

# Consumer rage

Australian Dispute Resolution Association

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# What is the nature of the problem?

We are the NSW Ombudsman have noticed over the years that there has been an increase in the number of complainants whose behaviour we find challenging and in the seriousness of this challenging behaviour. Our experience is shared by the other Australian Parliamentary Ombudsman, as well as by a wide range of other complaint handlers from across Australia and overseas.

We are seeing more complainants who:

- are very angry, aggressive and abusive to our staff
- threaten harm, either to themselves, to third parties or to our complaint handlers
- are dishonest or intentionally misleading in presenting the facts, or deliberately withhold relevant information
- flood our office with unnecessary telephone calls, emails and massive amounts of irrelevant printed material, and
- insist on outcomes that are clearly not possible or appropriate, or demand things they are not entitled to, or who at the end of the day, are unwilling to accept our decision and continue to demand that we take further action on their complaint.

We are also seeing that complainants are far more likely to shop around for a more favourable outcome by taking their complaints to other agencies, Ministers or courts of law where they start up the complaint cycle again. This often includes complaints about the complaint handler.

Last year the Australian Parliamentary Ombudsman published a guideline on managing unreasonable complainant conduct. The approach we have taken is to avoid 'diagnosing' the person and to focus on strategies to address the problems caused by particular types of unreasonable conduct.

At the core of our approach is the realisation that a 'one-size-fits-all' focus on the person is inappropriate. If we are going to manage unreasonable conduct, the strategies we use need to be tailored to address the particular problems caused by particular complainants. To facilitate this we identified five separate categories of unreasonable conduct:

- 1) Unreasonable *persistence* – this would include persisting with a complaint even though it has been dealt with to finality, refusing to accept the complaint handler's decision, excessive correspondence, etc.
- 2) Unreasonable *demands* – this would include insisting on outcomes that are unattainable, demanding that their complaint be handled in a particular manner.
- 3) Unreasonable *lack of cooperation* – this would include deliberately withholding information and acting dishonestly, provision of disorganised information, giving excessive or unrelated information, refusals to define the issue of complaint, etc.
- 4) Unreasonable *arguments* – this would include seeing cause and effect links where there are clearly none, holding conspiracy theories unsupported by evidence, irrational interpretations of the facts, irrational beliefs, conspiracy theories, excessive trivial matters, etc. In our view an unreasonable argument is not just an argument might be a bit silly. What we are talking about are arguments that are completely loopy or surreal, such as the people who believe that the government (usually the CIA or ASIO) are using machines to read their minds. While this is the person's absolute reality, it is a matter for psychiatry, not for us to deal with.
- 5) Unreasonable *behaviour* – this category covers consumer rage and includes anger, aggression, threats, threatening conduct, etc.

# What are the causes of the problem?

From our experience, it appears that there are a wide range of reasons why some complainants engaging in unreasonable conduct, only some of which are directly referable to mental health problems. These reasons, motivations or causes can be categorised as including:

- *attitudinal*
  - dissatisfaction with a person, an agency, the government or 'life' in general
- *aspirational*
  - seeking 'justice' or a moral outcome
  - a rigid focus on what is seen as a 'matter of principle'
  - a 'crusade' seeking vindication, retribution or revenge
- *emotional or psychological*
  - anger, irritation or frustration due to unmet expectations [probably the most common cause of unreasonable complainant conduct]
  - an unreasonable refusal to accept an outcome that is unfavourable
  - an unreasonable sense of entitlement or expectation of favourable treatment
  - an inability to accept responsibility and a need to blame others [either people or agencies directly involved, or watchdog bodies who have not found in their favour]
  - an inability to 'let go' and move on
  - low anger thresholds and limited self control
  - 'querulants', 'high conflict people'
  - obsessives, paranoids, etc
- *irrational*
  - altered mental state due to alcohol, drugs, etc
  - reduced mental capacity due to mental illness
- *reprisal*
  - intended to harass, intimidate, embarrass or annoy
- *recreational*
  - an all consuming hobby [often for retirees!]

