

OMBUDSMAN TASMANIA:

Guidelines for Managing Unreasonable Conduct by Complainants

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Preface

These Guidelines are provided to assist State and Local Government agencies to deal with unreasonable conduct by 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).

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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 argument,
- 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 public sector agencies need to balance when dealing with unreasonable complainants:

- I. 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.

Managing 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. The most effective way for staff to manage a complainant's challenging behaviour is to manage their own response to that behaviour.

For this reason, the focus should be on individual instances of observable conduct. This focus allows for:

- Staff to manage challenging behaviours confidently by reference to their own knowledge, experience and expertise.
- A more specific targeting of challenging behaviours and the implementation of a range of strategies to manage them.
- The separation of behaviour from the issue, so that the issue can be effectively addressed without it being clouded by behavioural problems.
- Transparency in interactions between staff and complainants. If the staff member is targeting individual instances of observable conduct, then this conduct can be cited as a reason for taking particular action.

Use appropriate terminology

Because the approach advocated here relies on a focus on conduct, it is important that the terminology used refers specifically to the conduct of complainants not to the person.

A range of terms are used to describe complainants who pose a problem for complaint handling agencies. The most frequently used term is 'difficult complainants'. Other terms used are 'people who monopolise resources', 'resource-intensive complainants', 'high maintenance complainants', 'vexatious complainants', 'unusually persistent complainants', 'high conflict people' and 'querulous complainants'.

These terms focus on the person who is being difficult or challenging and can be seen to judge and label the person and negatively influence how they are perceived and responded to within a complaint handling system.

The term used in these Guidelines is 'unreasonable complainant conduct', meaning the unreasonable conduct by complainants. It is derived from Ombudsman legislation which allows a finding to be made that an agency's conduct is or was unreasonable. It seems logical to apply the same reasoning to complainants. It allows us to more precisely define and then manage the problem.

For conduct to be unreasonable, it must clearly go beyond the usual situational stress commonly experienced by complainants when they bring a grievance to an agency.

Recognise that the problem is part of the core work of the agency

Agencies need to recognise that dealing with unreasonable complainant conduct is part of their core work.

Dealing with complainants whose conduct is challenging has a tendency to be pushed to the periphery of an agency's daily work. The 'difficult' person is frequently

avoided, assigned to someone who is 'naturally' good at dealing with this problem, or to a senior staff member who is seen as more experienced. Complainants who are dealt with in this way can easily either feel that they are being given short shrift or that their complaint is so important that they are given preferential treatment.

As a result, they are highly likely to escalate the behaviour that others find difficult.

There is a very real danger that poor complaint handling can sometimes create a 'difficult' person, or at the very least exacerbate unreasonable conduct. The approach outlined in these Guidelines has the potential to facilitate the opposite - that is, with skilful action routinely and consistently applied by individual staff members, the response to a complainant's unreasonable conduct can be managed to everyone's advantage.

To appropriately and systematically deal with unreasonable complainant conduct, the conduct needs to be shifted to centre stage by recognising that:

- dealing with unreasonable complainant conduct is an unavoidable and integral part of core complaint handling work;
- as an integral part of core work, it needs to be given proper priority and adequate resources; and
- all frontline and complaint handling staff have to be able to deal with it, so
 they need ongoing training, guidance and support to overcome the natural
 tendency of most people to avoid difficult interactions.

Ensure ownership and control

Agencies and their staff need to exercise ownership and control over complaints.

This is a crucial issue that all parties to a complaint need to recognise. No matter what may be the underlying reason for unreasonable conduct, experience shows that the primary 'trigger' for most unreasonable complainant conduct is likely to be a struggle for control over how a complaint is dealt with.

This struggle for control is primarily due to ignorance, a misunderstanding, a failure to recognise, or a refusal to accept who effectively 'owns' the complaint and who decides such matters as:

- whether the complaint will be acted on or declined;
- the staff who will be responsible for dealing with the matter;
- the priority and resources that will be given to it;
- the methodology to be used to deal with it; and
- the final assessment and outcome of the matter.

It needs to be made clear to complainants that:

- The agency and its staff 'own' the complaint they decide whether it will be dealt with, and if so who by, how quickly, with what priority, what resources will be given to it, what the outcome will be, and so on.
- Complainants 'own' their issue they are free to raise it through other
 available avenues such as courts and tribunals, the media and politicians. Of
 course if a complaint includes a broader or public interest component, it
 could be said that it is effectively jointly 'owned' by both the complainant and
 the agency concerned.

The management strategies set out in these Guidelines are about exercising ownership and control over the handling of complaints - about pursuing an approach or reaching an outcome that a competent staff member believes to be reasonable in the circumstances, whether or not the complainant agrees and no matter how the complainant reacts. In other words, a case must be conducted and concluded to the agency's satisfaction - not the complainant's.

Implement the management strategies

Central to the approach outlined in these Guidelines is a framework of management strategies to deal with individual instances of observable conduct that a staff member has assessed as unreasonable. It aims to provide a 'thinking tool' for staff members once they are confronted by complainant conduct they find challenging and a systemised series of appropriate actions.

Consistent implementation

Agencies and their staff need to respond with consistency to complaints and consistently implement the management strategies suggested in these Guidelines.

Good communication

Agencies and their staff need to provide clear, timely and firm communication to complainants. If complainants are not kept informed about what is happening, they are likely to make negative assumptions.

Preventing unreasonable conduct

Manage complainant expectations

It is vitally important that agencies and staff members manage complainant expectations from the beginning.

Complainants are often not aware of an agency's role in dealing with their complaint and can hold unrealistic expectations about what will happen. They may believe that they have the right to dictate how the agency will handle their complaint, including how the agency's inquiries should proceed and what the outcome should be.

