



# **OMBUDSMAN TASMANIA:**

## **Guidelines for Complaint Handling**

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## **Preface**

The current Australian standard on effective complaints handling in agencies (Customer satisfaction - Guidelines for complaints handling in organizations AS ISO 10002:2006) is out of date, does not reflect the current consumer environment, and is under revision. Publication of the revised standard is proposed for March 2014.

As an interim measure, these Guidelines are provided to assist State and Local Government agencies to deal with complaints in a fair, effective, transparent and consistent manner.

The Guidelines have been developed with the assistance of other Ombudsman Offices to ensure a nationally consistent approach; their assistance is gratefully acknowledged (my particular thanks go to the NSW and WA Ombudsman).

These Guidelines will be revised once the new Australian standard on effective complaints handling is released.



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## Key features of an effective complaints handling system

All effective complaint handling systems:

- **enable complaints** – by having arrangements that assist and support people to make complaints to agencies;
- **respond to complaints** – by ensuring that complaints are dealt with in a prompt, objective and confidential manner; and
- **are accountable and promote organisational learning** – by using complaints to demonstrate accountability and stimulate organisational improvement.

## 10 principles of effective complaint handling

1. **Customer focus** – the agency is committed to effective complaint handling and values feedback through complaints.
2. **Visibility** – information about how and where to complain is well publicised to customers, staff and other interested parties.
3. **Accessibility** – the process for making a complaint and investigating it is easy for complainants to access and understand.
4. **Responsiveness** – complaints are acknowledged promptly, addressed according to urgency, and the complainant is kept informed throughout the process.
5. **Objectivity and fairness** – complaints are dealt with in an equitable, objective and unbiased manner (which ensures that the complaint handling process is fair and reasonable and that unreasonable complainants are not allowed to become a burden).
6. **Confidentiality** – personal information related to complaints is kept confidential.
7. **Remedy** – if a complaint is upheld, the agency provides a remedy.
8. **Review** – there are opportunities for internal and external review and/or appeal about the agency's response to the complaint, and complainants are informed about these avenues.
9. **Accountability** – accountabilities for complaint handling are clearly established, and complaints and responses to them are monitored and reported to management and other stakeholders.
10. **Continuous Improvement** – complaints are a source of improvement for agencies.

# Turning the principles of effective complaint handling into actions

## Customer focus

Demonstrate that the agency is committed to effective complaint handling and values feedback through complaints by:

- being open to feedback
- having a clearly communicated complaint handling process
- being committed to seeking an appropriate resolution of every complaint
- having management that:
  - values the benefits of an effective complaint handling system,
  - supports the process, and
  - is committed to dealing with any organisational inadequacies raised by a complaint

## Visibility

Make sure that customers, staff and other interested parties have access to appropriate information about how and where to complain:

- through simple, easy to read information in brochures and publications on websites and at service delivery points (front counters for example);
- by educating all front line staff on the complaint handling process; and
- ensuring that complainants are aware of any external party to whom they can take their complaint.

## Accessibility

Ensure the process for making a complaint and investigating it is easy for complainants to access and understand by:

- making it clear in information provided about the complaint handling process that there is no fee involved in lodging a complaint;
- making information about the complaints process available in a variety of forms of communication, formats and languages appropriate to the needs of the customer;
- making it clear that complaints can be lodged in a variety of ways, including in person, over the phone, and in writing (via email, fax and letter);
- providing access to translating and interpreting services for non-English speaking people; and
- providing additional assistance to members of the public who may require it (such as Indigenous Australians, children and young people, people living in regional and remote areas, people with disabilities and people from culturally and linguistically diverse backgrounds).

## Responsiveness

Make sure that complaints are acknowledged promptly, addressed according to urgency, and the complainant is kept informed throughout the process, by:

- providing guidelines to staff on how to respond to and prioritise complaints (including how to assess complaints which may be resolved quickly and those which require investigation);
- acknowledging complaints promptly;
- keeping complainants (and, if applicable, the person who is the subject of the complaint) informed of the progress and the outcome of the complaint;
- empowering Complaint Handling Officers to resolve complaints or ensuring that they are aware of, and have access to, the person who has the authority to do so;
- putting in place (where appropriate) special arrangements for responding to particular client groups (such as, Indigenous Australians, children and young people, people living in regional and remote areas, people with disabilities and people from culturally and linguistically diverse backgrounds); and
- referring any identified misconduct and corrupt behaviour to the Integrity Commission.