It should be noted here that few complaint handlers are psychiatrists or social workers. Even if they are, they are unlikely to have sufficient face-to-face contact with complainants to be in a position to make any such assessment. It is therefore inherently unsafe for complaint handlers to make any assessments as to the mental state or motivations of a complainant, or to base any decision that they may make in relation to either the management of a complaint or a complainant on any such assessment.

## *The impacts of the problem*

Even though the percentage of complainants who behave unreasonably is quite small, they nevertheless take up a disproportionate amount of our time and resources, and cause serious stress to complaint handlers, and indeed to themselves.

The problems caused by unreasonable complainant conduct include:

- (1) *resource problems* – as I have said, they make up a small percentage of complainants, in our experience generally 5% - 6% of complainants, and take up an inordinate amount of time and resources – agencies commonly reporting that they devote 20% - 30% of their resources to the handling of such matters.
- (2) *equity problems* – in relation to the equitable distribution of the available resources to deal with all complaints received by an organisation
- (3) *staff stress* – which results in staff burn-out, high staff turnover and of course creates duty of care and occupational health and safety issues for the employer
- (4) *change of focus problems* – we have noticed that complainants who act unreasonably commonly change the focus of their complaints from the substantive issue that started them off, and the organisation or individuals they saw as responsible for it, to how their complaint was or is being handled by the complaint handler.

Depending on the size of the organisation and the nature of the conduct, the impact of unreasonable complainant conduct on an organisation can range from painful to devastating.

To address the problem, the Australian Parliamentary Ombudsman have developed and published very practical guidance for managing unreasonable complainant conduct – written by complaint handlers for complaint handlers. This guidance can be found in *Managing Unreasonable Complainant Conduct – Practice Manual*. Copies of this manual can be downloaded from the NSW Ombudsman's website as follows:

<http://www.ombo.nsw.gov.au/publication/PDF/guidelines/Managing%20Unreasonable%20Complainant%20Conduct%20Practice%20Manual%202009.pdf>

### **The threshold issue – when does conduct cross the line from being merely challenging to unacceptable?**

In relation to 'consumer rage' and the associated conduct problems, a central issue is the threshold at which conduct crosses the line from being acceptable to being unacceptable.

As a general proposition I think it can be said that the starting point is that people don't come to a complaint handler if they are happy. Depending on how their issue was dealt with by the organisation or person concerned, complainants may be extremely upset, emotional, venting, etc, which in the circumstances may not be an unreasonable reaction to what they have been put through. This is part and parcel of the work of a complaint handler.

Angry people go from being merely difficult (as in challenging) to being unreasonably difficult (as in unacceptable) if their physical conduct or threats create health or safety issues for complaint handlers or other complainants, third parties, etc. While this of course involves somewhat of a subjective assessment, it is reasonable to assume that people in the complaint handling business, if suitably selected, trained, experienced and supported by their agency, should be reasonably robust and able to cope with a certain level of inappropriate conduct. However, the conduct of a complainant becomes unreasonable if it crosses the personal boundaries of a complaint handler of reasonable competence and emotional stability. This may be where an individual event crosses such boundaries or where there is a course of conduct which cumulatively crosses such boundaries.

There should be zero tolerance for anger and abuse that transgress the reasonable personal boundaries of a case officer. Such conduct should not be tolerated and it is important to send a clear message to complainants/customers/clients/the public generally that such conduct is unacceptable.

## What should be management's response to anger, threats, violence, etc?

Leaving aside any moral or ethical obligations, the bottom line is that the management of an organisation that deals with complainants or the public generally is legally liable for the safety and wellbeing of its staff under occupational health and safety legislation and/or under the common law duty of care.

