



Privacy Commissioner
Te Mana Mātāpono Matatapu

Managing Unreasonable Complainant Conduct

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The approach and the strategies suggested in this policy are based on the clear understanding that:

➤ They are equally relevant and applicable to all staff within an organisation including frontline staff, supervisors and senior managers.

➤ All complainants are treated with fairness and respect.

➤ In the absence of very good reasons to the contrary, all complainants have a right to access public services.

➤ All complaints are considered on their merits.

➤ Unreasonable complainant conduct does not preclude there being a valid issue.

➤ The substance of a complaint dictates the level of resources dedicated to it, not a complainant's demands or behaviour.

➤ Anger is an understandable and, to some degree, an acceptable emotion among frustrated complainants, as long as it is not expressed through aggression or violence.

➤ Staff safety and well-being are paramount when dealing with unreasonable complainant conduct. OPC has a zero tolerance policy to threats to staff safety.

➤ The decision to change or restrict a complainant's access to services as a result of their behaviour, will only be made at a senior management level and in accordance with clearly defined policies and procedures.

➤ Senior managers will ensure relevant systems, policies and procedures are in place to manage complaints and unreasonable conduct and that all staff who interact with complainants will receive training, guidance and direction about using the strategies suggested in this policy.

OPC Policy on Managing Unreasonable Complainant Conduct

1 Introduction

The Office of the Privacy Commissioner (OPC) is committed to being accessible and responsive to everyone who approaches our Office for assistance. The success of our Office depends on:

- our ability to do our work and perform our functions in the most effective and efficient way possible;
- the health, safety and security of our staff; and
- the ability to allocate our resources efficiently and fairly across all of the matters we receive.

Generally, we will not place restrictions on a person's contact with us. However, if someone behaves unreasonably in their dealings with us, their conduct can significantly affect our staff and service delivery. The OPC will take proactive and decisive action to manage any conduct that negatively and unreasonably affects us and will support our staff to do the same in accordance with this policy.

1.1 Related policies, guidelines and manual

This policy should be read in conjunction with:

- OPC's [complaint handling policy](#)
- The Manual for managing unreasonable conduct by a complainant
- [OPC's health and safety policy](#)
- [OPC's policy for responding to threats to staff safety](#)
- OPC's guidelines for managing and responding to threats, aggressive behaviour and violence from members of the public

1.2 Policy aims

This policy has been developed to assist all staff members to better manage unreasonable conduct from external parties. Its aim is to ensure that all staff:

- feel confident and supported in taking action to manage unreasonable conduct;
- act fairly, consistently, honestly and appropriately when responding to unreasonable conduct;
- are aware of their roles and responsibilities in relation to the management of unreasonable conduct and how this policy will be used;
- understand the types of circumstances when it may be appropriate to manage unreasonable conduct using one or more of the following mechanisms:

- strategies to minimise the effects of unreasonable conduct, including strategies which change or restrict a person’s access to our services;
 - alternative dispute resolution strategies to deal with conflicts involving external parties and OPC staff;
 - legal instruments such as trespass laws to prevent a person from coming onto our premises and orders to protect specific staff members from any actual or apprehended personal violence, intimidation or stalking.
- have a clear understanding of the criteria that will be considered before we decide to change or restrict a person’s access to our services;
 - are aware of the processes that will be followed to record and report unreasonable conduct incidents as well as the procedures for consulting and notifying a person about any proposed actions or decisions to change or restrict their access to our services;
 - are familiar with the procedures for reviewing decisions made under this policy, including specific timeframes for review.

2 Roles and responsibilities

2.1 Values, principles and standards

OPC staff should keep the following values, principles and standards in mind when interacting with colleagues and with the public.

Our investigations team and complaints handlers must operate in line with our office values:

- respect
- integrity
- independence
- innovation, and
- excellence.

This means we can’t take short cuts; we need to meet people where they are, and we need to give people respect for having taken the trouble to bring their concerns to us. We also take care of our staff by training them well, resourcing them, and making sure they have capacity and support to do the work we ask them to do.

Our team must also act and plan in accordance with the principles of best practice dispute resolution:

1. Principle 1: User focussed and accessible
2. Principle 2: Independent and fair
3. Principle 3: Efficient
4. Principle 4: Effective
5. Principle 5: Accountable

As public servants, we are all required to uphold the Public Service Commission's Standards of Integrity and Conduct¹ which require that we act with a spirit of service to the community and meet the same high standards of integrity and conduct in everything we do. We must be fair, impartial, responsible and trustworthy.

To be fair:

- We must treat everyone fairly and with respect;
- We must be professional and responsive;
- We must work to make our services accessible and effective;
- We must strive to make a difference to the well-being of New Zealand and all its people.

Treating people fairly means that we do not show any favouritism, bias or self-interest in our work. We are required to administer the law and to give effect to government policy fairly and reasonably, and with respect for the people we serve.

Our decisions must be based on accurate information, taking into account only relevant considerations. We must decide cases on their merits. We must observe the principles of natural justice, which requires us to disclose information about the way we make decisions and allow a fair opportunity for people who may be affected by them to make representations.

We must avoid any perceived unfairness that could arise from having any personal interest in decisions we make or from working on matters where we have a close relationship with those involved.

We must be fair to the community as a whole. This means that we must not concede to unreasonable demands from people seeking our services.

2.2 Responsibilities under this policy

Any strategies that effectively change or restrict a person's access to our services must be considered at the Manager level or higher as provided in this policy.

Upon reporting of an incident of unreasonable conduct, the staff member's supervisor will follow the process outlined under the section 'Changing or restricting a person's access'.

2.3 Where the unreasonable conduct escalates to a threat

OPC's policy for responding to threats to staff safety will apply where unreasonable conduct escalates to a threat.