### **Objectivity and fairness**

Deal with complaints in an equitable, objective and unbiased manner by:

- ensuring that all complaints are dealt with on their merit in an equitable, objective and unbiased manner
- ensuring that any conflicts of interest are declared and appropriately resolved;
- giving the complainant (and, if applicable the person who is the subject of the complaint) sufficient opportunity to present their position and to comment on any adverse findings;
- giving the complainant (and, if applicable the person who is the subject of the complaint) with reasons for decisions on the outcome of the complaint;
- establishing a review process in which the Complaint Handling Officer's decision is reviewed by a suitably experienced colleague or superior before the complaint is finalised;
- establishing an independent internal review or appeal process; and
- providing staff who receive and handle complaints with appropriate guidance or training (including dealing with unreasonable conduct by the complainant or the subject of the complaint).

### **Confidentiality**

Ensure that personal information related to complaints is kept confidential by:

- adhering to the Personal Information Protection Principles; and
- ensuring that the personal information of the complainant (and any people who are the subject of a complaint) is only used for the purposes of addressing the complaint and any follow up actions.

### **Remedy**

Ensure that, if a complaint is upheld, the agency provides a remedy and make sure that staff:

- are familiar with available remedies;

- are empowered to provide these remedies at the appropriate level (for example some appropriate remedies may be provided by front-line staff); and
- are able to give the complainant reasons for decisions relating to remedies.

### **Review**

Ensure that there are opportunities for internal and external review and/or appeal about the agency's response to the complaint, and complainants are informed about these avenues by:

- establishing and publicising the existence of an independent internal review or appeal process; and
- routinely providing complainants with details of their external rights of review or appeal processes for unresolved complaints.

### **Accountability**

Makes sure that accountabilities for complaint handling are clearly established, and complaints and responses to them are monitored and reported to management and other stakeholders by:

- establishing and publicising clear responsibilities for handling complaints (this may include officers who are specifically assigned to deal with complaints);
- establishing a 'fit for purpose' centralised system for recording and tracking complaints along with reasons for any decisions
- ensuring that the centralised system for recording and tracking complaints can provide information on the demographic make-up of complainants to enable an assessment of differing service delivery needs for people from a range of backgrounds;
- following up on the implementation of remedies and proposed improvements to practices;
- incorporating complaints and any actual or proposed improvements to practices into the agency's internal reporting and planning process (through such channels as Corporate Executive meetings and Strategic and Operational Plans); and
- monitoring the effectiveness of the complaint handling system (for example, through quality assurance or internal audit processes and reports to Corporate Executive along with recommendations for improvements to the system).

### **Continuous Improvement**

Ensure that complaints are a source of improvement for agencies by:

- analysing complaints data and feedback to identify recurrent themes that might identify systemic issues and;
- using the information gathered through their complaint handling systems to identify service, process and information issues that need to be addressed.

## **The approach to be adopted when dealing with complaints**

In dealing with complaints, agencies and responsible staff must be clear about their role. They should adopt an inquisitorial approach (to impartially attempt to ascertain the truth and to uncover all relevant facts), not an adversarial approach (where the investigator acts either as prosecutor on a complainant's behalf or a defender on the agency's behalf).

### **Impartiality**

Agency guidelines on handling complaints should emphasise the need to maintain an open mind during any investigation and to avoid forming premature judgements before all available relevant evidence has been obtained and assessed.

Investigations should only be finalised after properly considering any submissions that affected parties may wish to make. A key issue is the impartiality of the complaint handler, and in particular whether the complaint handler has a real or perceived conflict of interests in relation to the subject matter of the complaint or the complainant.

### **The motive of the complainant**

It is often argued that if a complaint appears to be activated by malice or other questionable motives, it should be automatically dismissed. This is incorrect.

Good complaint handling practice demands that if a complaint appears to have substance, it should be investigated irrespective of the motives of the complainant (focus on the message, not the messenger).

### **Protecting complainants**

Agencies need to ensure that people who complain about the services provided by or the conduct of the agency or its staff are not subjected to victimisation, harassment, discrimination or other prejudice.

The complaint handling policies adopted by agencies need to explicitly acknowledge:

- the rights of members of the public to complain about service and conduct issues
- that people who complain are not to be subjected to any form of prejudice in reprisal for their complaint
- that complaints alleging that such reprisals have occurred will be taken seriously and appropriately investigated
- that disciplinary action will be taken against any staff found to have breached the policy.

## **A “fit for purpose” complaint handling system**

An effective complaint handling system should be a ‘fit for purpose’ system. This is a system that is varied to fit an agency’s circumstances and is proportionate to the number and type of complaints it receives.

Decisions about building a ‘fit for purpose’ system could incorporate the following considerations:

- the number and demographics of the agency’s customers, and how they generally communicate with the agency;
- the nature and breadth of the agency’s interactions with the public;
- the level of complaints that is considered reasonable for the agency (by examining trends in its level of complaints over time);
- the agency’s risk management strategy – complaints are an important way of monitoring and mitigating any risks;
- the value the agency derives, or wishes to derive, from complaints to improve its operations over time, as well as other information needs of management; and
- the cost of operating a complaint handling system

## **Complaint Handling Officers**

Complaint handling is an important role in an agency and should be recognised as such by management. Complaint Handling Officers are the most important factor in ensuring that an agency’s complaint handling is responsive to complainants.

