

Access Canberra Accountability Commitment – Managing Unreasonable Complaints Policy

Policy introduction

If people who make complaints see the complaint handling process as fair and reasonable, believe they were treated with respect and are given enough information, they are more likely to accept decisions or outcomes that are unfavourable to them.

This policy is intended to ensure that we handle all complaints fairly, efficiently and effectively. Being open to feedback, suggestions and complaints helps us review and refine our services and assists us in aligning what we do with our customer's needs and expectations.

People who complain to a government agency can be distressed, angry or upset. This may be because of the problem they are complaining about, or it may be related to other issues such as their health, family or financial circumstances. They may also be frustrated that the complaint has taken a long time to resolve, or that the information they have been provided with to date has not met their expectations.

Most complaints we receive are made in good faith and we welcome feedback in order to improve our services. However, in some cases, a complainant's conduct can go beyond what is reasonable or acceptable. They may contact the agency repeatedly, demand outcomes that are not practicable or achievable, provide false information be unwilling to accept the complaint handler's decision or subsequent review, threaten harm to themselves or others, or be violent or disrespectful.

This document sets out principles that Access Canberra considers when determining if unreasonable conduct has occurred and how such situations are managed. This policy is based on the '*Better practice guide to managing unreasonable complaint conduct*', which was developed from a joint project of the Australasian Parliamentary Ombudsman, led by the office of the NSW Ombudsman.

The importance of managing unreasonable conduct

Access Canberra has a duty to ensure that its resources are used efficiently and effectively; and it provides a safe and respectful workplace for its staff and clients.

Failure to manage unreasonable complaint conduct can be damaging to the complainant, an agency, its people, and the agency's other clients, for several reasons.

- **Agency resources are limited and must be used efficiently in dealing with other complaints and other agency functions.** All clients are entitled to a fair share of the agency's time and resources and a consistent approach by the agency to dealing with their issues.
- **Agencies are responsible for ensuring the health and safety of their staff.** Ensuring that all staff are properly trained, supervised and supported in dealing with unreasonable conduct with minimum staff stress.

- **Unreasonable conduct can make it harder for an agency to resolve a complaint.** It can lead to the complaint being blurred, the investigation side-tracked, and the process needlessly prolonged.
- **A complaint investigation that is drawn out is less likely to end satisfactorily.** The person may change the focus of their grievance to the way their complaint was handled. The ongoing relationship between the person and the agency can be damaged.

Guiding principles

There is no 'one size fits all approach' to managing unreasonable conduct by some complainants.

One of the keys to handling difficult complainant conduct is to manage all complaints well from the beginning, so as to minimise delays, misunderstandings and unrealistic expectations.

The following guiding principles for effective complaint management should be kept in mind when considering such matters:

- **People have a right to complain to Access Canberra about its decisions and actions.**
- **Access Canberra has the right to decide how it will deal with a complaint.** This includes deciding on the issues that will be investigated, who will conduct the investigation, the time and resources that will be allocated to the complaint, the assistance the complainant needs to provide, and how the complaint will be resolved.
- **We will treat everyone fairly and with respect.** Access Canberra will act impartially and show professionalism when faced with challenging behaviour, however, will not tolerate any conduct that is violent, threatening or abusive. Any such unreasonable behaviour will be addressed separately under occupational violence and work health and safety policies.

Decisions will be made in accordance to the Access Canberra Accountability Commitment and the Access Canberra Customer Service Charter.

Determining unreasonable conduct

Dealing with distressed, angry and upset people is a normal part of complaint handling; and staff are always expected to deal fairly, objectively and empathetically with all complainants.

Examples of unreasonable conduct includes:

- **Unreasonable persistence** – refusing to accept that a complaint is closed, reframing an old complaint, pursuing and exhausting all available review options and refusing to accept further action cannot be taken, persevering obstinately with an argument, contacting multiple staff to 're-litigate' the matter, continuing to phone or contact an agency after a matter is closed.
- **Unreasonable demands** – raising issues beyond Access Canberra's responsibility, asking for a remedy that is impractical or disproportionate, insisting that more time be spent on a complaint than is warranted, insisting on speaking to the head of the agency when it is not appropriate or warranted, directing an agency on how to handle the complaint.
- **Unreasonable lack of cooperation** – poor or confused definition of a complaint, unnecessary presentation of a large quantity of material, failing to provide key documents, constantly re-defining a complaint, dishonestly presenting the facts, not providing information in a timely way.

