

Managing unreasonable complainant conduct procedure

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Audience

Whole of OIR.

Purpose

This procedure sets out the process and responsibilities for consistent management within the Office of Industrial Relations (OIR) of unreasonable complainant conduct arising during the management of a customer complaint.

Overview

OIR appreciates and acknowledges a person's right to make a complaint, and expects that complainant conduct will be appropriate, reasonable and must not compromise staff safety and wellbeing of which is a priority.

Conduct is unreasonable if it involves actions or behaviours, which because of the nature or frequency, raise substantial health, safety, resource or equity issues for OIR, its staff, other service users or the complainant themselves.

Unreasonable conduct can arise at any time in a complaints management process and should be addressed as early as possible. Where unreasonable conduct is identified, this procedure is to be used to enable the complaint or internal review to be productively resolved by implementing management strategies. Unless the complaint is frivolous or vexatious, the matter complained about will still be dealt with, even if contact with the complainant is terminated.

This procedure applies to complaints processes outlined in the OIR Customer complaints and grievance management policy with the exception of individual employee grievances.

Responsibilities

Complainant

- cooperate in an honest, respectful and timely manner with OIR staff.
- refrain from unreasonable conduct, noting that OIR will not tolerate conduct that is abusive, threatening, unreasonable, vexatious, or makes inappropriate demands on the OIR's time, resources or staff.
- comply with any management strategies the department implements to deal with the unreasonable conduct.
- understand that the department may terminate contact if conduct is too unreasonable to manage, but the complaint will still be dealt with, unless it is frivolous or vexatious.
- understand that OIR will endeavour to resolve complaints within the timeframes set in this procedure but complex complaints can take time to assess, manage and resolve.

- understand that some decisions, actions or inactions cannot be overturned or changed using the OIR Customer complaints management framework.

All staff

- familiarise themselves with the OIR customer complaints and grievance policy, procedures and supporting information, and complete the training relevant for their role in the complaints process to identify and assist to manage unreasonable conduct.
- recording and reporting all unreasonable conduct they experience or witness (as appropriate) to their manager or director as soon as practicable and within 24 hours of the incident/s occurring using the OIR online incident form.
- if any person is in immediate danger contact emergency services on 000.
- If someone is threatening self-harm follow the Responding to a distressed person procedure and guide (OIR employees only).
- all staff are to adhere to any changed access that has been communicated as requested.
- use clear, respectful language to communicate with complainants.
- keep written records of instances of unreasonable conduct when they occur.

Complaint managers, complaint officers and internal review officers

- communicate the complaint process and what to expect to the complainant throughout the complaint process and ensure complainants understand their rights and responsibilities.
- consider the complainants needs and preferences where possible, assisting those who may be vulnerable due to factors such as age, disability, location or issues accessing digital services, and offer support such as directing the person to interpreter services or support agencies or supporting the complainant to document the complaint.
- as soon as unreasonable conduct is identified, set boundaries with the complainant by explaining reasonable and unreasonable conduct and clearly define the consequences of unreasonable conduct.
- if the unreasonable conduct continues, use suitable management strategies and maintain appropriate records to support the use of the strategy, such as recording instances of unreasonable behaviour. More information on management strategies can be found in the OIR Guide – Unreasonable conduct good practice guide (OIR employees only).
- act fairly, reasonably and ethically in all interactions with a complainant, including considering the complainant's circumstances.
- consider the human rights of the complainant when making decisions and ensure any management strategies used are compatible with human rights.
- if additional support is required to manage unreasonable conduct, seek advice and assistance from the respective director.
- for management strategies that effectively change or limit a person's access to OIR services, a proposed response and approach must be discussed with the respective director and approved by the executive director who owns the complaint.
- where management strategies are unsuccessful and continued engagement with the complainant is unproductive, prepare advice to executive director who owns the complaint, to determine whether contact with the complainant should be terminated.
- manage complaints based on their merits regardless of the complainant's conduct with consideration of possible complainant communication or behavioural challenges.
- keep up-to-date complaint information in the centralised OIR customer complaints register.
- focus on personal health, safety and wellbeing, and seek assistance or debrief where required. Please see the Employee Assistance Program (OIR employees only) for more information.