Complaint Handling Officers should be empowered to make decisions, or have access to someone who can make decisions.

An effective resolution at the earliest opportunity will enhance the complainant’s view of the agency and allow prompt improvement to practices. Complaints should be handled by people who have the appropriate skills and authority to resolve or investigate complaints and, where appropriate, provide remedies and identify improved practices.

Where possible, complaints are best handled by people at the point of service delivery. These people should be able to resolve complaints at first contact and should log complaint details for further analysis. More serious complaints, or complaints that cannot be resolved by front-line staff, should be referred to more senior staff or designated Complaint Handling Officers for investigation, resolution and any other appropriate action.

All staff should be made aware of their responsibilities in providing information to help investigate and resolve complaints, and to implement actions to provide remedies or systemic improvements arising from complaints.

## **Managing all complaints well from the beginning**

All complaints need to be managed as well as they possibly can be from the beginning to minimise the chances of unnecessary delays, misunderstandings and unrealistic expectations. In actual fact, this management process starts before a complaint is ever made - with the accuracy and relevance of the information available in the public domain about the agency's role, powers and complaint handling processes.

The general principles of good complaint handling include:

- Managing complainant expectations to ensure they are realistic from the beginning.
- Communicating clearly and firmly both verbally and in writing.
- Communicating in a style that is appropriate to the specific complainant.
- Ensuring that complainants understand what the agency can and cannot do, and will and will not do.
- Making complainants aware of their responsibility to treat staff with respect, to provide information and to cooperate with their case officer.
- Defining the key issues that the agency is going to address and keeping the focus on them.
- Providing clear reasons for the agency's decisions.
- Avoiding unnecessary delays.

Managing a complaint well from the beginning may include:

- Declining, at the start, complaints that contain unreasonable arguments.
- Declining 'trivial' complaints - for example, on the basis of limited resources or no good purpose being served in taking the matter further.
- Sending out an acknowledgement letter that spells out in general terms what the agency can and cannot do, will and will not do, and what the agency's complaint handling processes are.
- Making and maintaining telephone contact where possible and appropriate.
- Where possible and appropriate, ringing complainants before taking up a complaint to clarify or confirm the issues of their complaint. 'As I understand it, you are complaining about ... is this correct?'
- Reality testing the complainant's expectations. 'What do you hope to get from this process?' 'What do you expect the outcome to be?' 'What did you hope to achieve when you decided to contact us?' - and then addressing and correcting any unrealistic expectations.
- Informing the complainant in specific terms what the agency can and cannot do, will and will not do, in relation to the particular issues raised in the complaint.
- Where appropriate, clarifying the limitations of the agency's complaint handling system rather than challenging the complainant's demands.

- Keeping complainants informed of progress on their complaint - if there is going to be a delay, ringing them and explaining why.
- If it is likely that the complainant is going to be very disappointed with the final decision, ringing and explaining the decision and the reasons for it - before sending a final letter.
- In the final letter, providing the reasons for the decision before stating the decision - rather than the other way around. This will maximise the likelihood of the complainant focusing on the argument underpinning the agency's decision.
- Showing empathy when telling the complainant that their complaint will not be taken up or has not been found sustained.
- Identifying complaints that are likely to, or do, involve unreasonable conduct as soon as possible and ensure that these cases are strategically managed with appropriate supervision.

Model Ground Rules for Complaint Handling are at Appendix I

## Investigating complaints about staff

### Principles

The handling of complaints against staff should incorporate the following four principles:

- **procedural fairness** for both the complainant and staff member;
- **speed** to ensure that the opportunity for further misconduct and the potential for bitterness is minimised, as are opportunities to breach the confidentiality to which complainants and staff members are entitled;
- **confidentiality for all parties**, where practicable and appropriate, until such time as the investigation process is completed; and
- **meticulous recordkeeping**, including recording of reasons for all significant decisions.

## **Communicating with complainants**

### **'Ownership' of complaints**

A key consideration when communicating with a complainant is ownership.

Complaint handling agencies often talk about 'our complainants'. In fact, complaint handling agencies are mostly impartial and neutral. If they 'owned' complainants, they would be acting for them. All the agency can ever 'own' is the complaint.

It is helpful to think about the agency's relationship to a complaint in terms of ownership because it is the agency, not the complainant that has all the prerogatives, discretions and responsibilities that ownership effectively entails. It is the agency that will make the key decisions about the complaint, for example whether it will be dealt with and if so how, who by, how quickly, what the outcome will be of any investigation and what will be recommended.

Complainants come to agencies with complaints about issues. The complaint is subject to the scrutiny of the agency within the context of the agency's legislation, policies and practices. At the end of the process, the complainant is given a considered decision supported by reasons. This is usually the end of the process, unless an avenue of review is also available.