Violence or threats of violence create risks to our staff and are never acceptable. According to Worksafe guidance, violence can take many forms – ranging from physical assault and verbal abuse to intimidation and low-level threatening behaviour. OPC therefore has a **zero tolerance** approach to threats made to OPC staff.

¹ <https://www.publicservice.govt.nz/guidance/guide-he-aratohu>

2.4 Where the unreasonable conduct creates a risk to the wellbeing of OPC staff

OPC takes the safety and wellbeing of our staff seriously. Inappropriate or offensive communication with our staff that does not respect their safety and wellbeing is a type of unreasonable conduct and may result in a warning or a limit on accessing OPC services and in serious or repeated cases may mean that service limits are imposed.

Unreasonable conduct creating a risk to the wellbeing of OPC staff includes:

- abusive or offensive comments or threats to OPC staff
- intimidation or harassment of OPC staff by phone or email
- inappropriate questions to OPC staff or referencing non-relevant OPC staff personal information in complainant communications with OPC
- threats to defame OPC staff or to publish personal information about OPC staff
- posting personal information about OPC staff online, including any communication that breaches the communication principles in the [Harmful Digital Communications Act](#).

2.5 Responsibilities of OPC staff

All staff are responsible for familiarising themselves with this policy as well as the OPC Values, and OPC's policies, guidelines and practice notes.

2.6 Recording and reporting incidents of unreasonable conduct

Staff are also responsible for recording and reporting all unreasonable conduct incidents they experience or witness to their Manager within one working day of the incident occurring.

If a staff member experiences unreasonable conduct, they should draft a file note that factually records details of the unreasonable conduct experienced and noting the date and time of the incident(s) as appropriate. For written instances of unreasonable conduct, a file note should be created that references the written material. If the staff member is aware of any previous incidences of unreasonable conduct, this should also be noted in the file note. The file note will be recorded on the relevant case file(s) and should be forwarded to the staff member's supervisor within one working day from when the incident occurred.

If a staff member is unsure whether an incident they experienced needs to be recorded or reported under this policy, they should discuss the suspected unreasonable conduct with their supervisor. If a supervisor advises that an incident does not need to be recorded or reported, a file note recording this advice should be made on the relevant case file(s).

2.7 Responsibilities of Managers and supervisors

All Managers and supervisors are responsible for supporting staff to apply the strategies in this policy, as well as ensuring that there are systems in place for identifying, assessing and managing unreasonable conduct related risks.

Managers, in consultation with the Assistant Commissioner or General Manager where appropriate, have the responsibility and authority to change or restrict a person's access to our services in the circumstances identified in this policy and the guidelines for managing and responding to threats, aggressive behaviour and violence from members of the public. Their

aim, when taking such actions, will not be to punish the person, but rather to manage the impacts of their conduct on our staff and our ability to carry out our functions effectively.

When applying this policy we will aim to keep at least one open line of communication with a person. However, we do recognise that in extreme situations all forms of contact may need to be restricted for some time to ensure the health, safety and security of our staff.

Managers are also responsible for ensuring compliance with the procedures identified in this policy and ensuring that all staff members are trained to deal with unreasonable conduct. Senior managers may also be responsible for arranging other forms of support for staff, such as appropriate communication or cultural training.

Unless otherwise specified “managers” refers to all managers and senior leadership team members at OPC. “The Manager” refers to the Manager, Investigations and Dispute Resolution, and to the Principal Investigator when acting as the IDR Manager’s deputy. “Supervisor” refers to all managers, principal and senior investigators.

3 What is unreasonable conduct?

Most complainants who deal with our Office act reasonably and responsibly in their interactions with us, even when they are experiencing high levels of distress, frustration and anger about their complaint.

However, in a small number of cases some complainants behave in ways that are inappropriate and verbally abusive towards our staff, overload us with unnecessary and excessive phone calls and emails, make inappropriate demands on our time and resources and refuse to accept our decisions and recommendation in relation to their complaints. When complainants behave in these ways (and where there are no cultural factors that could reasonably explain their behaviour) we consider their conduct to be unreasonable.

Unreasonable conduct is any behaviour that, because of its nature or frequency, raises substantial health, safety, resource or equity issues for our organisation, our staff and other service users.

Unreasonable conduct can be divided into five categories of conduct:

- unreasonable persistence;
- unreasonable demands;
- unreasonable lack of cooperation;
- unreasonable arguments, and
- unreasonable behaviours.

3.1 Unreasonable persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a person that has a disproportionate and unreasonable impact on our organisation, staff, services, time and/or resources. Some examples of unreasonably persistent behaviour include:

- an unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and communicated;
- pursuing and exhausting all available review options when it is not warranted and refusing to accept further action cannot or will not be taken on their matters;
- reframing a matter in an effort to get it taken up again;
- repeatedly contacting our staff/organisation by telephone, visits, letters, emails (including copied into correspondence) after repeatedly being asked not to do so;
- contacting different people within our organisation or externally in an attempt to get a different outcome or more sympathetic response to their matter.

3.2 Unreasonable demands

Unreasonable demands are any demands (express or implied) made by a person that have a disproportionate and unreasonable impact on our organisation, staff, services, time and/or resources. Some examples of unreasonable demands include:

- issuing instructions and making demands about how we have or should have handled their matter, the priority it was given or should be given, or the outcome that was or should be achieved;
- insisting on talking to a senior manager or the agency head personally when it is not appropriate or warranted;
- using language or behaviour intended to blackmail, manipulate, harass or shame staff into taking particular action in relation to a matter;
- insisting on outcomes that are not possible or appropriate in the circumstances;
- demanding services that are of a nature or scale that we cannot provide when this has been explained to them repeatedly.