- > **Unreasonable arguments** – exaggerating issues, being obsessed with irrelevancies or trivialities or refusing to consider counter-arguments.
- > **Unreasonable behaviour** – threatening violence, abusing staff, being rude or aggressive, threatening self-harm, or crossing personal boundaries.

In determining whether a complaint is unreasonable, Access Canberra will consider the individual circumstances of the matter, including but not limited to:

- the number of complaints/requests made by the client;
- whether complaints are unreasonably persistent. For example, when Access Canberra has already exhausted reasonable regulatory responses in line with the Accountability Commitment and no substantive new information is provided by the complainant;
- the overall number of complaints/requests received by the client during a specified period;
- the decision is in the process of or has already been independently reviewed either internally or externally for example by the relevant Ombudsman or ACAT if appropriate;
- where the client refuses to utilise remaining avenues to resolve complaint. For example, Conflict Resolution Service, ACAT, legal action or conciliation;
- whether the matter involves an ongoing investigation;
- If complaints are baseless or unfounded in nature;
- the subject matter and/or nature of the requests made by the client;
- the client's dealings, conduct and co-operation when dealing with Access Canberra;
- whether the client has previously received some or all of the information or services requested;
- the purpose of the enquiry and whether the request appears to have been made for a purpose other than the seeking of access to information;
- If the complaints are outside Access Canberra's area of responsibility such as providing legal advice or a service not provided by, or regulated by, Access Canberra;
- whether the disagreement is related to an assessment by a qualified authority in accordance with relevant legislation and industry standards;
- The likelihood of Access Canberra being able to resolve the complaint through available regulatory options.

Controlling access to the agency

Placing restrictions on a person's access to government services should not be taken lightly; and needs to be proportionate and relevant to the conduct being managed. There needs to be opportunity for a decision to restrict access to be regularly reviewed, to reflect changing circumstances.

It can be sometimes necessary to limit a complainant's access to the agency. Restrictions may be placed on when a person can make contact, who they can contact, or how to make contact (for example, only in writing if the person is verbally abusive). Such decisions should be made at a senior level in accordance with this policy. A complainant should be advised in writing of the decision and the options for reviewing its appropriateness. Access Canberra will regularly review any limit or restriction placed on a complainant's access to the agency, to reflect any changes in circumstances.

Right of review

Any person who has contact with Access Canberra has the right to make a complaint or seek a review of a decision.

If a complaint relates to a regulatory decision by Access Canberra, the complainant has the right of review of that decision. They may request an internal review if dissatisfied with our decision or explanation. Requests for internal reviews following a complaint will generally be considered by the Chief Operating Officer.

If a complainant remains dissatisfied with the outcome of an internal review by Access Canberra, they may contact the [Australian Capital Territory Ombudsman](#) via email: ombudsman@ombudsman.gov.au or by phoning: 1300 362 072

Complainants may also have a right to have the matter heard by the ACT Civil and Administrative Tribunal (ACAT). For further details on what matters can be heard at ACAT, please visit the [ACAT](#) website or phone (02) 6207 1740.

The Human Rights Commission (HRC) can investigate and conciliate complaints in relation to health, disability and community services, abuse of vulnerable people, and complaints under discrimination law. For further details please visit the [HRC](#) website or phone (02) 6207 1034.

The *ACT Freedom of Information Act 2016* gives individuals the legal right to; access government information unless access to the information would, on balance, be contrary to the public interest, ask for personal information to be changed if it is incomplete, out-of-date, incorrect or misleading; and appeal a decision about access to a document, or a decision in relation to a request to amend or annotate a personal record. Individuals can make an application to access documents [online](#) or by emailing CMTEDDfoi@act.gov.au.

Further information regarding rights to appeal can be found in Access Canberra's [Customer Service Charter](#)

Case study: repeated requests for investigation

- Access Canberra investigated a business relating to possible unfair contract terms and determined not to undertake enforcement as the potential harm was minimal. After the complainant was advised of the outcome, they lodged a further 10 complaints regarding the same conduct of the trader. These additional complaints did not contain any new information and therefore did not change the original assessment made about the potential harm.
- Access Canberra received 50 reports from an individual regarding illegal parking in a six-month period outside their residence. This was investigated, parking inspectors attended on multiple occasions following complaints where no vehicle was found to be illegally parked. Parking enforcement officers advised that they would continue to monitor the area and would use any further reports as intelligence. The complainant was provided with this information, however continued to make a further 26 complaints on this issue.

More information

Policy Owner – Access Canberra Chief Operating Officer

Call us on 13 22 81

Visit us at www.accesscanberra.gov.au

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