The decision provided by the agency, even if the finding is in favour of the complainant, may or may not resolve the complainant's issue. At the end of the complaint handling process, the issue is still the complainant's issue - not the agency's.

By keeping the concept of 'ownership' in mind, communication with the complainant can clearly delineate from the beginning what the agency can and cannot do, and what they will and will not deal with.

### **Writing to complainants**

An acknowledgement letter is an opportunity to manage complainant expectations. It can inform the complainant about the role of the agency, its processes and timeframes. It can also spell out respective responsibilities - the agency's as well as the complainant's.

Complainants often attempt to start the complaint cycle up again in another agency at the end of a process they have been dissatisfied with. They may either try to take their issue to another agency or agencies, or they may shift ground and start complaining about how their complaint was handled. Sometimes they may do both. They may also try to involve a number of agencies at the same time or take their matter to their local MP, a Minister or the media.

Given all these possibilities, it is important to write the final letter giving decisions and reasons not just for the complainant - but also for the broader audience of the agencies the complainant may go to next. This letter needs to give a full history of the complaint and its consideration and comprehensive details about how decisions were reached.

It is also important that - when receiving a complaint from a complainant who appears to have a history of complaining about the same issue to other agencies - the new agency asks the complainant for copies of any final correspondence from other agencies.

When writing the final letter, consider giving the decision at the end rather than the beginning of the document. This encourages the complainant to read the reasoning underpinning decisions first. The decision is then more likely to be understood. Some complainants, when faced by an adverse decision at the beginning of the letter, do not bother to read the rest of the letter before getting on the phone to the agency to express their dissatisfaction or demand a review. This, unnecessarily, takes up more of the agency's time.

Complainants sometimes present agencies with a long (often numbered) list of issues of complaint. When making decisions and giving reasons, agencies do not have to address each and every issue raised by the complainant (case law supports this).

Agencies also do not have to respond to correspondence to which they have been added by cc. If the cc information contains a significant issue of interest to the agency, however, they may be able to pursue it themselves without involving the person who has sent the information — if this is the more productive course.

Letters giving review decisions are best short and concise. Long and detailed review decisions sometimes encourage a complainant to argue about specific details while ignoring the substance of the decision.

Agencies can refuse to correspond further with complainants if they persist in their complaint after the agency's complaint process has been exhausted. In this case, a letter needs to be written to the complainant advising that any further correspondence from them will be filed without acknowledgement, unless a substantially new issue is raised which the Secretary / CEO of the agency considers warrants attention. This letter needs to be signed by the Secretary /CEO.

It is advisable not to accept angry and abusive letters from complainants, as accepting them only condones anger and abuse. Such a letter needs to be returned to the complainant (after putting a copy on file) with a request for it to be reformulated in more moderate language. The exception is if a significant and perhaps urgent issue is raised in an angry and abusive letter. The complainant's conduct should then be managed in some other way.

Letters to complainants restricting access in some way always need to be signed by the CEO.

## **Talking with complainants**

Agencies should seek to establish a firm but courteous and respectful communication style with the complainant at the very beginning:

- The complainant's expectations about process and possible outcomes can be managed at an early point in the process.
- Complaint issues can be clarified.
- The possibility of unreasonable conduct that flows from misunderstanding and suspicion can be reduced by keeping the complainant up-to-date with progress or advising any delays.
- The complainant's disappointment at a negative outcome can be managed ahead of the letter advising of the outcome.

Agency staff should always aim for a non-confrontational, non-resistant communication approach which advocates:

- Attentive listening - focusing carefully on what the complainant is saying.
- Expressing empathy - giving the complainant some indication that their distress, disappointment and frustration is understood.
- Acknowledging the complainant's point of view - acknowledging that they have a certain view or belief without necessarily agreeing with it.
- Apologising appropriately, where necessary.
- Stating clearly what can and cannot be done.

This communication approach avoids:

- Argument and debate - it is not necessary to enter into dispute with the complainant. Only Factual information needs to be considered and a well-reasoned decision given.
- Defensiveness - case officers do not need to react to attacks from complainants. This is essentially about keeping ego out of it.
- Unnecessary justification - justification needs to be limited to the facts of the case, excuses are not necessary.

Appendix 2 contains ten ground rules for talking to complainants. This sheet is intended as an easy reference to be kept near the telephone.

## **Script ideas**

Experience suggests that staff routinely struggle with certain issues when talking to complainants, or they routinely meet common challenges from complainants. A series of scripts have been attached to these Guidelines that may assist in dealing with these challenges.

These scripts are suggestions only and need to be used flexibly within the context of the agency's policies and practices and the circumstances of the individual complainant.