Directors and Executive Directors

- ensure a harm minimisation approach for both the staff and complainant.
- support staff to participate in training about how to manage unreasonable complainant conduct.
- ensure that even if contact with the complainant is terminated, the complaint is still addressed and the complainants' rights and entitlements are preserved, unless the complaint is frivolous or vexatious.
- provide advice to support staff to develop a proposed response and strategy to manage unreasonable complainant conduct when necessary
- give staff opportunities to debrief after managing unreasonable complainant conduct and encourage use of the Employee Assistance Program (OIR employees only) where required
- ensure all incidents and responses are recorded, monitored and reviewed
- ensure all staff are notified of any changed access that has been communicated as requested for a complainant.
- ensure all staff potentially impacted are followed up and supported with access to proper support and assistance through programs including Employee Assistance Programs and/or other assistance (Police) if necessary.
- approve and organise police or security staff in cases where it is decided that an extreme and significant risk for harm of OIR staff due to excessive overt aggression, violence, threat and assault.
- review and consider evidence provided by the complaint officer or internal review officer of a complainant's unreasonable conduct to determine whether terminating contact with the complainant is appropriate, proportionate, fair and reasonable and imposed in the least restrictive way possible.
- provide written advice to the complainant of their unreasonable conduct, warning of management actions or informing of the decision to terminate contact.

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- maintain customer complaints management resources, including policies, procedures, supporting materials and websites.
- ensure systems to manage unreasonable conduct are established and regularly reviewed.
- provide advice and guidance to staff involved in customer complaints management.
- review customer complaints management activities to identify opportunities for better practice and seek and action feedback about the customer complaints management approach.

Process

This process does not apply if a complainant's conduct creates an immediate unacceptable risk of harm to a person or OIR property. If these circumstances arise in an OIR workplace, follow the Work-related violence and aggressive prevention and management guidelines (OIR employees only) and other information at Responding to work-related violence and aggressive behaviour page (OIR employees only). If this occurs the following approach should be adopted:

- Immediately bring the matter to the attention of a senior officer/supervisor/manager/director.
- Suspend contact with the complainant.
- Tell the complainant not to present on OIR property.
- If necessary, refer the matter to the Queensland Police Service (QPS).

The following process can be applied to unreasonable conduct that arises during the management of a complaint or internal review requested by the complainant if they are dissatisfied with the original complaint outcome or process.

If a complainant has multiple complaints and/or internal reviews in progress with OIR, any management strategies implemented can apply to **all** complaints and reviews involving the complainant. A coordinated and consistent approach should be implemented in these situations.

