

Managing unreasonable conduct or vexatious complaints by complainants' policy

1. Policy statement

DJAG has zero-tolerance for violent, harmful, offensive, abusive, or threatening behaviour towards staff.

The Department of Justice and Attorney-General (DJAG) is committed to delivering high quality services that respond to our clients and the community's needs. DJAG values the benefits of effective complaint handling and responding to feedback. We believe our clients should be able to provide both positive and negative feedback about our services and the way that we provide them.

Effective complaint management is about accountability, access, and business improvement. It is an important part of our client service.

Most individuals will behave in a reasonable and responsible manner when making a complaint, however in some instances, an individual will behave in an unreasonable and/or threatening manner. This type of behaviour can negatively impact our success in resolving a client complaint and delivering our services.

2. Objectives

The main objectives of managing unreasonable conduct or vexatious complaints include:

- **working to ensure that the complainant's human rights** are properly considered at all times in relation to any decision made,
- **working to ensure consideration of the Charter of Victims' Rights** for a complainant who is also an affected victim under the Charter,
- **working to ensure equity and fairness** by dealing with complaints based on their merit, as opposed to demands or coercion,
- **improving efficiency and commitment** to appropriate resource allocation in the complaints process, and
- **managing or eliminating potential risks to health, safety and security** for staff through early identification and management.

3. Authority

This policy forms part of the **DJAG's Client complaints management system (CCMS)** which incorporates:

- an overarching policy that outlines guiding principles, a three-level tiered complaints approach and the seven stages of the complaint life cycle, and

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- all supporting related procedures, practices, systems, staff roles and resources DJAG uses to manage client complaints.

Whilst we have a responsibility to implement section 264 of the *Public Sector Act 2022*, DJAG requires a dedicated policy for unreasonable and vexatious conduct. DJAG's success in resolving client complaints relies on our ability to:

- effectively and efficiently complete our work,
- work in a safe and secure environment, and
- work with an appropriate and equitable allocation of resources.

When clients exhibit conduct in their interactions with DJAG staff that raise health, safety, resource or equity issues, DJAG has a responsibility to manage this behaviour so that it does not impact on our ability to deliver our services.

4. Who does this policy apply to?

This policy applies to all DJAG staff, including temporary staff, contractors and consultants and any other individual who provides a service on behalf of DJAG on a paid or voluntary basis.

It provides a consistent approach to managing unreasonable or vexatious conduct and provides DJAG staff with the tools to manage clients who negatively affect the delivery of services proactively and decisively.

5. Responsibility

The **DJAG Executive Leadership Team (ELT)** is responsible for endorsing departmental policies and ensuring application across the scope of the policies.

6. What is unreasonable complainant conduct?

6.1 Unreasonable conduct

DJAG defines unreasonable complainant conduct (UCC) as any behaviour by a current or former complainant which, because of its nature and/or frequency, raises a disproportionate impact on health, safety, resources, or equity issues for DJAG staff and our clients.

Parties that could be adversely impacted by UCC include:

- the business area responsible for handling a complaint,
- the Case Officer(s) responsible for dealing with a complaint,
- any member of staff subject to a complaint,
- the complainant themselves (potentially including members of their families and friends), and
- other complainants and service users.

In some cases, UCC can be complex and/or challenging making it difficult to reach an appropriate outcome.

UCC includes:

- persistent or frequent requests to find out how an investigation is progressing,
- lodging repeated complaints because of their inability (failure) to understand or accept why their complaint has not been investigated or they disagree with the outcome,
- a complainant using their own understanding of legislation to repeatedly question why a matter cannot be investigated or action taken, or
- a complaint that is minor in detail and does not warrant being considered under the complaints management process (frivolous complaints).

6.2 Unreasonable complaint – Frivolous complaints

Frivolous complaints¹ are those that do not warrant serious consideration because there is no supporting input or evidence to substantiate the complaint, or the complaint is assessed as being of little or no relevance/importance.

Frivolous complaints fall within the definition of *unreasonable arguments* (refer to the **Unreasonable behaviours table** below).

6.3 What are vexatious complaints?

A vexatious complaint² is a complaint that is not made in good faith, is considered to be vindictive or forms part of a pattern of conduct by the complainant that amounts to misuse of the complaints handling process. It can be a complaint made with the intent to be retaliatory in nature and/or intended to damage the reputation of the respondent.