Again, the basic principles need to be kept in mind when interacting with complainants. These are that:

- Complainants are treated with respect at all times;
- The public has a right to access the agency;
- Unreasonable conduct does not preclude there being a valid issue;
- The substance of the complaint dictates resources allocated to it, not the behaviour of the complainant; and
- The complaint handler 'owns' the complaint and the complainant 'owns' the issue.

The script ideas cover:

- Managing expectations (Appendix 3).
- Responding to dissatisfaction and disappointment (Appendix 4).
- Testing a complainant's preparedness to consider the validity of a view other than their own (Appendix 5).

## **Providing remedies and redress**

If an investigation of a complaint determines that the service provided by an agency to an individual is unsatisfactory and the agency has in some way contributed to this, the agency should provide redress to remedy the situation.

Circumstances that warrant the provision of redress and remedies by an agency to a complainant can arise in many ways, but in broad terms, include the following:

- where poor communication resulted in misunderstandings or misapprehensions;
- where an inadequate or unfair process was used to arrive at a decision or provide a service; or
- where a decision or action was unfair, disproportionate or unreasonable in the circumstances.

The following principles may be useful in determining appropriate remedies:

- mistakes should be admitted and put right;
- a sincere and meaningful apology should be offered;
- redress must be fair and reasonable;
- as far as possible, redress should restore the complainant to their original position;
- decisions about redress must be procedurally sound; and
- arrangements and reasons for providing redress must be transparent.

The types of remedies that can be offered include:

- an apology;
- reconsideration of a decision;
- amending or retracting documentation (for example, publications, media statements, web pages);
- an offer of non-financial assistance, as appropriate (for example, providing information or contact details);
- financial consideration (a refund, for example);
- appropriate compensation for loss;
- changed policies or practices to prevent a reoccurrence; and
- action to modify the behaviour of the staff member who the complaint was about, if applicable.

## **Apologies**

### **Why apologies should be made**

One of the most effective ways to diffuse a situation, or to prevent a situation from escalating, is to offer a full apology where this is warranted.

Agencies sometimes get it wrong. Mistakes, delays, omissions and misunderstandings happen, even in the most efficiently run agencies. If this occurs, action should be taken immediately to remediate the problem. Remediation on its own is generally not enough. An apology needs to be made as well.

When things go wrong, complainants generally want no more than to be listened to, understood, respected and - if appropriate - given an explanation and apology. A

prompt and sincere apology for any misunderstanding is likely to stop ongoing problems from developing.

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; and
- prevent escalation of the matter and the associated costs in terms of time, resources and stress.

When things go wrong, the problem often is not the event that caused the damage - it is the way the person was treated afterwards. If the response to the person's concerns is respectful, positive and constructive (which can include an apology if appropriate), those concerns can often be resolved satisfactorily, enabling the person to 'move on'. If the response is rude, dismissive, negative, defensive or misleading, this is likely to result in an escalation of the problem with detrimental consequences for all the parties concerned. Unreasonable complainant conduct could well become the result.

### **The content of an apology**

The most appropriate form and method of communicating an apology will depend on the circumstances of the particular case. In general terms, the most effective apologies incorporate the following key elements:

- Recognition -
  - Description of the wrong - the problem, act or omission to which the apology applies.
  - Recognition of the wrong - an explicit recognition that the action or inaction was incorrect, wrong, inappropriate, unreasonable or harmful.
  - Acknowledgement of the harm - an acknowledgement that the affected person has suffered embarrassment, hurt, pain, damage or loss.
- Responsibility -
  - Acceptance of responsibility - taking responsibility for the wrong and harm caused.
- Reasons -
  - Explanation of the cause - a simple, plain English explanation of the reasons for or cause of the problem.
- Regret -
  - Apology statement - an expression of sincere sympathy, sorrow or remorse, and a statement that the action or inaction was wrong or, at the very least, an expression of regret.
  - Sincerity of communication - an important indicator of the level of regret of the person doing the apologising.
- Redress -
  - Action taken or proposed - a statement of what has been or will be done to address the problem.
  - Promise not to repeat - an indication that the action or inaction will not happen again.

- Release -
  - Request for forgiveness - a request to be released from blame (an optional extra to a full and complete apology).

### **Giving an apology**

Apologies generally need to be given at the earliest practical opportunity. Although it is best to apologise as soon as a wrong is identified, it may be important to delay a full apology to allow time for inquiries or an investigation to establish the nature and cause of the problem - and to allow one or both parties time for cool reflection.

Apologies must 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. Apologies must also be given to the right person, the one who was harmed. Apologising to a third party is generally not appropriate.

### **Legal implications of apologising**

Tasmania has legislated to protect apologies that do not include an admission of fault or responsibility from incurring civil liability (see s 7 *Civil Liability Act 2002*).