Some complainants have an unrealistic expectation that significant action will be taken as a result of their complaint — for example, that they will receive monetary compensation or that a particular staff member will be dismissed.

Complainants sometimes think that their complaint is more important than any other complaint the agency is handling and they therefore expect such things as 'on demand' attention from staff, urgent consideration of their matter, the provision of significant amounts or particular types of information and so on.

Unrealistic expectations can lead to unreasonable conduct. It is essential for the good management of all complaints, and unreasonable complainant conduct in particular, to manage complainant expectations from the very beginning of the complaint handling process.

Complainants need to be made aware of:

- the agency's role;
- the complaint handling process;
- the timeframe of the complaint handling process;
- what is expected of the complainant;
- what the responsibilities of the agency are in relation to the complainant; and
- what the responsibilities of the complainant are in relation to the agency.

There are a number of ways complainant expectations can be managed:

- Clear information about the agency's role and complaint handling process should be generally available in the public domain.
- The letter acknowledging receipt of the complaint can provide detailed information about the complaint handling process, as well as the respective rights and responsibilities of the agency and the complainant.
- Some basic ground rules can be established. These can either be in a standalone document, such as a handout to complainants, or they can be included in the acknowledgement letter.
- Complainant expectations can be tested and managed at the beginning and during the course of handling their complaints.

Insist on respect and cooperation

Agencies and their staff should insist that complainants show respect for and cooperate with staff members as a prerequisite to further contact and communication.

Organisational responsibilities

Commitment to the approach

Management support is critical to success.

It is not enough to send staff off for training and expect them to be able to deal with the challenges presented by unreasonable complainant conduct. Senior managers need to:

- actively show commitment to this approach on an ongoing basis;
- support their staff with the necessary policies, directives and authorisation to allow strategies to be put in place confidently and consistently; and
- provide staff with adequate and ongoing training, supervision and guidance in their dealings with unreasonable complainant conduct

The framework of management strategies is designed to encourage staff members to respond confidently, appropriately and firmly to complainants whose conduct they have assessed as being unreasonable. Properly applied, the strategies also support consistency in dealing with unreasonable conduct as a whole within an agency and, in time, across agencies. Case officers need to clearly understand that they are not only specifically authorised, but also directed, to put in place strategies for managing unreasonable complainant conduct and that, when they do, their actions will be supported. This approach needs to be endorsed at the highest level of the agency.

Role of supervision

The complainant must know that the staff member has the authority, as well as the skill and knowledge, to handle the case. Agencies need to ensure that staff members are given adequate support in their handling of unreasonable conduct.

Supervision, as far as the complainant is concerned, is behind the scenes. The supervisor only becomes visibly involved where the staff member's handling of the matter is complained about.

A case should not be escalated solely because the complainant demands it.

Adequate time and resources

Case officers need adequate time and resources to deal with unreasonable complainant conduct. Although this may require extra resources to be put into training and supervisory support, over time the benefits flowing from this approach should result in significant overall savings.

Adequate training and guidance

Agencies need to provide their staff members with adequate training and guidance in how to deal with unreasonable complainant conduct.

Comprehensive training on an ongoing basis is fundamental to staff developing and maintaining the confidence to appropriately deal with unreasonable conduct in their daily work.

Staff responsibilities

Calm demeanour

Remain calm in the face of unreasonable conduct.

Show respect

Show respect for all complainants, no matter what the provocation.

Demonstrate impartiality

It is important to always demonstrate impartiality. The staff member is not an advocate for the complainant, a social worker or a saviour.

Professionalism

Professionalism is necessary in all dealings with people, even when they are acting unreasonably. This includes ensuring that the strategies outlined in these Guidelines are implemented consistently

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 staff member.
- 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 their case is strategically managed with appropriate supervision.

Warning signs of unreasonable complainant conduct

There usually are some general warning signs of unreasonable complainant conduct. Some of these can be identified early on. Others may only become apparent some way into the process - when complainants who are reasonable and cooperative at the beginning, discover that the outcome will not be as they anticipated.

It must be emphasised that none of these signs by themselves necessarily mean the case will involve unreasonable conduct. Whatever the circumstances, if:

- the complainant is able to accept explanations designed to manage their manifestly unrealistic expectations;
- they are able to moderate inappropriate behaviour once this is drawn to their attention; and
- in the end, they are able to cooperate with the process;

then unreasonable complainant conduct is most likely not involved.

The warning signs of unreasonable conduct may include one, but more likely a number, of the following:

- **Complainant history** the complainant may have:
 - made a number of previous complaints about this issue or related issues;
 - made a number of review requests, especially second review requests about the same issue;
 - o made contact with other government agencies, MPs, Ministers or other oversight bodies about the current complaint;
 - sought legal advice about the current complaint or the agency's handling of the complaint;
 - made right to information requests about or related to the issue of complaint; and
 - o raised issues about the staff member's integrity or competence in handling the case.

They may also have expanded the subject matter of their complaint to include other people or agencies - particularly those that have been involved in dealing with the complaint - or conspiracy theories.

- Outcomes sought the complainant may want:
 - o a manifestly inappropriate provision of services;
 - o manifestly inappropriate compensation;
 - o a manifestly illogical or irrational solution;
 - an apology where this is clearly not warranted or where the terms of the apology sought are clearly unreasonable; and/or
 - o what amounts to revenge or retribution.

They may also have unrealistic expectations about what the agency can achieve or keep stating and restating their desired outcomes in terms of morals, justice, principles or the public interest.

