

# COMPLAINTS HANDLING AND MANAGEMENT POLICY

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## **Tier 2: Operational Policy**

### Unreasonable Conduct

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## 1. Introduction

The Community Services Directorate (CSD/the Directorate/we) is committed to being accessible and responsive to everyone who approaches us for assistance or with a complaint. In providing our range of services we depend:

- Working effectively and effectively
- The health, wellbeing, safety, and security of our staff and
- A fair allocation of resources across all our operations.

Our ability to provide high quality service can be significantly affected by unreasonable behaviour of people dealing with us, by requiring resources which could otherwise be used for providing services or effectively handle complaints. It is important we properly manage unreasonable conduct by a service user, complainant or member of the public.

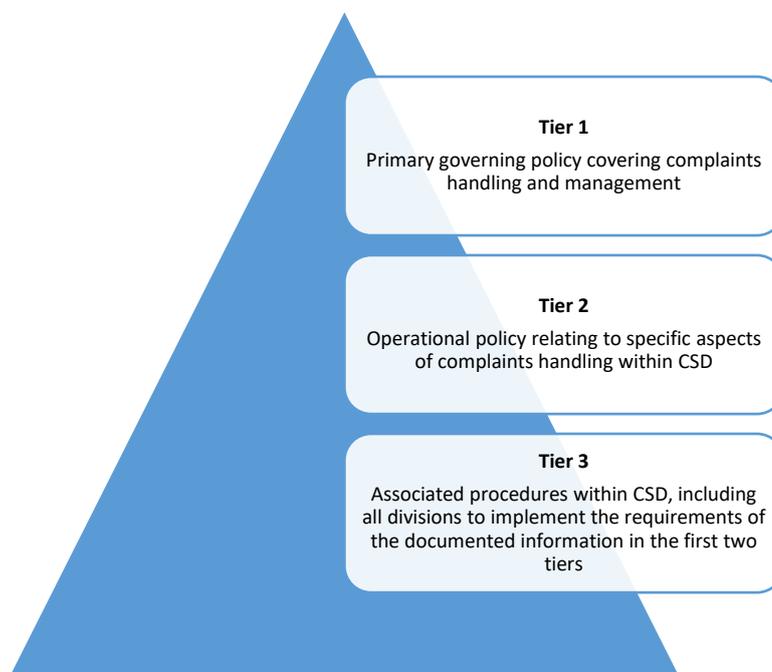
We have zero tolerance for any harm, abuse, or threats directed towards our staff or any other service providers. We will take fair and decisive action to manage any conduct which negatively and unreasonably affects our staff or operations, while also respecting human rights and following the principles of procedural fairness.

This policy is part of CSD's Complaints Handling and Management Policy (CHaMP) framework which makes sure we deal with complaints and decisions fairly, and we learn lessons to lead to improvement in our services.

## 2. The complaints policy suite: How to use the documents

The CHaMP framework is designed to set out how we receive and respond to complaints for transparency and accountability.

The framework is arranged into three (3) tiers:



All policy documents should be read in conjunction one another.

### 3. What this document is for

This document sets out how to recognise and manage unreasonable complainant conduct by a complainant, client, service user or member of the public. The behaviour may occur on one occasion or over a number of occasions.

### 4. Who this policy is for

This policy applies to all CSD staff (including those by appointment, secondment, contract, ongoing, casual, temporary assignment, volunteer or on a fee-for-service basis) and to staff of associated organisations and service providers.

### 5. Key Principles

- We will treat all service users - including complainants - with fairness and respect
- All service users and complainants have the right to access to the services we provide
- People who behave unreasonably may have a valid issue
- Actions to manage a person's behaviour should be limited to what is necessary and proportionate
- We will make decisions about the resources dedicated to a complaint or request based on its substance and merits, not the demands or behaviour of the service user or complainant
- The most important thing in dealing with unreasonable conduct is the health, well-being, safety, and security of our staff.

### 6. Unreasonable Conduct

Unreasonable conduct is any behaviour by a person which, because of its nature or frequency, raises substantial health, safety, resources or equity issues for our staff. It may be by service users, complainants or members of the public. It can happen under a range of circumstances including:

- Telephone communication
- Face-to-face interaction
- Online or written correspondence, including social media.

We divide unreasonable conduct into five key categories (described below), although conduct can fit into more than one category. The categories are:



### **Unreasonable persistence**

Unreasonable persistence occurs when people refuse to accept an outcome or a final decision, and persist with their issues. For example, unreasonable persistence may involve people:

- engaging in an excessive volume of communication
- supplying excessive volumes of paperwork in support of their complaint
- repeatedly engaging with a member of our staff to have a decision changed, despite being requested not to do so, solely because the decision was not in their desired outcome
- reframing a complaint in an effort to have it considered again or,
- contacting different people within CSD and/or externally to get a different outcome or response to their complaint.

