

Managing unreasonable complainants

Overview

This policy explains what an unreasonable complaint is and how we will deal with people who are unreasonable complainants.

Scope

This policy applies to all employees at Muslim Care

Guiding principles

We will:

- Be fair and transparent when making decisions about unreasonable complainants.
- Apply the principles and strategies outlined in the NSW Ombudsman's Practice manual for Managing Unreasonable Complainant Conduct.
- Meet our legal obligations.

Unreasonable complaint behaviour

We understand that people who have a complaint can experience high levels of stress, frustration and anger about their complaint. However, there may be times when people who have a complaint act in ways that are inappropriate and unacceptable, even though we are trying to help them. This may include:

- Being aggressive or abusive to our team
- Threatening harm or violence
- Flooding our offices with unnecessary and excessive phone calls, emails or visits
- Making inappropriate demands on our time and resources
- Refusing to accept our decisions and recommendations

When people behave in this way, we consider their behaviour to be unreasonable.

This behaviour could be from someone who has a current complaint or who has made a complaint in the past and because of their behaviour, or the frequency of their behaviour, it raises issues around health and safety or resources and equity for us, our team, our other customers, or for the customer themselves.

Roles and responsibilities

All employees

Our team is authorised and encouraged to use the strategies and scripts outlined in Part 5 of the NSW Ombudsman's Managing Unreasonable Complainant Conduct Practice Manual. However, any strategy that restricts a person's access to our services must be approved by the Head of Governance and Commercial Advisory, CEO, or the CEO's delegate.

Our team must also report any incidents involving unreasonable complainants that they experience or witness to the Customer Feedback Representative for logging within 24 hours of the incident occurring.

If the incident impacts the health and/or safety of someone in our team, it must also be reported as a work health and safety incident.

Head of Governance and Commercial Advisory, CEO, or the CEOs delegate

The Head of Governance and Commercial Advisory, CEO, or the CEOs delegate, will consult with relevant people in our team to decide whether we will restrict a person's access to our services as outlined in this policy. They will consider the following factors when deciding whether to restrict access:

- Whether the behaviour involved anger, or actual or threatened aggression, violence or assault (which is unacceptable in all circumstances).
- Whether the complaint has merit.
- The likelihood that the person will stop behaving unreasonably if they are given a formal warning about their conduct.
- Whether changing or restricting access to our services will help to manage the person's behaviour.
- Whether changing or restricting access to our services will impact the person's ability to meet their obligations, such as reporting.
- Whether changing or restricting access to our services will have an unnecessary impact on the person's welfare, livelihood or dependents etc.
- Whether the person's personal circumstances have contributed to the behaviour. For example, the person is vulnerable and under significant stress because of:
 - i. Homelessness
 - ii. Trauma
 - iii. physical or intellectual disability
 - iv. illiteracy or other language or communication barrier
 - v. mental or other illness
 - vi. personal crises
 - vii. substance or alcohol abuse
- Whether the person's behaviour in the circumstances was unreasonable.
- Any legal reasons which limit the changes or restrictions that we can make.

The Head of Governance and Commercial Advisory, CEO, or the CEOs delegate will apply the least restrictive method possible in the circumstances and will try to keep at least one form of communication open with the person. However, there may be extreme situations where we might consider restricting most forms of contact for some time to ensure the health and safety of our workers.

The Head of Governance and Commercial Advisory, CEO, or the CEOs delegate is also responsible for making sure decisions are recorded, monitored and reviewed.

Heads of teams

Our Heads of teams are responsible for helping their teams to apply this policy, making sure their teams are trained to deal with unreasonable complainants and for supporting team members who are affected by unreasonable complainants.

How we respond unreasonable complainants

When we identify a person as an unreasonable complainant, we may limit their access to our services or change the way we provide services to them. This could include changing:

- Who they have contact with – for example, we might nominate one person that they talk to.