Written complaint - the complaint may:

- o display excessive and idiosyncratic emphasis;
- o show punctuation, font changes and bolding excessively;
- o show coloured highlighting excessively;
- use legal or medical terminology inappropriately;
- o imitate an official reporting style, such as a police operational format;
- o use excessively dramatic language; and/or
- include excessive and/or irrelevant information that may also be annotated.

• Interacting with the agency – the complainant may

- make excessive written and telephone contact with the complaint handling agency;
- o give forceful instructions about how the complaint must be handled;
- o refuse to define issues of complaint;
- be resistant to the staff member's explanation if this runs counter to their own views;
- o refuse to accept the staff member's advice, even if it is clearly valid and reasonable;
- provide information in dribs and drabs, despite requests to provide all relevant information;
- withhold information;
- o provide false information;
- at the end of the process, provide previously withheld information in an attempt to have the case reopened;
- make excessive demands on resources copies, expert opinion etc;
- be rude, confronting, angry or aggressive; and/or
- be overly ingratiating, manipulative or make threats.

Reacting to the news that their complaint will not be taken up or will be discontinued - the complainant may:

- o refuse to accept the staff member's or agency's decision;
- o reframe their complaint in an attempt to have it taken up again;
- o raise a range of minor or technical issues, arguing that these call into question the merits of the agency's decision;
- expect a review of the decision based merely on an expression of dissatisfaction, unsupported by any arguments or new evidence;

- o demand a second review after the first review; and/or
- take the complaint to other forums and go on to allege bias or corruption on the part of the agency, simply because the decision went against them.

When is complainant conduct unreasonable?

Many complainants are distressed for very good reasons. They are caught up in what they see as a terrible wrong. Their challenging conduct may not be unreasonable given the circumstances. For conduct to be unreasonable, it must clearly go beyond the norm of situational stress.

What can be termed 'unreasonable' will vary depending on a number of factors. The same conduct may be unreasonable in one set of circumstances, but may not be unreasonable in another. When deciding whether a complainant's conduct is unreasonable, the following objective and subjective factors need to be considered.

• The merits of the case

Is there an inherent right or wrong in the matter?

• The circumstances of the complainant

Does the complainant have the health, intellectual, educational, language, financial and social resources required to cooperate and meet the requirements of the complaint process? If they do, then more can be expected of them in terms of their conduct than if some or all of these resources are absent.

Jurisdictional issues

Specific legislation may limit how strategies can be applied to manage agency responses to a complainant's unreasonable conduct.

Proportionality

Is the complainant's distress in reasonable proportion to the loss or wrong suffered?

• The complainant's responsiveness

Do calming measures and explanation help to settle the complainant down?

• The staff member's personal boundaries

If it feels threatening, stressful or otherwise wrong to the staff member dealing with the matter, then it is.

Conduct that is unreasonable and unacceptable under all circumstances

This is conduct that involves overt anger, aggression, violence and assault - this should never be tolerated.

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

Appendix I sets out these conduct categories and their 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; and
- the substance of the complaint dictates the level of resources allocated to it, not the complainant's wishes, demands or behaviour.

Resistance to explanation

Most staff members do not feel they have done their job properly until they have explained - to the complainant's satisfaction - their decision, their referral, or whatever other information they are trying to convey.

If the complainant refuses to accept what the staff member is saying, and the staff member does not feel they have done their job until the complainant accepts what they are being told, the staff member will invariably become embroiled in an unproductive interaction which also runs the risk of ending in a heated debate.

The fact is that complainants sometimes form a view based on something other than logical reasoning or they argue logically, but start from a false premise. In these circumstances it is not possible to convince complainants of the correctness of the decisions or advice using logical reasoning.

In the case of unreasonable persistence - unreasonably not accepting the staff member's explanation - no amount of explaining and arguing is going to convince the complainant. Therefore, any discussion or debate you engage in is going to lead nowhere.

Provided that the staff member has done their job properly and is confident that the decision or advice is correct, it is not the staff member's responsibility or problem if the complainant is unable to accept the decision or advice.

In these circumstances, a staff member does not have to persist in the hope that they may be able to convince a complainant of the correctness of their thinking. Once they have outlined their reasoning once or twice - and it is clear that the interaction with the complainant is becoming unproductive - it can be ended at this point, perhaps with the acknowledgement that the complainant has a different view to the one the staff member or the agency has come to.

Staff need to be secure in the knowledge that their job is well done when they have properly considered all issues, made sound decisions, and conveyed their decisions with adequate reasons to the complainant.

In the end, the agency has to be satisfied that the job was done properly, not the complainant.

Based on these considerations, a complainant's inability to agree with - or at the very least to accept the validity of advice or a decision - should be one of the more straightforward unreasonable conduct types to handle rather than one of the more difficult.

Supervision

When it becomes apparent that unreasonable complainant conduct is involved, and it seems that it will be ongoing, it is essential for the matter to be discussed between the relevant staff members and immediate supervisors. At this point it is important to:

- make a plan about how the case will be managed; and
- stick to the plan as closely as possible without being inflexible.

When deciding on a plan, it is important to look at both the complainant's and the staff member's/agency's conduct.

The staff member and supervisor have to critically and honestly ask themselves, 'Is there anything we have done to create or exacerbate the unreasonable conduct?' If there is, steps need to be taken immediately to rectify this.

Supervisors need to make it clear to their staff that they have their support. This support enables the staff member to make confident, clear decisions and to act firmly in the face of unreasonable complainant conduct.

As far as the complainant is concerned, the staff member should be seen as having the authority to handle the case. It is not appropriate to allow a complaint to be escalated to a supervisor just because the complainant demands this, unless the complaint is about the staff member's handling of the matter.

If this occurs, the supervisor needs to deal with the complaint against the staff member and, if there is no substance to it, leave the responsibility for handling the complaint with the staff member.