3.3 Unreasonable lack of cooperation

Unreasonable lack of cooperation is the lack of willingness or ability by a person to cooperate with our organisation, staff, or system and processes that results in a disproportionate and unreasonable use of our services, time or resources. Some examples of unreasonable lack of cooperation include:

- providing voluminous, incomplete or incomprehensible material in support of a matter that does not clearly identify any issues, and failing to provide particulars of their issues when requested to do so;
- providing little or no detail in relation to a matter and failing to provide further particulars of their issues when requested to do so;
- refusing to follow or accept our instructions, suggestions, or advice without a clear or justifiable reason for doing so;
- arguing frequently or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments and explanations;

- displaying unhelpful behaviour, such as withholding information or deliberately providing information in multiple submissions, acting dishonestly or misquoting.

3.4 Unreasonable arguments

Unreasonable arguments include any arguments that are not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or incoherent and that disproportionately and unreasonably impact upon our organisation, staff, services, time, and/or resources. Arguments are unreasonable when they:

- fail to follow a logical sequence;
- are not supported by any evidence or are based on conspiracy theories;
- lead a person to reject all other valid and contrary arguments;
- are trivial when compared to the amount of time, resources and attention that the person demands;
- are false, inflammatory or defamatory.

3.5 Unreasonable behaviour

Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated a person is – because it unreasonably compromises the health, safety and security of our staff, other service users or the person themselves. Some examples of unreasonable behaviours include:

- acts of aggression and verbal abuse including derogatory, racist, or grossly defamatory remarks;
- harassment, intimidation or physical violence;
- rude, confronting and threatening correspondence;
- threats of harm to self or third parties, threats with a weapon or threats to damage property including bomb threats;
- stalking (in person or online);
- emotional manipulation.

3.6 Staff safety and zero tolerance policy

OPC has a zero-tolerance policy towards any harm, abuse or threats directed at staff. Any conduct of this kind will be dealt with under this policy, the policy for responding to threats to staff safety, and in accordance with our duty of care and work health and safety responsibilities.

4 Responding to and managing unreasonable conduct

4.1 Methods for managing unreasonable conduct

Unreasonable conduct incidents will generally be managed by limiting or adapting the ways that we interact with or deliver services to a person by restricting:

- who the person can contact – for example, limiting a person’s contact to a single staff member in our organisation;
- what the person can communicate – for example, restricting the subject matter of communications that we will consider and respond to;
- when the person can contact us – for example, limiting a person’s contact with our organisation to a particular time, day, or length of time, or limiting the frequency of their contact with us;
- how the person can contact us – for example, limiting the manner in which a person can contact us (for example, by email only), or restricting access to our premises, contact through a representative only, or terminating our services altogether.

Having regard to the nature and frequency of the particular unreasonable conduct, discretion will need to be used to consider which restrictions are appropriate to a particular person’s circumstances, including their location, level of competency, language/literacy skills and cultural background. It may be appropriate to use more than one strategy depending on the nature of the unreasonable conduct.

4.2 Risk-based approach

Decisions to restrict a complainant’s access to services should be viewed as the exception rather than the rule and should only be considered to mitigate risks posed by the conduct. If you are not sure about the likelihood of a particular risk eventuating, you should use the Risk Assessment Matrix at Chapter 14, page 87 of the New Zealand Ombudsman’s Manual.² This will assist you to situate the unreasonable behaviour and determine when an incident requires escalation. That also helps to come up with an overall rating for the unreasonable behaviour, supports good decision making i.e. a response calibrated to the seriousness of the conduct.

4.3 Who – restricting the person to a sole contact point

Where a person repeatedly approaches multiple people within our organisation about the same issue, changes their issues repeatedly, reframes their issues, or raises an excessive number of issues or complaints, it may be appropriate to restrict their access to a single staff member who will exclusively manage their matter(s) and interactions with our office. This will ensure they are dealt with consistently and may minimise the chances for misunderstandings, contradictions and manipulation.

If a staff member is unavailable for an extended period or is no longer suitable, a new staff member will be appointed.

4.4 What – restricting the subject matter of communications that we will consider

Where a person repeatedly sends written communications, letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content or relate to a matter that has already been comprehensively considered or reviewed by our office, we may restrict the subject matter the person can raise with us that we will respond to.

² <https://www.ombudsman.parliament.nz/resources/managing-unreasonable-complainant-conduct>

In these cases, we may:

- advise the person that the OPC has already comprehensively dealt with the issue (with reference to the relevant OPC reference number) and will not consider or respond to any further correspondence in relation to the issue
- advise the person that the OPC has previously found the matter or issue to be (for example) lacking in substance (with reference to the relevant OPC reference number) and will not consider or respond to any further correspondence in relation to the issue
- return correspondence to the person with advice that the OPC considers that the correspondence contains inappropriate content and invite the person to resubmit the correspondence with the inappropriate content removed. A copy of the inappropriate correspondence will also be made and kept for our records to identify repeat unreasonable conduct incidents.

4.5 When – limiting the frequency or duration of a person’s contact

If a person’s contact with our organisation places an unreasonable demand on our time or resources due to unreasonable conduct, we may limit when the person can interact with us. This may include:

- limiting telephone calls or face-to-face interviews to a particular time of the day or days of the week
- limiting the length or duration of telephone calls, written correspondence or face-to-face interviews. For example:
 - telephone calls may be limited to 10 minutes at a time and will be politely terminated at the end of that time period
 - written communications may be restricted to a maximum number of pages or characters
 - face-to-face interviews (where this has been agreed to) may be limited to a maximum of 15 minutes
- limiting the number of written communications a person can provide within a particular timeframe
- if the behaviour does not subside, we may limit telephone calls and written communications to only one per week, fortnight or month.

