

Policy: Unreasonable Complainant Conduct

Purpose

This document sets out how NSW Trustee & Guardian (NSWTG) will manage Unreasonable Complainant Conduct.

The aim of this policy is to:

- Ensure staff feel confident and supported in taking action to manage Unreasonable Complainant Conduct (UCC) and act fairly, consistently, honestly and appropriately when doing so.
- Provide a framework for best practice interactions, improving overall efficiency by allocating sufficient time and resources to deal with UCC which if left unmanaged, can be a significant drain on the teams managing complaints.
- Promote strategies for complainant interaction management.

Acknowledging staff safety is paramount and ensuring staff are aware of Work Health & Safety and duty of care obligations by identifying the potential risks posed by UCC to staff health, safety and security and implementing measures to eliminate or control those risks.

Policy statement

NSW Trustee & Guardian is committed to effective complaint handling by applying the six whole-of-government commitments to effective complaint handling. The six commitments are:

- respectful treatment
- information and accessibility
- good communication
- taking ownership
- timeliness
- transparency.

Staff will use their best endeavours to resolve complaints before they escalate. This policy relates to people making complaints through the Complaints process. When a complainant behaves unreasonably, NSW Trustee & Guardian will take proactive and decisive action to manage this and will support its staff to do the same.

What is unreasonable complainant conduct

The NSW Ombudsman's [Unreasonable Complainant Conduct Manual](#) notes:

“Unreasonable complainant conduct (‘UCC’) can be defined as any behaviour by a current or former complainant which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the parties to a complaint. The parties to a complaint that might be detrimentally impacted by UCC include, the organisation responsible for handling a complaint, the case officer(s) tasked with dealing with a complaint, the subject of complaint, a complainant himself or herself (potentially including members of their families and friends) and other complainants and service users.

UCC is behaviour by a current or former complainant which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the parties to a complaint.

UCC can happen anywhere. It is not limited to telephone communications or face-to-face interactions with complainants. It can occur over the internet or on social networking websites, in a public location or in written correspondence. So far as the complainant’s conduct is unacceptable and arises during the course of, or as a direct result of, professional work/services provided by an organisation or its staff, it can legitimately be characterised as UCC.”

What is considered unreasonable?

NSW Trustee & Guardian may consider conduct unreasonable, whether it is a “one off” or ongoing, if it involves one or more of the following:

- Unreasonable persistence – where the complainant continues to raise issues even though they have been dealt with to finality, refusing to accept final decisions and sending excessive amounts of correspondence
- Unreasonable demands – complainants insisting on outcomes that can’t be provided or outcomes that aren’t possible
- Unreasonable lack of cooperation – complainants providing disorganised, excessive or irrelevant information, or not providing information requested
- Unreasonable arguments – complaints that are trivial, illogical or not evidence based
- Unreasonable behaviours – acting aggressively or rudely, being abusive or threatening (Unreasonable Complainant Conduct is separate to Unacceptable Client Behaviour).

Also refer to the NSW Ombudsman Framework for responding to and managing UCC that can be found in their [Unreasonable Complainant Conduct Manual](#).

Responding to Unreasonable Complainant Conduct

- NSW Trustee & Guardian has a zero-tolerance policy towards actual or threatened acts of harm or abuse directed at its staff. It is important that where a staff member feels threatened they raise these concerns with their Manager as soon as possible. It may be necessary to complete an Incident Report following serious threats made.
- Where a complainant displays unreasonable conduct, consideration must be given to changing or restricting their contact with NSW Trustee & Guardian and its staff. This may include who the complainant can have contact with, what they can raise with us, and when, where and how they make contact.
- Any staff member may identify unreasonable complainant conduct and, if they are unable to resolve it themselves, must alert their Principal Client Service Officer/Principal Guardian or Manager/Regional Manager to discuss in the first instance.

- The response taken must be the least restrictive approach to the situation and the complainant's circumstances (e.g. homelessness or their competency and literacy, their support and communication needs).
- The goal is not to punish the complainant, but rather to manage the impact of their conduct. In most instances, at least one line of communication should be maintained to be able deliver services.
- A decision to change or restrict a complainant's communication with NSW Trustee & Guardian or certain staff is to be communicated to the complainant, unless doing so would excessively aggravate the situation. Where it is not communicated directly to the complainant the decision needs to be communicated to an advocate, along with the appeal process.
- The decision to restrict a complainant's contact with NSW Trustee & Guardian is made by a Manager/Regional Manager.
- Complainants are entitled to seek an internal appeal of a decision to change or restrict their communication with NSW Trustee & Guardian by the Senior Manager. If the complainant is dissatisfied with the outcome of this appeal, they can contact the NSW Ombudsman.
- All communication restrictions must be reviewed by a Manager/Regional Manager at least every 6 months.
- Managers/Regional Managers are responsible for ensuring all records and documents relating to the management of a UCC matter are saved on the complainant TRIM or CRM file and the Management Issues are updated on CIS, CRM or TEAMS if related to a client.
- The Regional Manager/Manager will ensure any call restrictions are maintained on a list for the Switchboard Team to redirect the call.

Safety Focus

NSW Trustee & Guardian is committed to providing a safe and healthy working environment for staff, clients and other stakeholders. NSW Trustee & Guardian recognise staff are involved in complex, difficult decisions which can be stressful. Complainants may include people who are vulnerable, experiencing a loss of control due to a financial management or guardianship order and/or dealing with bereavement. This can have a significant impact on the communication support needs of the person and the interaction with staff members. Decision about limiting the nature or frequency of communication with NSW Trustee & Guardian, will consider these factors without compromising the safety of staff.

Compliance with this policy will ensure compliance with legislative provisions and provide a best practice model for the management of unreasonable complainants.

Decision to modify or restrict contact

- Decisions to modify or restrict a person's contact with NSW Trustee & Guardian will be carefully considered, taking into account various factors such as the complainant's personal circumstances.
- Decisions to modify or restrict a complainant's ability to contact are management responsibilities and will always be approved by a Manager/Regional Manager.
- Decisions to modify or restrict contact will also be made after careful consideration of factors like the complainant's personal circumstances and/or communication support needs and, where relevant, the role the staff member or organisation has played in exacerbating the unreasonable conduct.
- There needs to be clear documentation and evidence of unreasonable conduct prior to implementation of any restrictions.

Responsibilities

Senior Managers and Executive will ensure that:

- Managing UCC is recognised as a core organisational responsibility.
- UCC is given proper priority and adequate resources. This includes ensuring that staff are provided with adequate time to deal with cases where UCC is an issue.
- Staff are provided with adequate training and guidance on their roles and responsibilities and policies and procedures for preventing and managing UCC.

Managers will ensure that:

- A safe work environment is maintained
- Investigation and reporting occur for all incidents, including those where nobody was actually injured
- All staff are made aware of workplace health and safety policies and procedures
- Staff are supported in managing unreasonable complaints
- Correct approval to implement a contact restriction has been sought.

Staff will ensure that:

- They attend all mandatory training relating to Complaints Handling, Workplace Health and Safety, Disability Awareness and Safety and Security Training
- They report all incidents, including those where nobody was actually injured
- They assist with actions to reduce and eliminate workplace health and safety risks
- They follow the correct approval process to implement a contact restriction.

Scope

This policy applies to all staff of NSW Trustee & Guardian.

Document information

Title:	Unreasonable Complainant Conduct Policy
Owner:	Manager Ministerial & External Relations and Assistant Public Guardian
Approver:	Chief Executive Officer
Date of Effect:	9 April 2020