

DEALING WITH UNREASONABLE CONDUCT

Most complaints about public services can be successfully resolved through effective communication, adequate investigation, and offering an appropriate resolution when the complaint is substantiated. However, there are times when the relationship between a public organization and its service user breaks down, and sometimes this results in challenging communication issues that can be a drain on the organization's staff resources and can negatively impact staff morale. This quick reference guide provides some tips to help public organizations effectively respond to challenging communication and unreasonable conduct when responding to complaints from service users. For more information on complaint handling, see the Office of the Ombudsperson's [*Complaint Handling Guide: Setting up an Effective Complaint Resolution System in Public Organizations*](#).

What is unreasonable conduct?

Unreasonable conduct is any behaviour that, because of its nature or frequency, raises substantial health, safety, resource or equity issues for an organization.¹ It can include persistent and unreasonable demands being placed on staff, lack of cooperation with staff's efforts to resolve a complaint, argumentative or threatening language, and repetitive submissions of large and often irrelevant volumes of paperwork and communications. Unreasonable conduct can be an issue in a very small percentage of cases, but can nonetheless be a considerable drain on an organization's resources and be very challenging for staff to handle.

There are many terms that may be used to describe a service user who presents with unreasonable conduct. Be cautious when using any labels that can stigmatize or dismiss people's concerns as mere personality problems. The BC Office of the Ombudsperson uses the term "unreasonable conduct" because it focuses on the behaviour, rather than the person. It is important to remember that unreasonable conduct does not mean there is not a valid issue that an organization should address. All complaints should be considered on their individual merits.



¹New South Wales Ombudsman, *Managing Unreasonable Complainant Conduct Practice Manual*, 2nd ed., 2012, 6.

How to manage unreasonable conduct

The Office of the Ombudsperson does not expect public authorities to be required to tolerate behaviour from members of the public that is abusive or threatening, or that takes up a disproportionate amount of staff resources. Organizations should have policies in place that outline standards of conduct and guarantee that staff are provided with a safe and healthy workplace. There should also be adequate support available to staff who handle unreasonable conduct from service users, such as encouraging self-

care, offering debriefing sessions with a colleague or a manager, or providing more formal supports such as employee assistance counselling services.

Responding to and managing unreasonable conduct can be extremely stressful, negatively impact the work environment, and also affect the productivity of staff.² Therefore, it is essential that organizations have adequate training and support in place to prevent and respond to unreasonable conduct when it arises.

Some tips to help manage unreasonable conduct include:

Provide the right response from the start

An organization's initial interaction with a person is the most important factor in determining future interactions. Some of the basic things staff can do to respond effectively and prevent escalation if a person raises a complaint or concern are as follows:

- ☐ Respond promptly to the complaint
- ☐ Treat people with dignity and respect
- ☐ Try to determine what outcome they are seeking
- ☐ Demonstrate empathy
- ☐ Take the time to listen and demonstrate you understand their concern
- ☐ Focus on the facts and issue at hand, not the emotions surrounding it
- ☐ Explain the organization's complaints process and what action will be taken in response to their complaint, including applicable timelines
- ☐ Offer an apology if required
- ☐ Provide clear and meaningful reasons for decisions, particularly when the outcome is unfavourable for the person who is affected

If we view unreasonable conduct through a trauma-informed lens, an individual may be demonstrating unreasonable conduct as a coping mechanism to help them deal with difficult life circumstances or historical trauma. Keep in mind that an individual's mental health or disability can affect their ability to appropriately express anger or frustration, cooperate with an organization and its staff, and participate in an organization's processes.



²New South Wales Ombudsman, Managing Unreasonable Complainant Conduct Practice Manual, 2nd ed., 2012, 94.

Use the DESC technique

If the person is not accepting a response to their complaint and is escalating in their behaviour, staff may need to use more assertive in their communication and set some limits. The DESC technique, can be used to help manage unreasonable conduct.³

The DESC technique suggests that you:

- ☐ **Describe** the problem behaviour, objectively and descriptively. Specify the issue or number of times something has happened in concrete terms, and without judgment.
- ☐ **Express** or **explain** the impact of the behaviour on you, using “I” statements.
- ☐ **Specify** or **suggest** how the behaviour could change. Make a specific and concrete request of what you would like the person to do.
- ☐ State the **consequences**, first the positive, then the negative, that relate to the person’s behaviour. Offer the person the choice of what they would like to do.

Restricting access: A last resort

Decisions to restrict a person’s access to public services should be considered a last resort and viewed as the exception rather than the rule. Where at all possible, alternative arrangements should be used to manage unreasonable conduct. Restrictions should be put into place only after careful consideration by the organization. When the Office of the Ombudsperson receives complaints from individuals who are subject to an access restriction, we assess whether the organization acted in accordance with its policies, and if the process for restricting access was done fairly and reasonably.

It is important to consider the person’s need to continue to have access to the program or

For Example:

Describe: I have received 40 emails from you this week that did not contain any new information.

Express: I have difficulty finding time to work on your matter when you email me large volumes of information that is not new or relevant to the issue I am examining.

Specify: I would appreciate if you could limit your correspondence and only send me new or directly relevant information.

Consequences: If you only send me new or relevant information, I am likely to have much more time to complete my assessment of your issue. If I continue to receive large volumes of emails that do not contain new or relevant information, my assessment will be delayed.

service being provided, depending on the context. For example, restricting access to someone who requires health or social services should be considered more carefully than restricting a person’s access to a public building for recreational purposes, such as a library or pool. An organization should also consider any special requirements of the person who will be affected by the restrictions; for instance limiting a person to communicating only in writing may be too restrictive if the person has literacy challenges. Organizations should also consider any previous restrictions that have been placed on the person, and whether these restrictions were successful in addressing the unreasonable conduct.

³ Bower, G, & Bower S. (1991). *Asserting Yourself: A Practical Guide for Positive Change*. Cambridge, MA: De Capo Press.

An organization may choose to restrict any of the following:

- ☐ Who a person may contact within the organization - for example, limiting access to a particular staff member, preferably at a more senior level
- ☐ What subject matter the organization will respond to - for example, declining to look at an issue that has been adequately addressed but the person refuses to accept the response
- ☐ When a person can make contact with the organization - such as restricting them to contact the organization at a certain time of day or on specific days only
- ☐ Where a person can interact with an organization's staff face-to-face, particularly if a person has demonstrated highly aggressive or confrontational behaviour
- ☐ How a person can contact the organization – for example, in writing or by telephone only

Implementing Access Restrictions

If an organization is considering implementing access restrictions, the level of restriction should be progressive, with the most minimal restriction needed to address the inappropriate behaviour imposed first. To ensure that a fair process is followed in reaching the decision to restrict individuals, the person who is affected by an access restriction must be told of the decision in writing and must be informed of:

- ☐ the reason(s) why the organization considers their behaviour to be unacceptable
- ☐ the details of any earlier warnings issued by the organization about their conduct
- ☐ clear details about the restriction the organization is imposing, and how long the restriction is in place for
- ☐ how the person can request a review of the restriction, and
- ☐ what is required of them to have the restriction lifted

For more information on complaint handling, see the Office of the Ombudsperson's [Complaint Handling Guide: Setting up an Effective Complaint Resolution System in Public Organizations](#), as well as other resources available at bcombudsperson.ca.