4.6 How – limiting the methods of a person’s contact

If a person’s contact with our organisation places an unreasonable demand on our time or resources due to unreasonable conduct, we may limit how the person can interact with us. This may include:

- requiring a person to provide information by a particular method(s) of communication, such as in writing only
- requiring a person to communicate through their representative only
- limiting a person’s attendance at our office, and allowing some other form of contact such as ‘writing only’ or ‘telephone only’ contact. A face-to-face appointment will not be

arranged if a staff member has any concerns that this will put their health and safety at risk

- terminating access to OPC services where there is a threat to staff safety.

4.6.1 Writing only restrictions

When a person is restricted to 'writing only' they may be restricted to written communications through:

- mail only
- email only to a specific staff email or our general office email account
- another relevant form of written contact where applicable.

If a person's contact is restricted to 'writing only', the Manager will clearly identify the specific means that the person can use to contact or send communication to our office. If it is not suitable for a person to enter our premises to hand deliver their written communication, this must be communicated to them as well.

Any communications that are received by our office in a manner that is not consistent with the 'writing only' restriction will either be returned to the person or read and filed without acknowledgement.

4.6.2 Contact through a representative only

We may also restrict our contact with a complainant to contact through a support person or representative only. The support person may be nominated by the complainant. If OPC considers that the representative or support person may exacerbate the situation, the complainant will be asked to nominate another person or we may assist them in this regard.

4.7 Terminating access to OPC services

A decision to have no further contact with a complainant will only be made if it appears that the complainant is unlikely to modify their conduct and their conduct poses a significant risk for our staff or other parties because it involves a threat to staff safety or is otherwise unlawful.

In these cases, the complainant will be informed that access to OPC services has been restricted.

A person's access to our services and our premises may also be restricted using legal means, such as a trespass notice, to protect our staff.

5 Changing or restricting a person's access

5.1 Consulting with relevant staff

When a Manager receives notification of an unreasonable conduct incident from a staff member, they will contact the staff member to discuss the incident as soon as possible and within two working days of the incident being reported. They will discuss:

- the circumstances that gave rise to the unreasonable conduct/incident, including the complainant's situation, personal and cultural background, and perspective;
- the impact of the person's conduct on our organisation, relevant staff, our time, resources, etc.
- the actions the staff member has taken to manage the person's conduct, if any, and the person's responsiveness to such actions;
- any suggestions made by relevant staff on how the unreasonable conduct should be managed;
- the history and prior conduct of the person with the organisation.

5.2 Factors to be considered

Following consultation with relevant staff, the Manager will consider the person's prior conduct and history with our organisation. Factors to consider may include:

- whether the person's conduct poses a substantial risk to the health and safety of staff or other third parties requiring immediate escalation (for example, where there has been a threat of physical harm);
- the status of the person's matter in our process and whether this is relevant to managing the unreasonable conduct;
- whether previous attempts to manage the person's behaviour have been made and if so, to what extent they have been effective;
- the likelihood that the person will modify their unreasonable conduct if they are given a formal warning about their conduct;
- whether changing or restricting access to our services will be effective in managing the person's behaviour;
- whether changing or restricting access to our services will affect the person's ability to meet their obligations, such as reporting obligations;
- whether changing or restricting access to our services will have an undue impact on the person's welfare, livelihood or dependents etc.
- whether there is a cultural perspective to the communication or the person's personal circumstances may have contributed to the behaviour, for example, the person is a vulnerable person who is under significant stress as a result of one or more of the following (to the extent known):
 - homelessness
 - physical disability
 - illiteracy or other language or communication barrier
 - mental or other illness
 - personal crises
 - substance or alcohol abuse.

NB: If we do have evidence or awareness of vulnerability, we need to consider what steps should be taken to ensure that any decision to restrict access will not exacerbate that vulnerability or disproportionately affect the individual. We need to ensure any action we take is consistent with our Human Rights Act obligations to make reasonable accommodation for disability – that may impact on changing or limiting access to services.³

- whether the person’s conduct in the circumstances was moderately disproportionate, grossly disproportionate or not at all disproportionate;
- whether there are any statutory provisions that would limit the types of limitations that can be put on the person’s contact/access to our services;
- Whether there are any cultural issues that need to be taken into account to ensure we do not inadvertently discriminate.

Once the Manager has considered these factors, they will decide an appropriate, reasonable and proportionate course of action in accordance with this policy and consult with the Assistant Commissioner, Compliance, Capability and Resolution. Our focus should be to permit ongoing access to services while mitigating the risk posed by the unreasonable conduct and the impact on OPC staff and resourcing. Any decision should be made impartially based on the risks presented in the particular case.

5.3 Decision not to take action

If a Manager decides that it will not be appropriate to restrict or otherwise alter a person’s contact with our organisation following report of an unreasonable conduct incident, they will discuss their decision with the staff member who reported the incident and create a file note on the relevant case file(s) outlining their decision not to take any action.

The Manager will provide any necessary feedback to the staff member in relation to identifying unreasonable conduct, managing a person’s conduct and monitoring for any further possible unreasonable conduct. The Manager will also provide any necessary support to the staff member, per the ‘Managing stress’ section of this policy.

5.4 Providing a written warning before limits on access

Unless a person’s conduct poses a substantial risk to the health and safety of staff or other third parties, the person will be provided with a written warning about their conduct in the first instance. This written warning will generally come from a Principal or Senior Investigator and only with the approval of the Manager or the Assistant Commissioner.

The written warning will:

- specify the date, time and location of the unreasonable conduct incident(s);
- explain why the person’s conduct is unacceptable;
- give examples of the relevant types of access changes or restrictions that may be imposed if the behaviour continues;

³ <https://tikatangata.org.nz/human-rights-in-aotearoa>

- provide clear and full reasons for the warning being given;
- provide the name and contact details of the staff member who they can contact about the letter.