## Dealing with unreasonable complainant conduct

While most complainants act responsibly, some complainants are difficult to satisfy and occasionally the conduct of some complainants can be challenging because of:

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

In these circumstances, special measures to deal with this conduct may be required.

It is important to remember that, even where a person's conduct may be unreasonable, they may have a valid complaint and their complaint should be handled appropriately. Fair consideration must be given to the complaint while ensuring that there is not undue use of resources to investigate and resolve the complaint.

There are three important principles agencies need to balance when dealing with unreasonable complainants:

1. Ensuring equity and fairness in the allocation of resources across all complaints (which includes also recognising that the challenging conduct of some complainants can actually hinder their ability to achieve appropriate and acceptable outcomes for themselves).
2. Improving efficiency in the use of resources (to reduce what can be a massive drain on the complaint handling resources of an agency and which can lead to inequities in resources available to deal with other complainants).
3. Ensuring the health and safety of staff and compliance with health and safety and duty of care obligations.

Detailed Guidelines on managing unreasonable complainant conduct can be found on the *Ombudsman* website.

# **The key elements for managing unreasonable complainant conduct**

## **Prevent unreasonable conduct from occurring wherever possible:**

- Manage complainant expectations from the beginning.
- Insist that the complainant shows respect. Set boundaries by not tolerating rudeness, anger or aggression.

## **Manage the unreasonable conduct:**

- Focus on the conduct, not the person. The focus needs to be on the conduct of the complainant, rather than on the complainant as a 'difficult' person.
- Recognise that dealing with unreasonable complainant conduct is part of the agency's core work.
- Exercise ownership and control over the complaint. The agency decides how the complaint will be dealt with, by whom, how quickly, with what priority, what resources will be given to it and what will be the outcome - not the complainant.
- Focus on specific, observable conduct - the problem not the person.
- Use clear terminology that focuses on the conduct of the complainant, not the person - 'unreasonable conduct' not 'difficult complainant'.
- Apply relevant management strategies (saying 'no', setting limits, setting conditions, etc).
- Respond with consistency to individual complainants and across complaints.
- Respond to the complainant with clear, timely and firm communication.

## **Recognise the agency's responsibilities to its staff:**

- Maintain commitment to this approach for dealing with unreasonable conduct.
- Provide staff with adequate supervision and support in their dealings with unreasonable conduct.
- Give staff sufficient time and resources to deal with unreasonable conduct.
- Provide staff with adequate training and guidance in how to deal with unreasonable conduct

## **Educate staff in their responsibilities:**

- Remain calm in the face of unreasonable conduct.
- Show respect for all complainants, those acting reasonably and those not.
- Act impartially in all matters.
- Demonstrate professionalism in dealing with all complainants, those acting reasonably and those not.

## Appendix I - Model Ground Rules

The ground rules are a basis for the interaction between the agency and complainants. Agencies may choose to make these explicit through letters, printed materials and information on their website.

*To enable (this agency) to ensure a high standard of service to complainants and meet our occupational health and safety and duty of care obligations to our staff, the following ground rules apply to (the agency's) staff and complainants.*

*It is the responsibility of (the agency) to:*

- *Deal with complaints professionally, efficiently and impartially.*
- *Keep complainants informed of the progress and outcome of enquiries.*
- *Provide clear reasons for our decisions.*
- *Treat complainants with courtesy and respect.*

*If (the agency) does not meet its responsibilities, the complainant can make a complaint to the ...*

*It is the responsibility of the complainant to:*

- *Clearly identify the issues of complaint, or ask for help from (the agency's) staff to do this.*
- *Give (the agency) all the available information about the complaint in an organised format at the time of making the complaint.*
- *Cooperate with (the agency's) enquiries or investigations.*
- *Treat the (the agency's) staff with courtesy and respect.*

*If complainants do not meet their responsibilities, (the agency) may set limits or conditions on the handling of their complaint. Any abuse, harassment or threats to the safety or welfare of staff at (the agency) will result in the immediate discontinuation of the complaint and all contact with the complainant will stop.*