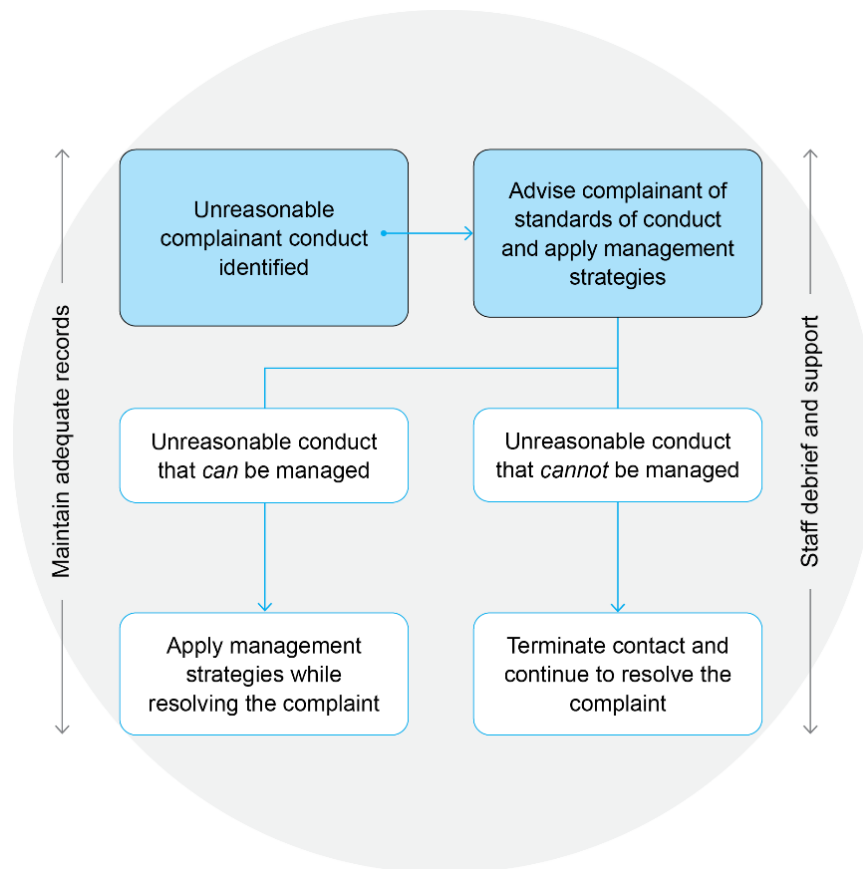


Figure 1: Process to manage and resolve unreasonable complainant conduct

1. Unreasonable complainant conduct identified

- The complaint manager and the complaints officer or internal review officer will actively monitor the complainant's conduct throughout the complaints management or internal review process to identify if it is reasonable or unreasonable.
 - The complaints officer or internal review officer must assess all conduct on a case-by-case basis to decide whether it is unreasonable in the circumstances – i.e., the nature or frequency of the conduct raises substantial health, safety, resource or equity issues for OIR, its staff, other service users or the complainant themselves.
 - If unreasonable conduct by the same complainant is identified across a series of complaints in the centralised OIR customer complaints register, the same management strategy or consistent strategies can be applied to all complaints in the series.
 - The OIR Information sheet – Unreasonable complainant conduct will assist complainants to understand different types of unreasonable conduct.
 - The OIR Guide – Unreasonable conduct good practice guide (OIR employees only) contains examples of unreasonable conduct and guidance on possible management strategies.
- If the complaint manager, complaint officer or internal review officer considers the complainant's conduct to be unreasonable, this should be recorded in the centralised OIR Customer complaints register.
 - Unreasonable conduct should be recorded when it occurs and in sufficient detail that it provides justification for any future management strategies that need to be put in place.

2. Set standards of conduct and apply management strategies

- Once unreasonable conduct is identified, the complaint officer or internal review officer must consider the type of unreasonable conduct and recommend strategies to mitigate or manage the conduct to the executive director of the directorate who owns the complaint for consideration.
 - Strategies must only be implemented to the extent necessary to enable productive management of the complaint or internal review.

- The human rights of both the complainant and those impacted by the unreasonable conduct must be considered when implementing strategies and this consideration documented.
- Staff safety and wellbeing is paramount. If a complainant's immediate conduct is inappropriate or unacceptable, it may be necessary to temporarily stop contact with the complainant while management strategies are developed and put in place. For example, if a complainant is shouting or swearing during a phone call, the call should be ended.

Refer to the OIR Guide – Unreasonable conduct good practice guide (OIR employees only) and OIR Guide – Human rights complaints (OIR employees only) for management strategies and information about human rights considerations.