This can also include a complaint that is known to be fictitious, false, or fabricated with the intent to do reputational damage.

The table below outlines five main complainant behaviours that are unacceptable and that may result in DJAG limiting the complainant's access.

Unreasonable behaviours		
Behaviour	Definition	Examples
Unreasonable persistence	<p>Continued, incessant and unrelenting conduct:</p> <ul style="list-style-type: none"> even though the matter has been finalised, or the complainant has been advised their matter is not within scope. <p>Behaviour that has a disproportionate and unreasonable impact on the business area, staff, services, time, and resources.</p>	<p>Some examples include:</p> <ul style="list-style-type: none"> refusing to accept further action cannot or will not be taken, reframing information in an effort to have it considered again, excessive number/volumes of phone calls, visits, letters, or emails (including cc'd correspondence) after being asked not to do so, and contacting different members of staff within the organisation about the finalised matter with the intention of obtaining a different result.
Unreasonable demands	<p>Demands for actions or outcomes that are not reasonable possible.</p> <p>Demands that are expressed or implied.</p> <p>Demands that have a disproportionate and unreasonable impact on the business area, staff, services, time, and resources.</p>	<p>Some examples include:</p> <ul style="list-style-type: none"> insisting on talking to a senior manager or the executive director when it is not reasonable or warranted, demanding services that are of a nature or scale that cannot be reasonably provided despite being explained why not repeatedly, and insisting on outcomes that are not possible or reasonable under the circumstances e.g. for a member of staff to be fired or prosecuted or for compensation when there is no reasonable basis for expecting these outcomes.

¹ [Frivolous Definition: 290 Samples | Law Insider](#), accessed 17 May 2022.

¹ [Vexatious Complaint Definition | Law Insider](#), accessed 17 May 2022.

Unreasonable behaviours		
Behaviour	Definition	Examples
Unreasonable lack of cooperation	An unwillingness to cooperate with DJAG, staff or within DJAG complaints system and processes. Results in a disproportionate and unreasonable impact on the business area, staff, services, time, and resources.	Some examples include: <ul style="list-style-type: none"> refusing to follow or accept instructions, suggestions or advice without a clear or justifiable reason, providing little or no detail or presenting information via numerous emails, sending a constant stream of unclear, irrelevant, or disorganised information where the complainant has a demonstrated capacity to write clearly, and displaying uncooperative and misleading behaviour such as withholding information, acting dishonestly or misquoting others.
Unreasonable arguments	Complaints that are not based in reason or logic, are incomprehensible, irrational, false, inflammatory, or immaterial.	Some examples include arguments that: <ul style="list-style-type: none"> are not supported by evidence, are based on conspiracy theories or irrational claims/beliefs, have no relevance to the central issue, illogically or irrationally deny any responsibility for action or inaction, and fail to follow a logical sequence or irrationally interpret facts and the evidence.
Unreasonable behaviour	When the complainant: <ul style="list-style-type: none"> makes threats, including threatening to self-harm, is aggressive, is abusive, or is rude. Behaviour that compromises the health, safety, and security of others.	Some examples include: <ul style="list-style-type: none"> acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks, harassment, intimidation, physical violence, lying or being intentionally misleading, baseless attacks on the intentions, motivations, ethics or conduct of staff, threats of harm, threats with a weapon or threats to damage property including bomb threats, and stalking.

7. Preventing and managing unreasonable conduct or vexatious complaints

DJAG staff will treat individuals with dignity and respect by providing appropriate standards of communication and fair administrative practices, however unreasonable interactions may be reduced or avoided:

- when the conduct is considered unreasonable, DJAG staff will tell the individual why their conduct is found to be unreasonable and ask them to change it, and
- unreasonable conduct strategies implemented by DJAG staff should be firm and consistently applied with proper consideration for compatibility with relevant human rights.

The **Management strategies table** provides examples of strategies staff can employ for each type of unreasonable behaviour demonstrated by the complainant.

The purpose of this table is to provide a starting position and gives confidence to staff that DJAG supports them when addressing UCC behaviours.

