation also includes:</b></p> <ul style="list-style-type: none"> <li>● managing expectations from the beginning, including ensuring initial expectations are realistic</li> <li>● adopting a firm and authoritative communication style both in writing and verbally</li> <li>● defining key issues and keeping the focus on them.</li> </ul>
<p><b>Unreasonable Arguments</b></p>	<p><b>Unreasonable arguments include:</b></p> <ul style="list-style-type: none"> <li>● holding irrational beliefs – eg seeing cause and effect links where there are clearly none</li> <li>● holding what is clearly a conspiracy theory unsupported by any evidence</li> <li>● interpreting facts in a clearly irrational/unreasonable way and insisting this interpretation is the correct one.</li> <li>● arguing the clearly bizarre</li> <li>● insisting on the importance of an issue that is clearly trivial.</li> </ul>	<p><b>The strategy for dealing with unreasonable arguments</b> in complaints is primarily about declining or discontinuing the agency’s involvement. These complaints need to be declined at the beginning, or discontinued as soon as it becomes clear that the complaint is groundless. Alternatively, if unreasonable arguments are mixed with reasonable arguments, the strategy should be to refuse to deal with the unreasonable portion. This category of conduct is often associated with mental illness.</p>
<p><b>Unreasonable behaviour</b></p>	<p><b>Unreasonable behaviour includes:</b></p> <ul style="list-style-type: none"> <li>● displaying confronting behaviour eg rudeness, aggression, threats or harassment</li> <li>● sending rude, confronting or threatening letters</li> <li>● making threats of self-harm</li> </ul>	<p><b>The strategies for dealing with unreasonable behaviour</b> are primarily about ‘saying no’ to unacceptable behaviours, and setting limits and conditions for future interactions. Overt anger, aggression and threats in person, on the phone or in writing are never acceptable. Dealing with these includes</p>



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	<ul style="list-style-type: none"><li>• making threats of harm to others</li><li>• displaying manipulative behaviour – overly ingratiating, tears or veiled threats.</li></ul>	having risk management protocols in place. Also: <ul style="list-style-type: none"><li>• Return letters framed in rude and intemperate language and request that the complainant reframe their concerns in more moderate language.</li><li>• Point out that more moderate language is clearer and therefore more likely to achieve better outcomes.</li><li>• End telephone calls and interviews if the complainant becomes abusive and confronting.</li></ul>
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