5.5 Providing a notification letter of limits on access

Once a person has been given a written warning, the relevant staff member, in conjunction with their Manager, will monitor the person's behaviour. If a person continues to display unreasonable conduct, the Manager has the discretion to send the person a notification letter restricting the person's access to our services, with approval by the Assistant Commissioner.

In some circumstances, such as where the person's conduct poses a substantial risk to the health and safety of staff or other third parties, the Manager may decide to send a person a notification letter immediately restricting the person's access to our services without prior written warning, with the approval of the Assistant Commissioner.

This notification letter will:

- provide details of the identified unreasonable conduct incident(s), including dates and times where relevant;
- explain why the person's conduct is unacceptable;
- identify the change or restriction that will be imposed and what it means for the person;
- provide clear reasons for this change or restriction;
- specify the duration of the change or restriction imposed, which will not exceed 12 months;
- provide the name and contact details of the senior officer who they can contact about the letter and/or ask for a review of the decision.

5.6 Notifying relevant staff about access changes/restrictions

The Manager will notify relevant staff about any decisions to change or restrict a person's access to our services. The notification letter will be attached to the relevant case file(s) and the relevant file in Objective⁴ and serve as a record of the nature of the restrictions imposed and their duration.

6 Monitoring and review of access restrictions

6.1 Recording and reporting incidents of non-compliance

All staff members are responsible for recording and reporting incidents of a person's non-compliance with an imposed restriction. This should be recorded in a file note and a copy forwarded to the Manager who will decide whether any action needs to be taken to further change or restrict the person's access to our services.

⁴ OPC/1715

6.2 Review of imposed restrictions

The Manager will review the restrictions or service changes imposed upon the person at the end of the restriction period or following any further incidents of unreasonable conduct that involve the particular person.

When conducting a review, the Manager will consider:

- whether the person has had any contact with the organisation during the restriction period;
- any recorded reports of non-compliance with the imposed restriction;
- the person's conduct during the restriction period;
- any information/arguments put forward by the person for review of the restriction(s) imposed;
- any other information that may be relevant in the circumstances.

6.3 Informing the complainant of the review outcome

If the Manager determines that the restrictions may have been ineffective in managing the person's conduct or are otherwise no longer appropriate, such as where a person is no longer engaging in unreasonable conduct, they will either remove the restrictions, modify the restrictions or impose further restrictions. The person will be advised in writing of any changes with reasons, and relevant staff will be updated accordingly.

The review letter will:

- briefly explain the review process;
- identify the factors that have been taken into account during the review;
- explain the decision/outcome of the review and the reasons for it.

If the outcome of the review is to maintain or modify the restriction, the review letter will also:

- indicate the nature of the new or continued restriction, including if the restriction has been withdrawn;
- state the duration of the new restriction period;
- provide the name and contact details of the staff member who the person can contact to discuss the letter.

7 Asking for review of a Decision to Change or Restrict Access

If a decision has been made to change or restrict a person's access to our services, the person is entitled to comment and request review of the decision. This review will be undertaken by a senior staff member who was not involved in the original decision to change or restrict the person's access.

The reviewing officer will consider any submissions made by the person about why the decision is not reasonable and the material that was taken into account by the decision-maker. The reviewing officer will advise the person of the outcome of their appeal in writing and advise the person of their right to seek external review from an oversight agency such as the Ombudsman if the person is dissatisfied with the review decision.

It may not be reasonable to limit review to only once (i.e. if the person's circumstances change) but we could indicate that it will only be reviewed every three months and only if the person has any additional comment or relevant information to provide.

We must retain a copy of all correspondence and file notes relevant to the review decision.

8 Managing stress

8.1 Staff reactions to stressful situations

The OPC acknowledges that dealing with people who display unreasonable conduct can at times be extremely stressful, as well as distressing, upsetting or even frightening.

As an organisation, we have a responsibility to support staff members who experience stress as a result of situations that have arisen at work and we will do our best to provide staff with debriefing and counselling opportunities, when needed. To do this we also need the help of our staff to identify stressful incidents and situations. As a result, all staff have a responsibility to notify relevant supervisors or Managers of unreasonable conduct incidents and any stressful incidents that they believe require management involvement.

8.2 Debriefing

Debriefing means talking things through following a difficult or stressful incident. It is an important way of dealing with stress. Many staff members naturally do this with colleagues after experiencing a difficult interaction with a person, but debriefing can also be done with a supervisor or Manager or as a team following a significant incident. We encourage all staff to engage in an appropriate level of debriefing, when necessary. Staff have access to Lifeline services to debrief after a difficult call or interaction of any kind. This is available to the whole office and gives us access to specific services that are separate from that provided to the public for suicide or other mental health support.

The number to call is 0508 DEBRIEF, and we have a four-digit code- PRIV (i.e 7748). If you forget the code, they'll still take your call, but the code tells them where we are calling from. The line is confidential, they just need the code to know how many calls they get from us.

8.3 Employee Assistance Program

Staff may also access an external professional service on a needs basis by accessing the EAP <https://www.eapservices.co.nz/>

8.4 Training and Awareness

OPC is committed to ensuring that all staff are aware of and know how to use this policy. Regular training and information about using this policy and managing unreasonable conduct

will be provided to all staff who deal with external parties in the course of their work. This should include training to support culturally appropriate communication.

Quick guide to managing unreasonable conduct

This is a quick-reference guide intended to assist staff. All staff should read and be familiar with:

- OPC's 'Policy for Managing Unreasonable Conduct';
- the 'Managing Unreasonable Complainant Conduct' practice manual;
- OPC's policy for responding to threats to staff safety; and
- OPC's guidelines for responding to threats, aggressive behaviour and violence from members of the public.