### **Unreasonable demands**

Unreasonable demands are those which are unattainable, changing, or overly particular. For example, people making unreasonable demands may:

- issue instructions and make demands about how we should handle their complaint, the priority we should give it, or the outcome
- demand reviews beyond those outlined in our review policy, and/ or demanding a different outcome without demonstrating the original one was wrong
- insist on talking to senior staff personally when it is not appropriate or warranted
- engage in conduct with the intention to intimidate, harass, shame, bribe, intimidate, seduce or falsely portray themselves as being victimised
- insist on outcomes which are not possible or appropriate in the circumstances – e.g., for someone to be sacked or prosecuted, an apology and/or compensation when no reasonable basis for expecting this

- continue to demand services of a nature or scale which we cannot provide after we have explained this.

### **Unreasonable lack of cooperation**

Unreasonable lack of cooperation includes providing disorganised, excessive or irrelevant information, failing to provide relevant information, being unwilling to consider other valid viewpoints, or refusing to define issues of concern. For example, people showing an unreasonable lack of cooperation may:

- send a constant stream of very detailed and/or disorganised information without clearly defining any issues of complaint, or explaining how they relate to the core issues of the complaint
- provide little or no detail with a complaint, or presenting information in ‘dribs and drabs’
- refuse to follow our instructions, suggestions, or advice without a clear or justifiable reason for doing so
- argue frequently and/or with extreme intensity about a particular solution in the face of valid contrary arguments and explanations
- display unhelpful behaviour – such as withholding information, acting dishonestly or misquoting others.

### **Unreasonable arguments**

Unreasonable arguments are those which rely on conspiracy theories unsupported by evidence, irrationally interpreting facts or laws, are illogical, and do not take into account other views or interpretations. For example, people using unreasonable arguments may:

- express irrational claims/beliefs/conspiracy theories
- make complaints which are groundless, with the intent to cause distress, detriment or harassment to an individual or to CSD
- deny responsibility for action or inaction which might be reasonably expected
- make an argument which does not follow a reasonable sequence
- reject all other valid and contrary arguments
- make arguments which are minor in comparison to the time, resources, and attention the complaint demands or
- make false, inflammatory or defamatory arguments.

### **Unreasonable behaviour**

Unreasonably behaviour includes extreme anger, aggression, threats, or other threatening or violent conduct. For example, people engaging in unreasonable behaviour may:

- make threats to harm themselves or others, or to damage property
- make baseless attacks on the intentions, motivations, ethics or conduct of our staff
- issue threats of continued or escalated complaint or action against CSD to achieve their desired outcome
- use unreasonably and unacceptably abusive, aggressive, derogatory, defamatory, or racist language
- stalking (in person or online)

## 7. Roles and Responsibilities

We expect all our employees to be committed to effective and efficient managing of unreasonable conduct in accordance with:

- the principles outlined in [section 5](#) of this document,
- the Complaints Handling Charter
- Complaints Handling and Managing Policy.

Those who can be affected by unreasonable conduct include:

- CSD and/or its divisions responsible for handling a complaint or providing a service
- Any CSD staff member
- Any subjects of the complaint
- The person who made the complaint (potentially including members of their families, friends, community elders, etc.)
- Other people who have or make a complaint, and
- Other service users.

### **The Executive Branch Manager, Regulation, Assurance and Quality (RAQ)**

The Executive Branch Manager (EBM) of Regulation, Assurance and Quality (RAQ) is responsible for oversight of the Directorate's management of unreasonable conduct under this policy, and the primary contact for this Policy and related Procedure.

The EBM, RAQ, in consultation with relevant staff, has the responsibility and authority to restrict an individual's access to our services in the circumstances identified in this policy. When doing so, the EBM will consider the criteria in Managing Unreasonable Conduct Procedure and will aim to impose any service changes/restrictions in the least restrictive ways possible. The EBM's aim will not be to punish an individual, rather, to manage the impacts of the conduct on our staff and operations.

When an EBM makes the decision to consider restricting an individual's communication with us, the affected division will - working with RAQ's EBM or an identified RAQ staff member - identify an appropriate member of staff or team to support communication with the restricted individual. We recognise in extreme situations, it may be necessary to restrict all forms of contact for a period, to protect the health, safety and security of our staff and/or others.

### **Senior Management**

Senior Management are responsible for:

- supporting staff in the management of unreasonable conduct
- ensuring compliance with this policy and the related procedures
- ensuring all staff members are trained to deal with unreasonable conduct including on induction
- recording, monitoring, and reviewing all cases where this policy is applied, to ensure consistency, transparency and accountability for the application of this policy
- providing staff members affected by unreasonable conduct with support including:
  - through the opportunity to debrief. The People Management Branch should be consulted where necessary for any needed resources

- medical and/or police assistance and support through programs such as Employee Assistance Program (EAP)
- other forms of support for staff as warranted by the circumstances.

**All Staff**

All staff are responsible for familiarising themselves with this policy and the Tier-3 Managing Unreasonable Conduct Procedure. We encourage staff to explain our policies on unreasonable conduct to all services users, particularly those who engage in unreasonable conduct or exhibit the early warning signs for unreasonable conduct. We also encourage staff to use the strategies and scripts provided in Managing Unreasonable Conduct Procedure.