Supporting and protecting staff members should be a key priority for supervisors and management.

Limiting access

Where unreasonable complainant conduct is involved, limiting the complainant's contact with the agency may need to be considered.

This contact can be limited in terms of:

- the times a complainant may make contact;
- the staff with whom the complainant may have contact; and
- the form in which the contact may take place for example, contact may
 only be in writing, with a direction not to enter the agency's premises and
 not to contact agency staff by telephone.

Steps to limit access to an agency should only be taken with the greatest reluctance. They are only justified if there are safety concerns for staff or to ensure that other meritorious cases are not robbed of the resources to which they are entitled.

If limitations require complainants to only contact a specific officer, it is important that this role is spread among two or three people. Limiting contact by all complainants exhibiting unreasonable conduct to one member of staff can place an unacceptable burden on that person.

Decisions to place limitations on contact need to be approved by the Agency Head or a senior delegate, and they should sign any letters informing the complainant of those limitations.

Steps to be taken before limiting access to an agency

In the few circumstances where limits are justified, the appropriate steps to take before limiting access to an agency will depend on the circumstances of each case. For example:

- An individual complainant or complainant group sends a constant stream of letters to an agency on a wide range of issues. If the demands placed on the agency by this correspondence are excessive, it may be appropriate to notify the complainant or complainant group either that only significant and serious issues or complaints will be addressed by the agency or only a certain number of issues will be addressed in any given period so they should focus their requests accordingly.
- If a complainant rings constantly, makes repeated visits to the agency or
 raises the same issues with different staff, it may be appropriate to notify the
 complainant that calls will only be taken at specific times of specific days, only
 a nominated staff member will deal with the calls in future, and any
 appointments must be made with that staff member.

In the small number of cases where it is clear that a complainant will not accept the agency's decision on a matter and all appropriate avenues of internal review or appeal have been exhausted - and the complainant continues to contact the agency - it may be appropriate to notify them that in future:

- no phone calls will be accepted or interviews granted concerning the specific matter already reviewed; and
- correspondence will be received, read and filed but only acknowledged or responded to if they provide significant, new information about their

complaint or concern or raise new issues which, in the agency's opinion, warrant fresh action.

In these cases, it is important that adequate documentary records are made and maintained.

Withdrawing services or refusing access

The only circumstances where an agency should contemplate withdrawing services or refusing access would be where the complainant concerned:

- is consistently abusive, or makes threats to staff or other members of the public using the services or at the agency's premises;
- causes damage to the property of the agency, or intimidates or threatens physical harm to staff or third parties;
- is physically violent; or
- produces a weapon.

Depending on the importance of the service to the physical or mental wellbeing of the complainant concerned - even if they exhibit one or more of the first three behaviours - it may be preferable to modify the way a service is provided, rather than withdraw or withhold it completely. Possible strategies might include:

- constructing special security accommodation at the agency's premises,
- using specially trained staff for interviewing such complainants, and/or
- delivering material to their home rather than having them collect it from the agency.

If a complainant is physically violent or produces a weapon, the matter should be immediately reported to the police.

Recording service and access restrictions

A senior officer of the agency needs to be responsible for maintaining a list of complainants whose access to the agency has been restricted, including the specific directions for each individual. They should also have copies of all the relevant correspondence advising the complainant of the limits imposed.

When complainants who are on the 'no personal contact list' contact the agency by telephone or in person, they should be reminded of the agency's decision outlined in correspondence to them, and the conversation or contact should be politely brought to an end. No debate or discussion should be entered into.

If complainants have been informed that they must not contact the agency except in writing, they should also be warned that they may be escorted from the agency's premises if they do approach and that telephone calls will be ended.

Public interest considerations governing access restrictions

It is important that decisions about limiting access to an agency are made within the wider framework of public access rights and responsibilities.

These decisions must be based on a clear understanding that:

 In the absence of very good reasons to the contrary, members of the public have a right to access agencies to seek advice, help or the services the agency provides.

- People have a right to complain. Criticism and complaints are a legitimate and necessary part of the relationship between agencies and their customers or communities, and may be dynamic forces for improvement within agencies.
- Nobody, no matter how much time and effort is taken up in responding to their complaints or concerns, should be unconditionally deprived of the right to raise those concerns and have them addressed.

Agencies also have an obligation to use resources efficiently and effectively so, at some point, it may be necessary and reasonable for an agency to decide to limit the nature or scope of their responses to complainants whose conduct is unreasonable. These situations should be the exception, however, rather than the rule.

Each agency dealing with the public should develop a comprehensive policy on public access which outlines their commitment to:

- respond to correspondence, answer telephone enquiries and deal with faceto-face enquiries from the public at the agency's offices;
- provide services to the public, including their guarantee of service and circumstances where the provision of services may be withheld or withdrawn; and
- provide the public with rights of review or appeal.

The policy should also outline the circumstances when the agency:

- Will not answer correspondence, such as correspondence that is abusive towards staff and does not raise any substantive issues; and
- May restrict telephone contact, such as ending calls if the caller has become abusive.

Agencies must not develop policies that attempt to avoid or limit statutory access and service rights.

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.

All the good practices that apply to communication generally apply doubly to dealing with unreasonable complainant conduct - timeliness, correctness, clarity, succinctness, minimising jargon, courtesy, respect and so on. There are also some additional considerations to do with both writing and talking to complainants.

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 in 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 Secretary / CEO.

Talking with complainants

Most staff members would prefer not to speak face-to-face or on the telephone with complainants whose conduct is challenging. When anger, aggression, threats and rudeness are involved, it is often advisable for case officers to confine their interactions to writing. Personal contact with complainants by telephone or where appropriate in interview, even if their conduct is manifestly unreasonable, can have a beneficial effect in a number of ways.