Aggressive, abusive, or harassing phone calls

- Attempt to calm the client and stay calm yourself. Try to keep your voice even in tone and volume.
- Try to distinguish reasonable expressions of frustration from unreasonable conduct. Acknowledge reasonable frustration and show appropriate empathy. For example, do not jump in too quickly if someone needs to vent their frustration about the circumstances that have led to the client making a complaint.
- If the frustration escalates to aggressive, abusive or harassing behaviour, explain why the client's language or behaviour is inappropriate, and ask them politely to stop. Refer to some of the strategies and phrases in the Practice Manual. For example, 'I am happy to speak to you but you will need to lower your voice' or 'I am happy to speak to you, but that may be hard if you continue to swear. Would you mind please not using that word.'
- If the conduct continues, end the call. See 'Ending a Call' below.

Targeted threats during phone calls

- If a person makes a threat of harm to you or any other individual during a phone call, please make the threat overt by naming it. Repeat their statements as close to verbatim as possible so the person takes ownership of their threat/comments. For example *'Excuse me Ms Smith, I am going to have to stop you and confirm that you have threatened to hurt someone if your complaint is not dealt with.'*
- Take comprehensive notes of everything that is said.
- If the threat is serious, tell the person that because of the threat you will need to end the call and speak to your supervisor. See 'Ending the call' below.
- Make a file note of the interaction, and alert your supervisor.

Ending a call

- If you decide it is appropriate to end a call, warn the person that you will end the call if they do not stop the conduct.
- In general, provide at least two warnings before considering ending the call.
- If the conduct continues, tell the person that you will have to end the call, then hang up.

- Where a threat has been made, it may be appropriate to end the call without a warning.
- In all cases, please make a file note of the interaction, and alert your supervisor by speaking with them, or sending a file note to them from Objective.

Ongoing management of the conduct

- A person who has had their contact restricted or who has received a warning letter about their conduct, will have an alert flagged in their client record in Objective as appropriate. Speak to your supervisor if you believe that an alert should have been flagged but has not been.
- Where the person has already had their contact restricted and the restriction is such that by calling and speaking with you they have breached their contact restriction, you should immediately remind them of their contact restriction and terminate the call.
- If a person has previously received a warning letter about their conduct but is continuing with the conduct, consider ending the call and then flag the matter to a supervisor.

Responding to threats of self-harm

The OPC has a role in ensuring the safety of the people we communicate with.

- If an individual says that they may self-harm, you should try to establish whether there is a risk that this may occur, to the extent that you are able to do so.
- If you consider that there is a risk, you should consider whether to transfer your call to a supervisor to speak with the person. Make sure that if you are unable to continue with the call, you ask a supervisor or another colleague to take over the call.
- When assessing risk you should:
 - Keep calm and gather information that can assist the OPC to assess the risk to the person and take appropriate action.
 - Clarify the person's phone number and the address where they are at the time of calling.
 - Tell the person that you are taking what they say very seriously and that you cannot keep this crisis to yourself.
 - Ask questions such as:
 - Where are you? (If possible, identify their location/address).
 - Do you have someone with you?
 - What do you mean? (Clarify whether they have harmed themselves, or, if you feel comfortable and it is appropriate, whether they have a plan.)
 - Is there someone I can call who can assist you, for example a GP or family member?
 - Advise them that if they are at risk, we may need to call a mental health team or emergency services to provide assistance.
- If you consider there is a risk to the person, assess this with your supervisor and consider whether to notify a representative for the person, a relevant medical practitioner, mental health team or emergency services.

- Take detailed notes of everything that is said and file note this.

Further information on dealing with threats of self-harm is available in the OPC policy on managing unreasonable complainant conduct and the OPC guidelines on managing and responding to threats, aggressive behaviour and violence from members of the public.

Debrief

Most of us 'debrief' after a difficult interaction without realising that we are doing it. For example, after a hard phone call we might turn to our neighbours to tell them about the horrible things that the person said to us and seek reassurance that the complainant – not us – were being unreasonable. Doing this helps us to off-load the stress (and sometimes anger) that we feel when dealing with a challenging situation and gives us an opportunity to say all the things that we often want to (but cannot) say to a complainant – as professional complaint handlers. Sometimes we need something more formal than that.

Please ensure that you make a complete file note of your interaction as soon as possible afterward. After you've finished writing the file note, you can start purging the unpleasant memories from your mind.

You can always arrange a time to speak with your manager and supervisor, with the Manager, Support Services, or any other member of staff you feel comfortable talking to.

We also have Life Line 0508 DEBRIEF, four-digit code- PRIV (i.e 7748) and EAP available to all staff: <https://www.eapservices.co.nz/>

Practice Note - Guidance on taking action to block offensive callers and emailers

This practice note is to assist staff in the best practice for blocking offensive or belligerent telephone and email behaviour from enquirers to the office. It is directed at telephone calls and emails primarily, but the general principles can be modified and applied to other forms of communications with our office.

Background

Our processes allow for a variety of contact points into the office to facilitate an efficient and easy complaint process. Contact can be made by letter, email, fax or phone and individuals may request an appointment to meet with a member of staff.

Having interaction with the office is a statutory right and we are obliged to provide appropriate communication options. A particular contact option is a privilege and not a right and personal contact may be withdrawn if the individual abuses the right through problematic, belligerent, offensive or abusive behaviour. At the very least we would accept written communications on the understanding that it would not be considered if it was abusive or offensive.

Aggressive and abusive threats to a staff member over the telephone or by email are never acceptable. It is appropriate to end telephone calls of this nature. Our usual practice applies; that is to warn the caller that the behaviour is unacceptable and that if it persists the call will be terminated.