## **Appendix 2 - Ten ground rules for talking to complainants**

### **Use a non-confronting, non-resistant communication style.**

1. Find something to agree with, without necessarily agreeing with the complainant's point of view:
  - 'I agree that \$2,000 is a lot of money to lose'.
  - 'I agree that not hearing back from the department would be very annoying'.
  - 'I agree that having your pension reinstated would be a great help'.
2. Acknowledge the complainants feelings and actions:
  - 'I can hear that you are very upset about this'.
  - 'In your position I would be pretty angry too about losing all that money'.
  - 'I can see that you've gone to a lot of trouble to get all this material together'.
3. Be careful about saying 'I understand'. Saying 'I understand' about the information conveyed by the complainant is OK. Saying 'I understand' about the complainant's situation or experience is probably not OK.
4. Listen with interest. Engage. Repeat the complainant's key words back to them. If face-to-face, make eye contact.
5. Clarify. Get more information. Do not interpret and do not assume.
6. Check understanding:
  - 'As I understand it, the situation is ... Is this correct?'
  - 'From what you tell me it seems ... Is this the case?'
7. Do not argue or debate. Acknowledge the complainant's position or understanding and state that your or your agency's position or understanding is different.
  - 'I can see that you believe ... We have come to a different conclusion'.
  - 'I do understand that your position is ... Our position is a little different'.
8. Be careful about justifying or denying. Only do this if it is necessary to clarify the agency's position or action. Do not do this simply in defence of the agency or yourself.
9. Apologise if there has been a mistake, omission or delay and tell the complainant how the situation will be rectified.
10. Remain calm, no matter how the complainant behaves. Set limits when rudeness, anger and aggression transgress your personal boundaries.

## Appendix 3 - Script ideas for managing expectations

Action	Script ideas
Testing complainant's expectations	<ul style="list-style-type: none"> <li>• What is it you were hoping to achieve by bringing the matter to us?</li> <li>• What did you hope to achieve when you decided to contact us?</li> <li>• What do you think our agency might be able to do about this?</li> <li>• What is it that you think we should do that will solve your problem and be fair to both of us?</li> <li>• What outcome are you hoping for?</li> <li>• Let's have a look at your goals for this issue.</li> </ul>
Ringing the complainant to define the issue/s of complaint before taking up a complaint	<ul style="list-style-type: none"> <li>• I'm calling you because I'm the case officer responsible for dealing with your complaint.</li> <li>• As I understand it, you are complaining about xxx, xxx and xxx. Is this correct? (allow for clarification)</li> <li>• You appear to be complaining about xxx, xxx and xxx. Is this correct? (allow for clarification) xxx is an issue we can look at, but xxx and xxx are not things we can take up because ...</li> <li>• Note: At this point, make sure the complainant's expectations are realistic and get an indication from them that they understand precisely what will be taken up.</li> <li>• If the complainant wants to give their life story:</li> <li>• I don't need that level of detail to be able to do something about your complaint. Tell me about ...</li> <li>• So I don't waste your time, you could perhaps just tell me about ...</li> <li>• Tell me what's the key thing you're complaining about.</li> </ul>
Testing and reframing a complainant's expectations when they are unrealistic	<ul style="list-style-type: none"> <li>• Thank you for going to the trouble of explaining this to me. As I understand it you are saying ... I should make it clear right at the beginning that it is very unlikely/not possible that we will be able to do ...</li> <li>• Are you aware of what our agency can do? (often the answer is 'not really') Perhaps I could tell you a bit about how this agency works and what we can and can't do.</li> <li>• It seems to me you are hoping we can do ... I have to tell you right at the beginning that this will not be possible because ...</li> </ul>

Action	Script ideas
<p>Ringling a complainant ahead of a letter giving a decision that will disappoint them</p>	<ul style="list-style-type: none"> <li>• I wanted to call you and tell you about my decision before I send out my letter, because I know the outcome is not what you had hoped for (allow for discussion and clarification).</li> <li>• I wanted to call you and tell you in person that we will be unable to take up your complaint, before I send you a letter saying this.</li> <li>• I will, of course, send you my decision in writing, but speaking with you means I can also answer any questions you might have about my decision.</li> </ul>

## Appendix 4 - Script ideas for responding to dissatisfaction and disappointment

Complainant conduct	Script ideas
So you think my complaint isn't important enough	<ul style="list-style-type: none"> <li>• We take action on complaints where there is evidence that something went wrong. Unless you can provide us with evidence to support your complaint, we can't take any action.</li> <li>• All complaints are carefully assessed according to our policies and procedures. Sometimes we receive complaints we cannot/do not have the powers to take up.</li> <li>• It may well seem that way ... (Followed by an appropriate explanation).</li> </ul>
Well, I didn't really expect you to do anything about my complaint	<ul style="list-style-type: none"> <li>• I am sorry you feel that way. If you would like, I can take a few minutes to discuss our role.</li> <li>• I am sorry you are disappointed with the outcome of my assessment. I have set out the reasons for my decision in my letter. You may care to read through it again.</li> <li>• It appears in this case you were right (Explain reasons for not doing anything).</li> <li>• I have considered your complaint and made enquiries. I appreciate my actions did not result in the outcome you were hoping for.</li> <li>• We have fully assessed your complaint and we do not consider there is evidence that ... acted wrongly/unlawfully/corruptly.</li> </ul>
You have made enquiries from the very person I am having trouble with	<ul style="list-style-type: none"> <li>• I am aware of your views of this person. I find it helpful to contact the person most involved in the matter first, unless I consider it inappropriate. If I am not satisfied with their response, I will go further up the line until I am satisfied.</li> <li>• You have given us your side of the story. We have also given the agency/staff member involved the opportunity to put their side of the story. If we have any concerns, we take the matter up with the agency's senior management/staff member's supervisor.</li> <li>• In the interest of fairness, I need to hear how the other party sees the issue. I'm sure you can appreciate that I need to get both sides of the story if the matter is to be resolved.</li> <li>• I can understand that you are concerned about that. It is usually the case that it is fair and relevant to get</li> </ul>