In cases of unreasonable complainant conduct, in-person communication with complainants needs to be carefully managed. It is 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 wellreasoned decision given.
- Defensiveness case officers no 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).
- Dealing with unreasonable demands and persistence (Appendix 4).
- Dealing with threats and abuse (Appendix 5).
- Responding to dissatisfaction and disappointment (Appendix 6).
- Testing a complainant's preparedness to consider the validity of a view other than their own (Appendix 7).

Appendix I - Management Strategies

Unreasonable Conduct Management Strategies Unreasonable persistence Strategies for dealing with unreasonable persistence are about saying 'no'. They include: includes: Persisting with a complaint even Communicating clearly and transparently — for though it has been example, telling complainants firmly that something is comprehensively considered by an 'not going to happen'. agency, and all avenues of review To the 'where-do-l-go-to-now' question, telling have been exhausted. complainants that not all problems have an institutional Reframing a complaint in an solution and they may have reached the end of the attempt to get it taken up again. line, unless a realistic referral can be made. Showing an inability to accept the Requiring complainants who want a review to provide final decision. an argument for one — for example, to tell the agency how it has erred or provide new information — and, if Insisting that a particular solution they don't, their file will remain closed. is the correct one in the face of valid contrary or alternative Providing one review only. arguments. Maintaining a 'no means no' stance following review. Persisting in interpreting the law Adopting, when appropriate, a firm no-furtheror policy in a way that is not in correspondence or contact stance and requiring any accordance with generally variation from this to be authorised at a high level. accepted or expert views on the Not allowing complainants to reframe the complaint to issue and insisting that action is re-enter the process, unless they raise new and taken accordingly. important issues. Persisting in wanting to know Ending telephone calls that are unproductive. where to go next, when it has Asserting the agency's position – for example, 'I been explained that there is acknowledge that your view is, we see it nowhere else to go. differently', or 'I acknowledge that your view differs Demanding a review because it is from ours, however, our job is to make a decision available, but not arguing a case about ... and this is what we have decided'. for a review. Making it clear that our decision is final and, for better Making an issue out of anything. or worse, we have made our decision. Getting gratification from the Managing unreasonable persistence also includes: process of regular contact with the staff member, possibly Managing expectations from the beginning, including including inventing unnecessary ensuring initial expectations are realistic.

Adopting a firm and authoritative communication style

Defining key issues and keeping the focus on them.

both in writing and verbally.

reasons for having such contact.

Unreasonable Conduct

Unreasonable demands include:

- Insisting on outcomes that are unattainable.
- Insisting on a 'moral' outcome for example, justice in the community interest, when really a personal interest is at stake.
- Demanding an apology or compensation when no reasonable basis for expecting such outcomes exists.
- Wanting revenge, retribution.
- Wanting what is not possible or appropriate – for example, copies of sensitive documents, names and contact details of staff, other complainants or whistle-blowers.
- Issuing instructions and making demands about how a complaint should be handled.
- Providing supporting details that are extraordinarily detailed when such detail is not relevant to the complaint.
- Making unreasonable resource demands, out of proportion to the seriousness of the issue.
- Wanting regular and lengthy phone contact where this is not warranted.
- Showing reactions or demands for action that are out of proportion to the significance of the issue.
- Moving the goal posts changing the desired outcome.
- Shopping for a sympathetic ear in the agency - demanding to talk to a supervisor or the manager personally.
- Placing the agency on an extensive email copy list and expecting responses to these emails.
- Consistently creating complexity where there is none.
- Presenting as overly needy or dependent – for example, wanting to transfer responsibility for their wellbeing to the complaint handler or agency.

Management Strategies

Strategies for dealing with unreasonable demands are about setting limits. They include:

- Letting complainants know in advance how the agency intends to deal with the complaint - having a plan and sticking to it.
- Making sure the complainant is clear that the agency decide how the complaint should be handled.
- Clarifying the limitations of the particular complaint.
- Avoiding being drawn into hypothesising, conspiracy theories, unproductive argument and personal attacks more generally.
- 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.
- Ending telephone calls that are unproductive.
- Limiting contact to writing only.
- Not doing for unreasonably demanding complainants something the agency would not normally do for any other complainant, just to appease them.
- As a last resort, informing the complainant that the agency finds their interactions unreasonably demanding and setting defined limits for further contact.

Managing unreasonable demands also includes:

- Managing expectations from the beginning, including ensuring initial expectations are realistic.
- Adopting a firm and authoritative communication style both in writing and verbally.
- Defining key issues and keeping the focus on them.

Unreasonable Conduct

Unreasonable lack of cooperation includes:

- Presenting a large quantity of information which is not organised, sorted, classified, summarised, where the complainant is clearly capable of doing this.
- Presenting information in dribs and drabs - refusing to present all information at the outset.
- 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.
- Focusing on principles rather than substantive issues.
- Changing the complaint and raising new issues while the complaint is in the process of being considered.
- Displaying unhelpful behaviour for example, withholding information, being dishonest, misquoting others, swamping the agency with documents.

Management Strategies

Strategies for dealing with unreasonable lack of cooperation are about setting conditions. They include:

- 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).
- Requiring complainants to define what their issues are or to pursue further inquiries before the agency will look at the complaint.
- Telling complainants that the agency will not look at their complaint until all the information has been presented.
- Ending the agency's involvement in the complaint if it is discovered that the complainant has been wilfully misleading or untruthful in a significant way.

Managing unreasonable lack of cooperation also includes:

- Managing expectations from the beginning, including ensuring initial expectations are realistic.
- Adopting a firm and authoritative communication style both in writing and verbally.
- Defining key issues and keeping the focus on them.