- Once the executive director has considered and approved the strategies, the complaint officer or internal review officer must explain the management strategies to the complainant and ask them to comply. This information and explanation can be provided verbally but must also be provided in writing with the OIR Unreasonable complainant warning letter template (OIR employees only) and recorded in the centralised OIR customer complaints register.
- The fields in the OIR Unreasonable complainant warning letter template is to be completed and include:
 - The date and other details of the incident and an explanation of why their conduct is unreasonable in the circumstances.
 - Reminding the complainant to cooperate respectfully and not act unreasonably.
 - Changes or strategies to be applied or potentially applied (The Executive Director may choose to warn of such sanctions first).
 - Warn that ongoing unreasonable conduct may result in further strategies being imposed or possible termination of contact.
- When either posting or emailing the warning letter, attach copy of the OIR Customer complaints and grievance management policy, OIR Customer complaints management procedure and OIR Information sheet - Unreasonable complainant conduct and support services for the complainant.

3. Monitor complainant conduct

- Once management strategies are in place, the complaint manager, complaint officer or internal review officer will monitor the complainant's conduct and determine if it remains unreasonable. Each instance of unreasonable conduct should be recorded in the OIR customer complaints register.
 - Factors to be considered include:
 - how long the strategies have been in place and if the complainant has had reasonable opportunity to comply.
 - the degree of compliance or non-compliance with the management strategies.
 - any other factors relevant in the circumstances.
 - The frequency of monitoring will depend on the type of conduct, for example:
 - persistent contact multiple times a day may need active, daily monitoring.
 - aggressive behaviour may only need monitoring when contact with the complainant occurs.
- The complaint officer or internal review officer may be required to take additional actions dependant on their assessment of the complainant's conduct. Possible outcomes include:
 - if the conduct is no longer unreasonable, manage and resolve the complaint or internal review in the usual way.
 - if conduct remains unreasonable, but has improved, reinforce existing management strategies or implement a different strategy, and again warn the complainant of the consequences of ongoing unreasonable conduct. This can be repeated as many times as the complaint officer or internal review officer is willing to accept, and the complainant's behaviour continues improving.
 - if the conduct is so unreasonable that the complaint or internal review cannot be productively resolved, contact with the complainant may be terminated (see step 4).

4. Termination

- Termination is a last resort, which should only be considered if the complainant's conduct is so unreasonable that continued engagement is unproductive and/or inappropriately burdens OIR resources, or affects anyone's health, safety, and wellbeing.
 - Staff safety and wellbeing is paramount. If a complainant's immediate conduct is inappropriate or unacceptable, it may be necessary to temporarily stop contact with the complainant while the termination process is undertaken. For example, if a complainant is shouting or swearing during a phone call, the call should be ended.
- If terminated, the matter complained about will still be dealt with, even if contact with the complainant is terminated, with an outcome to be provided to the complainant. However, there is no need to have ongoing engagement with the complainant about the complaint or internal review matter(s) to which the termination relates. Any new or emergent issues can still be raised with OIR.
- If termination occurs, the OIR complaints process for these matter(s) will also be exhausted (for instance there is no need to offer internal review if one has not been completed).
- To commence the termination process, the complaint officer or internal review officer must prepare advice for the executive director of the directorate who owns the complaint, recommending the termination and explaining why termination is appropriate. This should include evidence that demonstrates:
 - the complainant has been treated fairly, reasonably, and ethically and proper consideration has been given to their human rights.
 - the complaint officer has complied with the OIR Customer complaints and grievance management policy and OIR Customer complaints management procedure or OIR customer complaints internal review procedure.
 - there are no reasonable prospects of engaging productively with the complainant and continued engagement would create unreasonable risks to staff or others, and/or unreasonably burden OIR resources.
- The executive director must not terminate contact with the complainant unless satisfied termination is appropriate. The evidence provided by the complaint officer or internal review officer (as outlined in the previous point) should inform the decision to terminate contact.
- The executive director is to provide written advice to the complainant via the OIR Unreasonable complainant termination letter template (OIR employees only) about the termination filing the required fields stating:
 - the subject matter of the complaint or internal review
 - dates of the unreasonable conduct and warning letter
 - a summary of unreasonable complainant conduct/grounds for termination, including any management strategies used and their outcome, any evidence, material, or facts relied upon
 - that engagement with the complainant on the complaint or internal review has been terminated and there will be no ongoing communication or engagement about the matter(s)
 - any alternative options available to the complainant (for example, external review by the Queensland Ombudsman or other review agency); and
 - how the complainant can raise any new or emergent issues with OIR.
- The complaint manager, complaint officer or internal review officer must update the OIR customer complaints register to reflect the termination of contact with the complainant and save any records.
- The complaint officer or internal review officer must still address the complaint or review issue, unless it is frivolous or vexatious. An outcome should be provided to the complainant once completed via the relevant letter template located on the OIR customer complaints management page (OIR employees only).
- The complaints officer should consider if the customer complaint is frivolous or vexatious. It is important to distinguish between the complainants conduct and the nature of the complaint.