Complainant conduct	Script ideas
	<p>the versions from both sides of a complaint. You have presented your side and we need to get their side too.</p> <ul style="list-style-type: none"> <li>• If the complaint is about the conduct of a member of staff, we would make enquiries at a higher level.</li> </ul>
<p>He/she (the person the subject of the complaint) is incompetent / corrupt / lies</p>	<ul style="list-style-type: none"> <li>• Do you have evidence that can support this allegation?</li> <li>• We rely on good documentary evidence to make our decisions. Any lies, shortcomings or other discrepancies usually become apparent during the course of our enquiries.</li> <li>• I need to give them a chance to explain their side of the story. If I am not satisfied, I will take it further.</li> <li>• The staff member has made a professional judgment and we have seen documentation in which they have given reasons for the decision.</li> <li>• I understand you are annoyed/sceptical/angry about ... The evidence we have gathered suggests the conduct is not unreasonable/so unreasonable as to warrant action on our part.</li> </ul>
<p>You are colluding with [the original decision-maker]</p>	<ul style="list-style-type: none"> <li>• You may think that. I have to make my own assessment of the matter. After looking at your concerns/checking out the relevant policies/seeking information, I consider there is nothing for us to take up.</li> <li>• The fact that you disagree with his/her decision does not mean he/she has been unreasonable.</li> <li>• What do you base this claim on?</li> <li>• I do not take sides. I consider the evidence available to me and make my decision impartially.</li> <li>• I understand you are disappointed with my decision/view and I must say I am sorry you see it this way. My role is to be impartial and, based on the evidence available to me, I cannot see that the agency has acted wrongly.</li> </ul>
<p>You are taking their word for it</p>	<ul style="list-style-type: none"> <li>• No, that is not correct. I have sought documentation (reports, file notes, correspondence) to assess the decision making process and reasons for the agency's/staff member's conclusions.</li> <li>• I am not here to take sides.</li> <li>• It seems you think that, because I haven't agreed with your complaint, I am simply accepting their word. In actual fact, my job is to hear and consider both sides of a story and then to decide whether there is any/sufficient evidence that something has gone</li> </ul>

Complainant conduct	Script ideas
	wrong.
But you've made a decision without interviewing/getting back to me	<ul style="list-style-type: none"> <li>• I considered that the agency's reply adequately addressed your concerns. If you are dissatisfied with it, we can talk about it now. (Point out any review option if still dissatisfied)</li> <li>• I have carefully considered the information you sent us with your complaint and I have made my decision based on that. If you have any further information that is relevant to this case, then you should write to us and let us know that information.</li> <li>• Yes, that's correct. The information you provided in your written complaint was enough for me to consider the matter and make a decision.</li> <li>• I have assessed all the material — your submission as well as the documents I requested from .... If I had concluded that an investigation was required, I would have contacted you. In the end, my decision is that there appears to be no evidence that something went wrong.</li> </ul>
I thought your agency was interested in fairness?	<ul style="list-style-type: none"> <li>• You are correct. We are very interested in what is fair and reasonable.</li> <li>• We have carefully looked at your complaint and we have decided that there does not appear to have been any unfairness in your case.</li> </ul>
What are you good for then?	<ul style="list-style-type: none"> <li>• I appreciate your disappointment/frustration at my decision and why you may ask this question.</li> <li>• I'm sorry we were not able to do what you wanted us to do/had hoped we could do. The fact is ... (Explain the case details).</li> </ul>
I am going to take this to the media	<ul style="list-style-type: none"> <li>• That is for you to decide.</li> <li>• You are free to take your matter to any forum you choose.</li> <li>• That option is certainly open to you.</li> </ul>

## Appendix 5 - Script ideas for testing a complainant's preparedness to consider the validity of a view other than their own

Complainant conduct	Script ideas
<p>Complainants who have formed a view that is illogical or inconsistent with the facts may never move from their position.</p> <p>The complainant's answers to test questions like these will give some indication whether it is possible to shift their perception towards another view, or whether no amount of explaining and reasoning will work so further engagement will be unproductive.</p>	<ul style="list-style-type: none"> <li>• Your view is ... Is there any possibility that there could be another/different view?</li> <li>• You say ... is the case. Is this necessarily so?</li> <li>• You seem to be saying ... is the case. How is this true?</li> <li>• (To manifestly illogical conspiracy allegations) - Is it possible there might be an innocent explanation for ... ?</li> </ul>