In the case of phone and email contact we are able to block contacts who are belligerent, abusive, offensive or otherwise problematic. This practice note sets out the action that we all need to adhere to when blocking such a contact.

Problematic behaviour might include volume, language, frequency, and/or relevance of the person's communication with the office.

Our Practice

Where a contact has displayed belligerent, abusive or offensive phone behaviour it is appropriate to consider withdrawing the ability to contact OPC by phone or email. Abusive or offensive behaviour is usually self-evident on the face of the contact. Belligerence would include behaviour that is overly aggressive, argumentative, repetitive or confrontational. Such behaviour might also result in the efficient administration of the office being significantly affected. Where the manner of an individual is concerning to staff the following steps are to be taken:

- At an early stage the person is to be put on notice that a continuation of the type of behaviour may result in the privilege of using email or the phone being withdrawn.
- If the concerning behaviour continues the incident/s are to be brought to the attention of your immediate supervisor.

- At all times the incident in which the behaviour is demonstrated needs to be recorded fully and accurately in the OPC file.
- If you are aware that other staff members are being confronted by the behaviour, accurate records of those incidents are also to be captured on the file.
- Only after discussion with your supervisor and the MIDR, the person may be officially put on notice that if the behaviour continues all calls or emails will be blocked. This notice may be given in person on the phone, by email or by letter. The warning can be made by the staff member or the supervisor. The warnings are to be recorded on or copied to the OPC file.
- If the behaviour continues beyond the official notice, a brief report is to be generated for referral to the General Manager, with a copy to the Assistant Commissioner, who will arrange for the caller to be blocked. That report shall include sufficient details to enable the General Manager to identify the person's email or telephone number. The General Manager will act as an additional scrutineer of the process.

NOTE: Many of these types of callers contact our office in the context of complaints. It is not unusual for a wide variety of staff within the office to be exposed to these people. It is important that when you become involved in a cycle of abusive or worrying calls that you consult with the MIDR and with your colleagues to ensure that all incidents are known and captured. In most instances it would be appropriate that the operational staff (investigations, enquiries, compliance, policy) manage the process envisaged by this practice note.

Refer also to the OPC guidelines for managing and responding to threats, aggressive behaviour and violence from members of the public.

As these incidents develop, a record of the memo to the General Manager and Assistant Commissioner and any other record of action taken shall be *aliased* or copied into the general objective file named "Banned Blocked and Abusive Individuals" under Complaints/04 Summary Reporting – Complaints/Complaints Reports."⁵

⁵ OPC/1715

Practice Note – guidance on responding to threats of self-harm

During contact with OPC staff, a person may threaten to commit suicide or to otherwise self-harm. In such situations, staff should try to establish the level of risk to the extent they are able and, if there appears to be a real risk to the person, notify the appropriate people (see ‘Determining the appropriate intervention’ for details).

We need to be cognisant that in some cases a threat of self-harm might be a genuine cry for help and not always the sort of conduct that would require limits on access to services. The OPC has a role in ensuring the safety of the people we communicate with. However, we are not qualified to assess risk of harm, and so will need to consider whether it is appropriate to refer those concerns to a qualified mental health professional. You never need to make that decision on your own, always discuss with your Manager.

If we ever receive information indicating risk of harm by others e.g. family violence/risks to children, you need to raise that with your Manager and the Privacy Commissioner immediately. There is no acceptable level of risk to children.

Establishing the basic details

If concerns arise about the person harming themselves or others, obtain information about their location if that is possible.

Estimating the risk

Staff of our organisation are neither trained nor expected to counsel people who are suicidal or threatening self-harm. If you experience a threat of this nature, keep calm and do your best to gather information that will assist a supervisor to assess the risk to the person and identify the appropriate action. Tell the person that you are taking what they say very seriously and that you cannot keep this crisis to yourself – that you will have to inform your supervisor and possibly the police, to ensure their safety.

Some key questions to ask the person are:

- Where are they?
- Do they have someone with them?
- What is their plan?
- Have they already taken action to harm themselves?

If you feel distressed or otherwise unable to continue the call you may ask for another staff member, preferably a supervisor, to take over or join the call.

Oblique references in written correspondence

If someone makes a concerning comment in an email, always bring it to your Manager's attention. Once you have discussed it with the Manager or another senior member of staff, you can use the following template to respond to them.

You mentioned in your email that you are USE THEIR EXACT WORDS.

I want to let you know that we take mentions of suicide and self-harm in correspondence with us very seriously.

I understand that it can be very frustrating and stressful to feel that you are not being listened to, or that an organisation like ours or THE AGENCY THEY ARE COMPLAINING ABOUT is not acting in the way that you would want or hope. We have limited resources and we can only deal with issues within our jurisdiction. We also cannot always work as quickly as people expect us to. I or my manager believe that a person is disclosing a serious risk to themselves or us, we would feel obliged to notify mental health services, and/or the Police of the risk.

It is not directly clear from your email that you are in immediate danger. I hope you have been in touch with your General Practitioner or other health professional to help you manage those feelings. I wanted also to let you know that if you feel you are at immediate risk you should call 111 and speak to the Police.