- If the complaint is frivolous or vexatious, the complaints officer is to advise the complainant in writing of why it is being considered as frivolous and vexatious and allow the complainant 20 working days to respond and provide further information or reasoning to as why the complaint should be reconsidered. (Complaint letter templates can be found here - OIR employees only).
 - If the complainant fails to respond, no further action will be taken, and the remainder of this procedure does not need to be followed and the complaint is closed.
 - If the complainant provides a response, the information provided is to be reviewed by the complaints officer with a final decision to be made on whether the complaint is still deemed to be frivolous and vexatious or valid and accepted.
 - If the complaint is still deemed to be frivolous or vexatious, the complainant will be advised in writing that the complaint will not be examined. This is to be recorded in the OIR Customer complaints register, and the remainder of this procedure does not need to be followed and the complaint is closed.
- If the complainant continues to contact OIR about the same issues following termination, the complaint manager, complaint officer or internal review officer are not required to continue communications with the complainant. However, if new complaint issues are raised, these must be considered in accordance with the relevant complaints procedure.

5. Debrief and support options

Executive directors, directors or managers must ensure support and debriefing options (OIR employees only) are available to receiving officers, complaint managers, complaint officers, and internal review officers or any OIR staff who are managing or exposed to unreasonable complainant conduct, and any staff who are the subject of the customer complaint (where relevant).

Definitions

Term	Definition
Complaint	An expression of dissatisfaction about a service or action by someone who is directly affected by the service or action.
Complainant	A person, staff member, organisation or their representative/advocate making a complaint.
Complaint manager	A complaints manager is an OIR officer delegated responsibility to coordinate customer complaints for their directorate. Their functions may include, but are not limited to, receipt of complaints, determining if it is a customer complaint, information gathering, allocation to a complaints officer, correspondence, maintaining their directorates complaints register, and reporting. The coordination of a customer complaint may involve one or more complaints officers.
Complaint officer	A complaints officer is an OIR officer delegated responsibility to assess and manage customer complaints for their directorate. Their functions may include, but are not limited to assessment, referral, correspondence, management, resolution, and escalation.
External review	A process conducted by an external review body (for example, Queensland Ombudsman , Queensland Human Rights Commission , or Queensland Civil and Administrative Tribunal) to ensure departmental decision-making is fair, reasonable and proper.
Frivolous complaint	A frivolous complaint is one that is trivial or meritless in nature and does not justify the resources that would be required to action it.
Internal review	A process conducted by appropriately trained departmental staff on request from the complainant which examines if the complaint management process for the original complaint was appropriate and/or if the outcome reached was