Management strategies	
Conduct	Management strategy
Vexatious	<ul style="list-style-type: none"> Change or restrict a complainant's access to services as per circumstances identified in this policy.
Unreasonable persistence	<ul style="list-style-type: none"> Saying 'no' without using the word (e.g. firm but polite, not defensive, or overly apologetic however should be made clear that no amount of pressure will change the decisions/position).
Unreasonable demands	<ul style="list-style-type: none"> Limiting the parameters for contact such as how often they can phone, who they can talk to and for how long.
Unreasonable lack of cooperation	<ul style="list-style-type: none"> Setting reasonable conditions for the acceptance of a complaint (i.e. requiring that a complaint is well defined and supporting information is well organised).
Unreasonable arguments / frivolous complaints	<ul style="list-style-type: none"> Declining to deal with complaints where no evidence exists and advising that contact will be discontinued.
Unreasonable behaviour	<ul style="list-style-type: none"> Setting limits and conditions and if necessary, applying risk management strategies.

Remember: Any strategies used to manage unreasonable conduct should be considered for compatibility with relevant human rights and rights as a victim of crime.

7.1 It is important for staff to focus on behaviours to separate the person from the issues they are raising

By separating behaviours from an individual, it ensures staff are dealing with the complaint/s and not incorporating bias into their decision-making processes. This makes it easier to consider an appropriate strategy to manage the unreasonable conduct.

The *Steps to managing unreasonable conduct* diagram outlines the methodology the Office of the Queensland Ombudsman recommends for identifying behaviours early and mitigating them by applying strategies and has been informed by the [Queensland Ombudsman's model for identifying and developing strategic responses to UCC](#).

The methodology shows the importance of monitoring the strategies implemented to ensure they are still addressing the complainant's unreasonable conduct.

7.2 Queensland Ombudsman Training

Staff seeking further guidance on strategies to employ for managing unreasonable conduct can attend training offered by the *Office of the Queensland Ombudsman*. Training will assist in identifying warning signs, determining methods to manage unreasonable behaviours, and appreciating when to escalate situations to management.

7.3 Steps for managing unreasonable conduct

Step 1.	Step 2.	Step 3.	Step 4.	Step 5.
Identify the warning signs	Assess the reasonableness of the conduct	Categorise the unreasonable conduct	Consider and select strategies	Implement strategies and monitor
<p>Indicators</p> <ul style="list-style-type: none"> individual’s complaint history, communication style/content, interactions with DJAG, outcomes sought, and reactions to advice/outcomes <p>Recordkeeping</p> <ul style="list-style-type: none"> report all unreasonable conduct incidents, make factual record of all interactions / observations, and handle initial interactions appropriately. 	<p>Criteria</p> <ul style="list-style-type: none"> likely level of impact/risk on staff, clients, service delivery, merits of issues, individual’s circumstances, proportionality responsiveness personal boundaries breached, and unreasonable under any circumstances. 	<p>Categories</p> <ul style="list-style-type: none"> persistence, demands, level of cooperation, arguments, and behaviour. 	<p>Considerations</p> <ul style="list-style-type: none"> history of interactions with DJAG, previous successful communication techniques, likely level of impact/risk on staff, clients and service delivery, personal thresholds and skill level of staff, and agency policy and practice, and jurisdictional issues. 	<p>Implement</p> <ul style="list-style-type: none"> take actions to put strategies into practice, record assessment and strategy, and communicate strategy. <p>Monitor</p> <ul style="list-style-type: none"> individual’s response, staff response – signs of stress, level of success for DJAG, and respond/alter strategy as required.

8. Managing staff wellbeing

Managers and roles responsible for instructing and supervising others have the authority to take action to meet legal requirements and protect staff such as keeping staff safe and improving their health and wellbeing by using an integrated approach.

The **Approving Officer** and **Managing Officers** are responsible for providing support to staff who have experienced a stressful interaction with a complainant including providing avenues for medical or police assistance or through access to the employee assistance programs.

Staff should be able to debrief their concerns relating to incidents of unreasonable conduct formally or informally.

The [Human Resources information on DJAG Intranet](#) defines a manager’s accountabilities, responsibilities and provides relevant content for assisting staff to be safe, well and healthy.