There are several things that the management of an organisation should do for the purpose of either preventing or reacting to threats to the health and safety of its staff arising out of the conduct of members of the public:

1. Firstly risk assessment: Management should conduct a risk assessment of the organisation's interactions with complainants or the public generally, for example a review of the: physical security of areas to which the public has access, including interview rooms and counters; special precautions needed for mail handling; the nature of interactions between staff and the public outside the office, and the like. Such a risk assessment is a fundamental prerequisite to the development of an appropriate risk management protocol.
2. Secondly risk minimisation: Management should implement necessary measures to address any identified physical security risks in relation to the organisation's premises, eg, depending on the circumstances, security doors to control access to premises, staffing of public areas, removal or securing of objects from or in public areas that could be used as weapons, installation of alarms and duress buttons, and so on. Various safety and security measures that could be taken by an organisation are summarised in the Annexure to this paper.
3. Thirdly a risk management protocol: Management should adopt an appropriate risk management protocol to be implemented by staff should security or safety problems occur. When I run workshops on managing unreasonable complainant conduct or give presentations on this topic, I often ask those present as to whether they are aware if their agency has a risk management protocol. Most of those present say that either their agency does not have such a protocol or they are unaware of its existence. The purpose of a risk management protocol, is to provide practical guidance to staff on how to deal with complainants effectively and safely. Such a protocol should outline what is expected of staff and complainants, as well as the organisation's procedures for dealing with verbal or physical aggression by complainants and/or threats against themselves, staff or third persons. The types of issues that could be covered in such a protocol might include:
  - a description of categories of behaviour that the organisation deems to be unreasonable
  - procedures to be adopted when interviewing members of the public, particularly when an interview breaks down, for example the use of duress alarms
  - advice for dealing with aggressive behaviour in face-to-face encounters
  - dealing with aggressive telephone calls
  - dealing with inappropriate written correspondence, including emails
  - reacting to bomb threats
  - reacting to threats with a weapon
  - referrals and notifications relating to inappropriate conduct
  - procedures to be used where it is deemed appropriate to restrict a person's access to premises, staff or services, etc.

Some guidance on risk management issues can be found in the Ombudsman's Practice Manual, that I referred to earlier.

4. Fourthly, advice and training: Management should provide appropriate and on-going advice and training to their staff on ways to respond to anger and the steps that should be taken when they feel threatened. These approaches or strategies can be summarised as the 10 Rs (set out in the attached information sheet) which summarise the strategies that should be adopted by complaint handlers when confronted by actual or potential complainant rage:

1. *Recognising* danger signals and reviewing risk
2. *Repeating*, ie, ensuring that threats are made overt
3. *Reacting* to all threats by explicitly acknowledging them
4. *Responding* by asking the person to stop their behaviour and indicating the repercussions that will flow if their behaviour continues
5. *Redirecting* or distracting the attention of the person with actions or comments that do not reward the behaviour
6. *Refocussing* the complainant's attention from their emotions to the issue
7. *Raising* concerns if you feel threatened by activating alarms, calling for assistance from other staff or leaving the room
8. *Running* – if all else fails and you feel an imminent risk of harm, to move to a safe location
9. *Recording* all threats
10. *Reporting* any such matter to a supervisor or manager.

Of course by far the best way to approach the problem of consumer rage is to focus on prevention. This involves organisations identifying the primary causes of the consumer rage directed at their staff, and taking steps to address them. Such steps include, but are certainly not limited to, for example:

- clarifying who 'owns' the complaint: for the proper management of complaints it is vital that both complainants and complaint handlers understand from the outset that once a complaint has been made, the complaint handler effectively 'owns' that complaint and decides how it will be dealt with. The complainant may still 'own' their 'issue' and would of course be able to do whatever else they wish to do with it, which might include taking it to any other forum they believe appropriate.
- managing expectations: It is very common for complaint handlers to assume a complainant's expectations are realistic – at least until they are confronted by the complainant's actual expectations which may be quite unrealistic, impractical or even fanciful. At this point it is often too late to change the complainant's expectations or to avoid the frustration and anger that can be caused by those unmet expectations. It is therefore vital to manage complainant expectations from the outset. Tell them at the start what you can do, what you can't do, what you will do and finally what you won't do.
- showing respect: A failure to show respect is guaranteed to make any situation worse. Showing respect is a fundamental requirement for any complaint handler, and for that matter anybody who deals with the public. We can't demand that our staff always feel respectful for all people they deal with, but we can certainly demand that they at least 'show' respect.
- apologising: It is very important that organisations and individuals that deal with the public are prepared to recognise when they have caused a problem, and to offer an appropriate apology. Since the introduction of a statutory protection for apologies in the *Civil Liability Act 2002* (at s.69), in most circumstances there is certainly no legal impediment to doing so anymore.