Unreasonable Conduct

Unreasonable arguments include:

- Holding irrational beliefs for example, seeing cause and effect links where there are clearly none.
- Holding what is clearly a conspiracy theory unsupported by any evidence.
- Interpreting facts in a clearly irrational/unreasonable way and insisting this interpretation is the correct one.
- Arguing the clearly bizarre.
- Insisting on the importance of an issue that is clearly trivial.

Management Strategies

The strategy for dealing with unreasonable arguments 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.

Unreasonable Conduct

Unreasonable behaviour includes:

- Displaying confronting behaviour for example, rudeness, aggression, threats or harassment.
- Sending rude, confronting or threatening letters.
- Making threats of self-harm.
- Making threats of harm to others.
- Displaying manipulative behaviour overly ingratiating, tears or veiled threats.

Management Strategies

The strategies for dealing with unreasonable behaviour 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 having risk management protocols in place.

Also:

- Return letters framed in rude and intemperate language and request that the complainant reframe their concerns in more moderate language.
- Point out that more moderate language is clearer and therefore more likely to achieve better outcomes.
- End telephone calls and interviews if the complainant becomes abusive and confronting.

Appendix 2 - Ten ground rules for talking to complainants

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

I. 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?'

 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	 What is it you were hoping to achieve by bringing the matter to us? What did you hope to achieve when you decided to contact us? What do you think our agency might be able to do about this? What is it that you think we should do that will solve your problem and be fair to both of us? What outcome are you hoping for? Let's have a look at your goals for this issue.
Ringing the complainant to define the issue/s of complaint before taking up a complaint	 I'm calling you because I'm the case officer responsible for dealing with your complaint. As I understand it, you are complaining about xxx, xxx and xxx. Is this correct? (allow for clarification) 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 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.
	 If the complainant wants to give their life story: I don't need that level of detail to be able to do something about your complaint. Tell me about So I don't waste your time, you could perhaps just tell me about Tell me what's the key thing you're complaining about.
Testing and reframing a complainant's expectations when they are unrealistic	 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 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. 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

Action	Script ideas
Ringing a complainant ahead of a letter giving a decision that will disappoint them	 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). 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. 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.

Appendix 4 - Script ideas for dealing with unreasonable demands and persistence

Complainant conduct	Script ideas
I want to speak with the director / CEO (where this is clearly inappropriate)	 I have delegation to deal with your matter — you can speak with me about your complaint. For practical reasons, the director does not generally meet or speak directly with complainants, but he/she has given me a delegation to deal with complaints such as yours. I am authorised to act on the director's behalf. You can speak to me now and we can see how we go. I'm sure you can appreciate that the CEO, as head of the agency, is a very busy person. That is why he/she has delegated authority to his/her staff to deal with matters like yours.
I want to meet with the director / CEO in person (where this is clearly inappropriate)	 The usual procedure in this office is for complaints to be submitted in writing, as this is the only way to lodge a formal complaint. If it is necessary, we can arrange a meeting with the officer handling your complaint. I have already spoken with you at length. A face-to-face meeting will not change the advice I have given you. You can send us additional information in writing and we will then decide if another meeting is necessary.
I want to speak to your supervisor	 I am happy to put you through if you wish to complain about me. But if it is to dispute my decision, you should put your concerns in writing. My supervisor does not have the time or detailed knowledge of your case to discuss it with you now. My supervisor has reviewed your file and agrees with my decision (if this is indeed the case). You may. Can I take your telephone number and I will arrange for her/him to call you.
I want to come in and meet with you/show you documents (when this is not appropriate / necessary)	As a first step, acknowledge the complainants wishes — I can see that you really want to come in and show us these documents — and then go on to explain why it is not possible/appropriate. I don't believe a meeting would help. If you have additional documents, you can send them to me with a covering letter outlining how they are relevant. If I need to, I will call you to discuss them with you. I believe this is a much better use of our time.

Complainant conduct	Script ideas
	 Could you please send me the documents for assessment. I am not in a position to discuss the matter or to decide whether a meeting with you would be useful until I have done this. If I need more information, I will contact you. Otherwise, the summary of issues you have provided is adequate. It is generally better if we can have a look at the documents before we decide whether a meeting with you is useful. In the end, we have to rely on documentary evidence anyway. Say-so evidence is not enough.
Demands an urgent response to their complaint when this is not warranted	 I appreciate that what you are complaining about is distressing/causing you concern. I will not be able to look at it/call council/do my review immediately. There are other matters that I have to deal with ahead of yours because they came in before yours. What I can tell you is that I will most likely be able to assess your complaint/call the department on You can call me after that date if you would like an update. I know you feel your complaint is urgent. I have assessed the matter and I have decided I should call the officer concerned/department/council. I will be able to do this some time this week. I'm sure you know we have competing priorities, most people feel their complaint is the most important one. We have processes to ensure everyone's complaint gets dealt with fairly. I will be assessing the matter/contacting the agency within the next two weeks.
Does not accept the case officer's advice	 I feel I have explained to the best of my ability what your options are. You might want to choose a different path and that is absolutely your decision. It's my role to explain your options to you, but any decision on what you do is clearly yours. Perhaps you would like to think about what I have just explained to you. We can discuss it again next week if you would like any matter clarified. Sometimes people have a different view on the same matter. You and I clearly have a different view on your complaint and, as I have explained, I have decided what action this office will be taking and we will not be taking this matter any further.