9. Decision to change, restrict or withdraw access

An effective strategy for managing unreasonable or vexatious conduct is to change, restrict or, in severe cases, withdraw an individual’s access to DJAG staff and certain services.

This strategy is implemented to ensure the safety and wellbeing of staff and should only be considered if a serious situation has occurred or if the complainant has repeatedly demonstrated unreasonable conduct or made multiple vexatious complaints.

A decision to limit access must consider the criteria outlined in the table above and it may limit a person's rights to equality (section 15) and to take part in public life (section 23) under the *Human Rights Act 2019* (HR Act). Therefore, any decision to change or restrict or withdraw certain services or access (limit access) should be done in conjunction with the HR Act.

The complainant must be made aware of the proposal to limit access and the types of limitations that are being proposed (i.e. affording the complainant natural justice), before a request to limit services is made to the **Approving Officer**.

The complainant's response to the proposal is to be considered before making a request to limit access.

9.1 Who determines a request to limit access

An **Approving Officer** has the authority to assess an application made by the **Managing Officer** and make a decision accordingly. All requests to limit access are to be considered in a transparent and accountable manner.

An **Approving Officer** is a person performing a role at the Human Resource Delegation Level 2, in accordance with the department's [Human Resource Management Delegation Schedule](#). The Approving Officer has the authority to delegate their function within the client complaints system to a Delegation Level 3 as per the [Human Resource delegation manual](#), if appropriate.

The Approving Officer is responsible for recording and advising the Managing Officer of their decision.

9.2 Timeframes on decisions to limit access

A decision to limit access is implemented for the timeframe outlined in the decision made by the **Approving Officer**.

The **Managing Officer** is to have oversight of all limitation decisions for their business area.

Before the expiry of a decision the **Managing Officer** is to assess the requirement for the limitation to continue and:

- make a request to the **Approving Officer** for an extension of the initial decision prior to its expiration, or
- if the limitation is no longer required, there is no requirement to make a request to the Approving Officer. The decision can stand until it lapses (e.g. if the complainant is no longer in contact with the business area).

*An extension request is made if there is still ongoing contact with the complainant and the **Managing Officer** has determined there is still a need for the limitation to be in place. All evidence is to be provided to the **Approving Officer** to justify the extension.*

If there is no expiration date on the limitation, the **Managing Officer** is to assess the current limitation decision as per operationally convenient (e.g. this may be annually). If there is no change required, there is no need for the **Approving Officer** to consider the matter.

9.3 Ability to review a decision limiting access

This policy allows for the review of a decision to limit access. To review a decision, an application is to be made to the **Approving Officer** by a **Managing Officer** if:

- the complainant is seeking to **amend the limitations imposed**,
- a new incident occurs seeking a **revision of the existing limitations**, or
- the **limitations are due to expire** and need to be reconsidered.

The **Managing Officer** is responsible for seeking a review from the **Approving Officer** in all scenarios and must provide the Approving Officer relevant information to allow the Approving Officer to make a decision.

10. Supporting material

A [Managing unreasonable conduct or complaints by complainant procedure](#) is available on the complaints resources page of the DJAG intranet. The procedure gives detailed instructions on process, roles and responsibilities, decision-making, continued monitoring and non-compliance and managing staff stress.

This policy can be used in conjunction with DJAG's *Client complaint management policy*.

11. Client complaints resources

Refer to the DJAG [Client complaints management policy](#) – Appendix 1 – Resources.

12. Contact

Strategy and Governance Branch is responsible for ongoing maintenance and oversight of the client complaints management system. Any questions relating to this policy and its application can be forwarded governance@justice.qld.gov.au.

13. Review

An administrative review of this policy will be conducted every two years and a comprehensive review every five years, or in the case of significant changes in legislation, directives, audit recommendations or significant organisational change.

14. Revision history

Revision date	Summary of Amendments	Approved by	Version
19 January 2023	Draft document	Director, Budget and Governance	1.0
19 January 2023 (out of session)	Approval	DJAG BoM	1.0
January 2024	Amended to reflect the implementation of the <i>Queensland Government Customer Complaint Management Framework</i> .	DJAG BoM	2.0
21 August 2024	Administrative amendment to include reference to Charter of Victims' Rights complaints	Executive Director, Strategy and Governance	2.1

15. Licence



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