In my view, if complaint handlers can properly address these four issues, that will significantly reduce the potential for consumer rage.

## Managing Unreasonable Complainant Conduct

### Safety & security measures

#### 1. Physical layout

1.1 Design – using one or other of the following approaches:

(a) physical separation (fortification):

- glass barriers between staff and the public
- security doors controlling access to premises
- interview and waiting rooms separated from staff areas
- security staff on duty

(b) integration (open):

- high visibility of all public areas
- less obstructive barriers to create a more friendly and comfortable environment
- alarm systems
- no moveable objects that can be used as weapons
- bolt holes for staff to quickly exit public areas

1.2 Messages about appropriate language and behaviour, eg, using posters, signs, information sheets

1.3 CCTV

- obvious cameras in locations covering all public areas
- screens at contact points that can also be viewed by customer/clients/visitors

1.4 Duress alarms (fixed) in interview rooms, at reception and in other public areas

1.5 Airphones connecting public areas to internal areas

#### 2. Security policies & procedures

2.1 Incident response policies, ie, security policies/security incident protocols

2.2 Interviewing procedures & practices, eg, the circumstances when staff should interview in pairs, interviews only to be held in rooms with the door open or where visible to other staff, staff to sit on chairs closest to the doors of interview rooms, mobile duress alarms (panic buttons) to be carried by staff when interviewing, etc

2.3 Responsibilities for security, eg, a person designated as security manager, etc

2.4 Training for staff in how to avoid/respond to security incidents

2.5 Debriefing of staff following incidents



## Responding to Unreasonable Behaviour — Threats, Anger and Aggression

### 1. Recognising danger signals and reviewing risk

Recognise the signs of client anger, whether or not the anger is directed at you, and if so whether this is causing you anxiety, distress or fear. Always start by asking "Am I in danger?" If the answer is "yes", then you should remove yourself from harms way as quickly as possible.

In such circumstances, walk through the nearest door into a more secure area, turn and deliver the message that "The [organisation's name] recognises that people becoming emotionally upset in interviews are damaging their interests and also causing distress to our staff. The [name of the organisation]'s policy does not allow me to continue the interview while you are angry or making threats."

If the threat abates (ie, the client's behaviour de-escalates) then the interview can be recommenced based on clear behavioural ground rules.

### 2. Repeating

Ensure threats are clarified (made overt) and ensure the person takes ownership of a threat by repeating the statement as close to verbatim as possible (eg, "You have just said to me that..."), asking if this is what the person meant to say and whether it is in fact a threat to cause harm (eg, "Is that what you meant? Are you threatening me?").

### 3. Reacting

React to all threats by explicitly acknowledging them (whether they are overt or covert, or threats to you, themselves or to others, etc). Always show some reaction to a threat (even if minimal, eg, taking a 5 minute break). However, do not over react to a threat or mirror the threatening language or the threatening behaviour.

Continue to show respect even when the person is being rude or threatening.

### 4. Responding

Ask the person to stop the behaviour ("Mr... stop shouting at me") while informing the person of the organisation's protocols for responding to threats — communicating clearly and consistently the repercussions that will flow if the behaviour continues.

### 5. Redirecting

Redirect or distract the attention of the person with actions or comments that do not reward the behaviour (eg, asking questions about the substantive issue to try to move the person from the 'emotional' state back into a 'cognitive' or thinking state, taking a 5 minute break, offering a cold drink, etc).

### 6. Refocussing

If you are able to help the person bring their emotions under control, refocus their attention on their issue. A question about the facts can refocus a person from their feelings to thinking about the substance of their issue.

### 7. Raising concerns

If you feel threatened, activate a silent alarm (if available) or leave the room and call for assistance from other staff.

### 8. Running

If all else fails and you feel an imminent risk of harm — run (or at least move to a safe location).

### 9. Recording

Always make a 'verbatim' record of all threats and put a copy on the relevant file.

### 10. Reporting and reviewing responses

Report the matter to a supervisor/manager so that both of you can review your responses to the threatening behaviour and identify strategies to manage or control any future interactions with the person.

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