Term	Definition
	<p>reasonable. An internal review is not a re-investigation of the original complaint and is not available if:</p> <ul style="list-style-type: none"> • the complaint is being managed outside OIR through an external review • the complaint is not a complaint as defined under the OIR Customer complaints and grievance management policy • the complaint has already been internally reviewed • the complainant is simply seeking clarification or explanation about the original decision or process.
Internal review officer	<p>An internal review officer is a departmental employee who conducts an internal review. The officer must:</p> <ul style="list-style-type: none"> • be independent from the original complaint; and • for customer complaints, be in a position equal to, or higher than, the original decision-maker, or nominated by such a person; <p>Internal review officers will be regional or divisional staff. An internal review may involve more than one internal review officer.</p>
Management strategies	<p>Strategies that can be applied by a decision maker to manage unreasonable complainant conduct to enable the efficient and effective resolution of a complaint.</p>
OIR Customer complaints register	<p>A centralised tool used to capture and record complaints data, including information about the complainant, their complaint, how OIR has resolved the matter, and any reviews undertaken.</p>
Procedural fairness	<p>Providing any party who may be affected by a complaint or grievance with a fair opportunity to be heard and a reasonable opportunity to respond to any claims. Procedural fairness is also known as natural justice.</p>
Unreasonable complainant conduct	<p>Conduct is likely to be unreasonable where it involves actions or behaviours which because of the nature or frequency, raise substantial health, safety, wellbeing, resource or equity issues for the department, its staff, other service users or the complainant themselves. Examples include:</p> <ul style="list-style-type: none"> • unrelenting contact (e.g., excessive, and unnecessary phone calls or emails) • demanding conduct (e.g., demanding more reviews than departmental procedures allow, or demanding a different outcome without showing the original decision was incorrect) • unreasonable lack of cooperation (e.g., refusing to identify the issue of complaint or providing disorganised information) • unreasonable arguments (e.g., making irrational claims) • unreasonable behaviour (e.g., aggression or violence to staff, or threatening harm to self and others). <p>The OIR Managing unreasonable complainant conduct procedure provides more information. Please also refer to the OIR Information sheet - Excluded complaints.</p>
Vexatious	<p>A vexatious complaint or internal review is without reasonable or sound basis in fact, has little chance of succeeding and is instead designed to harass, annoy, or create a resource burden for OIR or its staff.</p>

Legislation

- [Public Sector Act 2022 \(Qld\)](#) section 264
- [Human Rights Act 2019 \(Qld\)](#) part 2 and sections 58(1), 63, 97
- [Industrial Relations Act 2016 \(Qld\)](#)
- [Work Health and Safety Act 2011 \(Qld\)](#)
- [Electrical Safety Act 2002 \(Qld\)](#)
- [Safety in Recreational Water Activities Act \(Qld\)](#)
- [Workers' Compensation and Rehabilitation Act 2003 \(Qld\)](#)

Delegations/Authorisations

- [HR Delegations](#) (OIR employees only)

Policies and procedures in this group

- [OIR Customer complaints and grievance management policy](#)
- [OIR Customer complaints management procedure](#)
- [OIR Customer complaints management - Internal review procedure](#)
- [OIR Information Classification Procedure](#) (OIR employees only)
- [OIR Privacy policy](#) (OIR employees only)

Supporting information/websites

- [OIR Guide – Customer complaints – Internal reviews](#) (OIR employees only)
- [OIR Guide – Unreasonable conduct good practice guide](#) (OIR employees only)
- [OIR Guide – Human rights complaints](#) (OIR employees only)
- [OIR Information sheet – Internal reviews](#)
- [OIR Request an internal review](#)
- [Human Rights information](#) (OIR employees only)
- [OIR Customer complaints management and templates](#) (OIR employees only)
- [OIR Privacy complaints information sheet](#) (OIR employees only)

Other resources

- [AS 10002:2022 – Guidelines for complaint management in organisations](#)
- [Employee Assistance Program](#) (OIR employees only)
- [Concerns, complaints, or feedback](#) (WorkSafe website)
- [Queensland Government Human rights resources](#)
- [Queensland's Human Rights Act 2019: A guide for public entities](#)

Contact

For customers who wish to make a customer complaint, please:

Complete the form on the [Queensland Government – complaints and compliments webpage](#), or [Compliment or complain about our services | WorkSafe.qld.gov.au](#)

Call 1300 362 128 (WorkSafe)

For staff who would like more information about the framework, policy, or procedures, please see the [Customer complaints management](#) page on the OIR intranet, the related and supporting document links above or contact the Business and Innovation Planning Unit, Office of the Deputy Director-General.

Review date

1 July 2024