Where to get help:

- Need to Talk? Free call or text 1737 any time to speak to a trained counsellor, for any reason.
- Lifeline: [0800 543 354](tel:0800543354) or text HELP to 4357
- Suicide Crisis Helpline: [0508 828 865](tel:0508828865) / 0508 TAUTOKO (24/7). This is a service for people who may be thinking about suicide, or those who are concerned about family or friends.
- Depression Helpline: [0800 111 757](tel:0800111757) (24/7) or text 4202
- Samaritans: [0800 726 666](tel:0800726666) (24/7)
- Youthline: [0800 376 633](tel:0800376633) (24/7) or free text 234 (8am-12am), or email talk@youthline.co.nz
- What's Up: free counselling for 5 to 19 years old, online chat 11am-10.30pm 7 days/week or free phone 0800 WHATSUP / [0800 9428 787](tel:08009428787) 11am-11pm
- Asian Family Services: [0800 862 342](tel:0800862342) Monday to Friday 9am to 8pm or text 832 Monday to Friday 9am - 5pm. Languages spoken: Mandarin, Cantonese, Korean, Vietnamese, Thai, Japanese, Hindi, Gujarati, Marathi and English.
- Rural Support Trust Helpline: [0800 787 254](tel:0800787254)
- Healthline: [0800 611 116](tel:0800611116)
- Rainbow Youth: (09) 376 4155
- OUTLine: [0800 688 5463](tel:08006885463) (6pm-9pm)

If it is an emergency and you feel like you or someone else is at risk, call 111.

Our Office will continue working on your complaint and be in touch with you when I have a further update. I hope that will be within the next few days regarding the disclosure and recording matter.

Getting help

Staff are not expected to try to deal with this situation alone. They are to look after themselves by sharing the responsibility. For example:

- While the person is on the line, gain the attention of another staff member who can assist you
- All staff members should be alert to the conversations taking place around them so they can offer assistance or notify a supervisor
- Forms of assistance other staff and supervisors can offer include looking up appropriate referral numbers while you are speaking to the person, providing support and guidance during the conversation, or if necessary, taking over / joining the conversation.

Determining the appropriate intervention

If in discussion with your supervisor you consider that there may be a real risk to the person, consider notifying:

- Emergency services
- Family members or representatives of the person, or a relevant medical practitioner, and/or
- In the case of a person receiving care, the approved provider of the facility in which the person lives.

Relevant referrals

There are a number of services available that it may be appropriate to refer a person to if they are making threats of self-harm including:

- Need to Talk? Free call or text 1737 any time to speak to a trained counsellor, for any reason.
- Lifeline: [0800 543 354](tel:0800543354) or text HELP to 4357
- Suicide Crisis Helpline: [0508 828 865](tel:0508828865) / 0508 TAUTOKO (24/7). This is a service for people who may be thinking about suicide, or those who are concerned about family or friends.
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- What's Up: free counselling for 5 to 19 years old, online chat 11am-10.30pm 7 days/week or free phone 0800 WHATSUP / [0800 9428 787](tel:08009428787) 11am-11pm
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- Rural Support Trust Helpline: [0800 787 254](tel:0800787254)

- Healthline: [0800 611 116](tel:0800611116)
- Rainbow Youth: (09) 376 4155
- OUTLine: [0800 688 5463](tel:08006885463) (6pm-9pm) Recording

Always make a 'verbatim' record of all threats of self-harm and the actions you took in response and put a copy on the relevant file.

Practice Note – guidance on managing stress

Staff reactions to stressful situations

The OPC acknowledges that dealing with people who display unreasonable conduct can at times be extremely stressful, as well as distressing, upsetting or even frightening.

As an organisation, we have a responsibility to support staff members who experience stress as a result of situations that have arisen at work and we will do our best to provide staff with debriefing and counselling opportunities, when needed. To do this we also need the help of our staff to identify stressful incidents and situations. As a result, all staff have a responsibility to notify relevant supervisors or Managers of unreasonable conduct incidents and any stressful incidents that they believe require management involvement.

Debriefing

Debriefing means talking things through following a difficult or stressful incident. It is an important way of dealing with stress. Many staff members naturally do this with colleagues after experiencing a difficult interaction with a person, but debriefing can also be done with a supervisor or Manager or as a team following a significant incident. We encourage all staff to engage in an appropriate level of debriefing, when necessary.

Self-care strategies to manage stress

You can take the following proactive steps, developed by the Queensland Ombudsman, to manage your own stress levels and maintain your mental and physical wellbeing. These personal care strategies include the following:

- Be aware of feelings of self-blame if things do not go to plan.
- Be proactive in managing feelings of frustration, anger or resentment.
- Set manageable goals, break them down into simple steps and identify priorities.
- Rather than focusing on what you cannot accomplish, think positively and focus on the things you can – and reward yourself when goals are achieved.
- Don't be afraid to ask for help if you need it and have the ability to say no without feeling guilty.
- Debrief with colleagues, a supervisor, manager or an external professional.
- Draw on your team/colleagues for support and to work through issues.
- Build a good working relationship with your direct supervisor and other senior staff and regularly report to them.
- Communicate openly and seek support.
- Ensure you take lunch breaks, annual leave and flexi-days and that you do not regularly take work home to complete.
- Make use of employee assistance programs and seek professional help, if required.
- Use humour in the workplace to help lighten emotional experiences and provide a broader perspective of a situation.
- Be part of social networks at work and at home for support and satisfying relationships.
- Take part in activities that you enjoy in your free time.
- Take part in regular physical activity to help you manage stress.

- Lead a healthy lifestyle.
- Trial relaxation methods to see what works for you.

You could also check out some free online resources:

- There is lots of good information out there about [amygdala hijack](#)
- Robyn Brady. Read [her very good book on resilience](#)
- [Colouring for mindfulness.](#)
- [Yoga to de-stress.](#)
- [Simple meditative practice.](#)
- [Rain sounds for relaxation.](#)
- [Simple ways to boost mental fitness](#)

Employee Assistance Program

Staff may also access an external professional service on a needs basis by accessing the EAP <https://www.eapservices.co.nz/>

Or calling the Lifeline Debrief Line: 0508 DEBRIEF, four-digit code- PRIV (i.e 7748)

RESPONSIBILITIES	
Persons/ Areas Affected	ALL OPC Staff & Contractors
Contact	General Manager
Approval Authority	Privacy Commissioner
Last Review Date	June 2024