Staff are also responsible for documenting and reporting all unreasonable conduct incidents they experience or witness (as appropriate) to the senior management within 24 hours of the incident occurring, or as soon as practicable. They should use the sample unreasonable conduct incident form. They should also copy a file note of the incident into the appropriate CSD management database (for example Housing ACT Homenet; Child Youth and Protection Service’s CYRIS).

**8. Managing unreasonable conduct**

We value human rights, procedural fairness, and protection of staff in managing unreasonable conduct. We are also committed to ensuring access to entitled public services is uninterrupted, and engagement with us is fair and just.

It is important we actively manage the risk unreasonable conduct may negatively influence our decision making through incorrectly labelling those exhibiting the unreasonable conduct. We can do this by focussing on specific, observable conduct, and responding to it openly and transparently. In many cases, our staff will need to continue to engage with the individual in the course of our work, and we need to develop practical strategies for managing interactions, especially for frontline staff.

**Key Steps**

The management of unreasonable conduct consists of 7 key steps (detailed procedure and strategies, see Tier 3 document



We do not manage unreasonable conduct in a linear process. Our staff, after going through the steps, continue to consider the need for escalation, de-escalation, or re-categorisation of the conduct, and will adjust the strategies accordingly.

Where necessary, a combination of strategies may be used to manage an individual's unreasonable conduct.

### **Communication Plans**

After a Division has identified unreasonable conduct by a person, their first step is to discuss the behaviours with the person directly. The goal is to identify how our staff may engage with them in a more positive, effective, clear, timely, culturally or personally appropriate way.

If this discussion does not result in an improvement in the behaviours of concern, a Division may consider developing a communication plan with the person, in consultation with them. This plan must be documented. (Refer to procedures for more detail.)

If a communication plan does not result in an adequate improvement in the behaviours of concern, the Division may then consider taking more restrictive measures, in consultation with RAQ and with the authorisation of the EBM, RAQ.

### **Communication Protocol**

The EBM, RAQ, may decide a strategy is required to restrict communication access by a complainant, in the form of a communication protocol. These decisions should be the exception rather than the rule, and should only be made after carefully considering the factors which may be influencing the person's behaviour. A communication protocol must specify:

- which of our staff the person can have contact with
- what subject matter we will respond to when the person raises it with us
- when the person can contact us
- where the person can make face-to-face contact
- how the person can make contact
- the timeframe for periodic review of restrictions and the staff member responsible for making these decisions
- what the person can do if they are dissatisfied with a decision we have made.

## **9. Periodic Review**

### **Review of Communication Protocols**

All Communication Protocols must be reviewed every 12 months after the restriction was imposed. A restricted person may request a review after 6 months. Where there are further incidents of unreasonable conduct, we have the discretion to conduct a periodic review of restrictions at any other time.

We will invite the restricted person to participate in the review process.

The review may result in the restrictions being retained, modified or removed, depending upon the circumstance of the case.

### **Review of Communication Plans**

Communication Plan will be reviewed either at 3, 6 or 12 months. The restricted person will also be consulted in the review process.

The Unreasonable Conduct procedures provide further detail of the review process for Communication Protocols and Communication Plans.

## 10. Record Management

All our staff are responsible for recording incidents of unreasonable conduct in an appropriate file record of the individual involved, including when restrictions are not complied with. These will be captured in the division's data bases, and a central data base. Our records are to be kept in accordance with *ACT Territory's Record Act 2002*.

## 11. Related Policies

- *T1. Complaints Handling and Management Policy: Authorising Charter*
- *T1. Complaints Handling and Management Policy (CHaMP)*
- *T2. Complaints Handling and Management Policy: How a complaint will be handled*
- *T2. Complaints Handling and Management Policy: Unreasonable conduct*
- *T3. Complaints Handling and Management Procedure: Unreasonable conduct*
- *T3. Complaints Handling and Management Procedure: How a complaint will be handled by Regulation, Assurance and Quality*

## 12. Document information

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|-----------------------------|--|
| <b>Authorising officer:</b> | Director-General, CSD  |
| <b>Effective date:</b>      | 6 October 2022   |
| <b>Last reviewed:</b>       | 7 June 2023  |
| <b>Next review date:</b>    | Interim, 12 months from authorisation<br>Full review, 24 months from authorisation |
| <b>Access:</b>              | Open access – Available to all staff and the public                                |

## 13. Version history

The following table details the published date and amendment details for this document.

| Date       | Amendment details   |
|------------|---|
| 23/02/2022 | Drafted document  |
| 21/03/2022 | Revision of document following senior director feedback. Version 2.0                                  |
| 28/03/2022 | Acceptance of CSD Complaints Management Committee (CSD CMC) subcommittee member feedback. Version 3.0 |
| 07/04/2022 | Review undertaken by members of CSD Strategic Board of Management                                     |
| 02/09/2022 | Content update following discuss at CSD CMC, subcommittee.  |

| Date       | Amendment details                                       |
|------------|---|
| 06/10/2022 | Endorsed by CSD Strategic Board of Management           |
| 30/11/2022 | Following feedback from Communication and Media Team    |
| 07/06/2023 | Reviewed for grammatical errors and linkages to sources |