Complainant conduct	Script ideas
•	 I accept that is your view. I have taken a different view. My view is For this reason I will be taking no further action on your complaint. I understand that is your view. However, in this case the matter is quite clear. This agency is not able to deal with your matter. I'm feeling that you want me to give you the answers. I don't have the answers to this.
Unproductive / stressful phone call or interview	 I feel that I have given you as much information as I possibly can about I can see you are expecting me to say something I cannot. This conversation is now becoming unproductive / circular. I have other matters to attend to, so I must now end this conversation / interview. I do understand that you are dissatisfied. I have tried to explain to you how I came to make my decision and I'm not able to spend any more time on this. I don't think this conversation is productive for either of us now and I will have to end our call/interview. You have my full reasons in the letter I sent you.
Interrupts case officer / does not allow case officer to speak	Do not speak at all. Eventually complainant might say, 'hello, are you there?' at which point the response might be 'I am, and could I now have the opportunity to speak?' To break into a complainant monologue, repeat their name or repeat a key word or the last word they said.
	You have been speaking for minutes now. I wonder whether I might have the opportunity to respond to what you have been saying.
Hypothesising, catastrophising, conspiracy theories and unproductive arguments	 I can't do anything about an event that hasn't yet happened. Some of the things you are asking about are hypothetical. I can only respond in detail to an actual event. If happens in the future, you can ring me then. People often feel that a certain person/agency has caused a problem for them. We need clear evidence to support what you are saying before we can follow it up. I accept that you have that view. This office takes a different one. We cannot do what you are asking because I can see that you think this is the worst thing that could happen. Perhaps we could have a closer look at how it is.

Complainant conduct	Script ideas
	Ask a series of questions: What would make the situation better? What are you hoping to achieve by contacting us? What did you hope we could do for you? Then manage expectations
Raises global conspiracy theories but refuses to provide specific evidence	 There are sometimes complaints where people believe something wrong has happened, but there isn't any evidence. I can only suggest that if you do get some evidence, you send it to me. I know you will understand that we cannot act on a complaint without evidence. You are explaining your concerns well, but without any clear evidence, I can't follow this matter up.
Raises bizarre or	Some general principles are:
incomprehensible issues	 Speak to them in the same tone as you would to anyone else. Treat them with respect. Listen carefully to what they are saying. Avoid arguments. Ask questions about what they are saying and check for evidence. Sometimes a person might be delusional, but may still have a legitimate complaint. The ability to provide evidence or point to factual information will be the key. 'To take this further, we would need clear evidence, like photos, documents or medical certificates ' Reflect back to them what they are saying without agreeing. Acknowledge emotions, both theirs and yours - 'I am feeling frustrated listening to you, so I can only imagine how frustrated you must be feeling about ' Empathise with both lows and highs - 'I can see you are feeling really bad about this/you are feeling really happy about this'.
	There is unlikely to be an issue the agency can take up in these cases but see whether the person may be able to come up with a solution of their own.
	'Is there any other way you may be able to achieve this/make sure this doesn't happen again?'
	In these cases it is important to recognise one's own personal and professional limitations.

Complainant conduct	Script ideas
Wants to be told where to go next when the end of the line has been reached	 I'm not aware of another avenue of redress now available to you. This is for you to decide. It seems you've exhausted all avenues I can think of. I don't want to waste your time by sending you on a wild goose chase. I can't conjure up another body that can fix it for you. Sometimes there are problems that can't be sorted out by any government agency. I have no opinion about whether you should go to the media about this. This is really for you to decide.

Appendix 5 - Script ideas for dealing with threats and abuse

Complainant conduct	Script ideas
Abusive language that is not specifically directed at the officer. This may be just their normal communication style or an expression of distress, but it makes the case officer feel uncomfortable.	 I can hear/see that you are upset / angry, and I feel uncomfortable when you speak in that way. Could you please stop using swear words. (After a warning) I will have to end this conversation if you do not stop swearing. (After a warning) Swearing when you speak to me is making me feel uncomfortable. I will end this conversation now and you can call me back in hours when you feel able to talk to me without swearing. I want to hear your side of the story. Please stick to the facts to help me understand what happened.
Use of abusive language that is specifically directed at the case officer	 I feel uncomfortable when you speak to me like that/it is inappropriate to speak to me like that. Please stop it. (After a warning) If you don't stop talking to me like that, I will end this call and report your conduct to my supervisor. Did you call me a #\$%? I can't talk to you while you call me names. I will end this call now and when you feel you are able to speak to me politely / in more moderate language, you can call me back. I am feeling uncomfortable with the way you are speaking to me. I will have to end this call / interview if you continue to speak to me like this. (Do end it if the abuse continues) I can see that you are upset and while you are upset we can't concentrate on the issues in your complaint. Let's have a breather. I will call you back/come back in minutes. I did give you a warning that I would end this call / interview if you continued to speak to me in this way. I am now ending the call / interview. (Take this action decisively) If you do not leave the office now, I will call security and they will escort you from the building. (Take this action decisively) Did you call me a '#\$%'? - 'no'. Good, I would have found that very abusive and would have had to end this call/interview `yes'. That's unacceptable name calling I'm happy to talk to you about this issue, but not

Complainant conduct	Script ideas
	while you are yelling at me. I will hang up now and I invite you to call me back in minutes.
An alternative to 'l' statements for managing anger, abuse and threats	 My agency does not allow me to speak to people who yell / make threats. I have to ask you to stop or I will have to hang up / end this interview. My agency expects complainants to treat us with courtesy and respect. I have to ask you to stop yelling
Covert threats of harm to the office (property	General principle - make the threat overt by naming it.
threats)	 It seems to me that you are saying you will do something to damage our offices. Is this correct? If this is correct, I will have to report your threat to my supervisor. It may also have to be reported to the police.
Overt threats of harm to the office (property threats)	 Did you just say you were going to throw a brick through our door? If this is what you said, I will have to end this call/interview right now and report your threat to my supervisor. We will also have to call the police (or whatever your risk management protocol directs). Report the threat immediately.
Covert threats of harm	General principle - make the threat overt by naming it.
to the case officer	 It seems to me you are saying that you are going to do something to hurt me. Is this correct? If this is correct, I will have to report your threat to my supervisor. I may also have to report it to the police (or whatever your risk management protocol directs). Report the threat immediately.
Overt threats of harm to	Did you just say you were going to follow me home
the case officer	 and hurt me and my family? If this is what you said, I will have to end this call/interview right now and report your threat to my supervisor. We will also have to call the police (or whatever your risk management protocol directs). Report the threat immediately.
'If you do not then' threats	General principle - you are a professional officer, not a saviour or counsellor. It is important to separate out the
Emotional manipulation to make the case officer feel sympathy or guilt or be defensive.	 emotional and deal with the factual. I do understand that you really want our agency to solve this problem for you. As I have already explained to you, we can't.
'I've had such a hard	I am aware that this problem has cost you a lot of money/caused a lot of stress for you and your family

Complainant conduct	Script ideas
time. I've just lost all my money and my wife has left me' 'You're my last hope, if you don't help me I don't know what I'll do' 'I just knew you wouldn't want to help me, you bureaucrats are useless'	 and in your position I would feel upset too. I have looked at your complaint from the point of view of this agency's powers and, as I have already explained to you, we are not able to do anything to help you. I appreciate that you are disappointed that we won't be able to take your matter up. The Act governs what we can and cannot do. Your matter is one the Act specifically says we cannot deal with. I appreciate that you want us to continue to deal with your complaint. In the end it is the Act that governs what we can and cannot do and the director of our agency who makes the decision about how a complaint will be dealt with.

Appendix 6 - Script ideas for responding to dissatisfaction and disappointment

Complainant conduct	Script ideas
So you think my complaint isn't important enough	 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. 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. It may well seem that way (Followed by an appropriate explanation).
Well, I didn't really expect you to do anything about my complaint	 I am sorry you feel that way. If you would like, I can take a few minutes to discuss our role. 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. It appears in this case you were right (Explain reasons for not doing anything). I have considered your complaint and made enquiries. I appreciate my actions did not result in the outcome you were hoping for. We have fully assessed your complaint and we do not consider there is evidence that acted wrongly/unlawfully/corruptly.
They (the agency/their staff) are lying to you / manipulating you / pulling the wool over your eyes and you can't see through them	 You may believe this. I am satisfied, though, with the agency's response. Unless you can prove they have deliberately misled or misinformed me, my decision stands. I am very aware of the way responses are made to me. I can assure you I get copies of reports and documents to substantiate what I'm being told. I appreciate that is your view. The evidence in this case is Do you have any evidence that can support this allegation? So far I have no reason to believe this. I certainly welcome any evidence you can give me that supports your assertion. I have considered your evidence as well as the evidence provided to us by the agency/their staff and I can't agree with your assertion, though I do acknowledge that this is your view.

Complainant conduct	Script ideas
So they (the agency / their staff) are a law unto themselves	 They are required to abide by the law and policies that are relevant to them. They have had to explain their actions to us. I consider that they have reasonably explained their conduct. Well no, they are not. The issue here is about a complaint you have brought to our agency. Our role is to see whether there may be any evidence that something went wrong. Having looked at your complaint, I have formed the opinion that there simply is not the evidence here. The agency has to conduct its business and has legitimate authority to make its decisions. We haven't found evidence that it is acting unreasonably in doing this.
You have made enquiries from the very person I am having trouble with	 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. 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. 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. I can understand that you are concerned about that. It is usually the case that it is fair and relevant to get the versions from both sides of a complaint. You have presented your side and we need to get their side too. If the complaint is about the conduct of a member of staff, we would make enquiries at a higher level.
He / she (the person the subject of the complaint) is incompetent / corrupt / lies	 Do you have evidence that can support this allegation? 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. I need to give them a chance to explain their side of the story. If I am not satisfied, I will take it further. The staff member has made a professional judgment and we have seen documentation in which they have

Complainant conduct	Script ideas
-	given reasons for the decision. 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.
You are colluding with them	 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 from the department, I consider there is nothing for us to take up. The fact that you disagree with their decision does not mean they have been unreasonable. What do you base this claim on? I do not take sides. I consider the evidence available to me and make my decision impartially. 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.
You are taking their word for it	 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. I am independent of both parties and I am not here to take sides. 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 wrong.
But you've made a decision without interviewing / getting back to me	 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) 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. Yes, that's correct. The information you provided in your written complaint was enough for me to consider the matter and make a decision. I have assessed all the material — your submission as

Complainant conduct	Script ideas
	well as the documents I requested from the department. 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.
I thought your agency was interested in fairness?	 You are correct. We are very interested in what is fair and reasonable. We have carefully looked at your complaint and we have decided that there does not appear to have been any unfairness in your case.
What are you good for then?	 I appreciate your disappointment / frustration at my decision and why you may ask this question. 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). I appreciate that you would have liked us to take up your case. The fact is we are impartial investigators, not advocates for complainants. In this case we have decided
I am going to take this to the media	 That is for you to decide. You are free to take your matter to any forum you choose. That option is certainly open to you.

Appendix 7 - Script ideas for testing a complainant's preparedness to consider the validity of a view other than their own

Complainant conduct	Script ideas
Complainants who have formed a view that is illogical or inconsistent with the facts may never move from their position. 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.	 Your view is Is there any possibility that there could be another/different view? You say is the case. Is this necessarily so? You seem to be saying is the case. How is this true? (To manifestly illogical conspiracy allegations) - Is it possible there might be an innocent explanation for?