- What they can raise with us – for example, we might restrict what they can talk to us about and what issues we will respond to.
- When they can have contact – for example, we might limit contact to a time, day, or length of time, or limit the frequency of their contact with us.
- Where they can make contact – for example, we might limit the locations where we will conduct face-to-face interviews to our head office.
- How they can make contact – for example, we might limit the type of contact that the person can have with us. This can include limiting face-to-face interviews, telephone and written communications, prohibiting access to our premises, making contact only through a representative, or terminating our services altogether.

Generally, we will not restrict access to repairs and maintenance services, including after-hours urgent repairs, unless there is a Work Health and Safety risk arising from a person's contact with our repairs and maintenance staff. If we believe there is a risk, we may direct all requests to be in writing.

When we are deciding how to deal with unreasonable complainants, we will consider the person's circumstances to make sure that any restrictions we apply are appropriate. If we decide to restrict access, we will send the person a letter advising them our decision.

We will only decide to terminate our services when it seems unlikely that the person will change their behaviour or where their behaviour is a significant risk to our team or other people because it involves the following behaviour:

- Acts of aggression, verbal and/or physical abuse, threats of harm, harassment, intimidation, stalking, assault
- Damage to property while on our premises
- Threats with a weapon or common office items that can be used to harm another person or themselves
- Physically preventing one of our team members from moving around freely either within the office or during an offsite visit
- Unlawful behaviour

We may also take other legal action which would restrict access to our services such as using legal orders to protect our team by restricting access to our office/s.

We might also try to resolve the issue using dispute resolution such as mediation or conciliation.

Recording unreasonable complainant behaviour and restrictions

All decisions and associated documentation will be given to the Customer Feedback Representative for recording in the relevant system.

Appeals

Complainants are allowed one appeal of a decision to change or restrict access to our services. Refer to our Appeals policy for more information.

If a complainant is still unhappy after an appeal, we will appoint an independent third party to review our decision to make sure that we have acted fairly, reasonably and consistently, and have observed the principles of good administrative practice including, procedural fairness. We will consider the recommendation made by the third party as an independent reviewer, as well our obligations to our team and other customers.

Failure to comply with service restrictions

Our team are responsible for recording and reporting incidents if a complainant fails to comply with a service restriction. These incidents should be forwarded to the Customer Feedback Representative so it can be recorded in a file note in the relevant system and a copy forwarded to the Head of Governance and Commercial Advisory, CEO, or the CEOs delegate, who will decide whether we need to change a service restriction or restrict access further.

Reviewing service restrictions

If we decide to restrict services, we will review the situation to make sure the arrangement is working. A review will be done every 6 months, or on request by a team member or following any further incidents of unreasonable behaviour by the complainant.

The Head of Governance and Commercial Advisory, CEO, or the CEOs delegate, will invite all complainants to participate in the review process unless they believe that this invitation will lead to further unreasonable behaviour from the complainant. The invitation will be given and the review will be conducted as per the current services restrictions (e.g. if contact has been restricted to writing only then the invitation to participate will be done in writing and the person can only respond in writing).

The Head of Governance and Commercial Advisory, CEO, or the CEOs delegate, will consider the following during a review:

- Whether the complainant has had any contact with us during the restricted period.
- The complainant's behaviour during the restricted period.
- Any information/arguments put forward by the complainant for review.
- Any other information that may be relevant in the circumstances.

The Head of Governance and Commercial Advisory, CEO, or the CEOs delegate, may also consult any team members who have had contact with the complainant during the restricted period.

The Head of Governance and Commercial Advisory, CEO, or the CEOs delegate, will tell the complainant the outcome of their review using the appropriate/relevant method of communication as well as a written letter explaining the outcome, if applicable. The review letter will:

- Briefly explain the review process.
- Identify the factors that have been considered 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:
 - Tell them about the new or continued restrictions.
 - State the duration of the new restriction period.
 - Provide the name and contact details of the Head of Governance and Commercial Advisory, CEO, or the CEOs delegate, who the complainant can contact to discuss the letter.
- Be signed by the Head of Governance and Commercial Advisory, CEO, or the CEOs delegate.

The Head of Governance and Commercial Advisory, CEO, or the CEOs delegate, will pass all information relating to a review to the Customer Feedback Representative for recording in our system. They will also notify all relevant team members about the outcome of the review including if the restriction has been withdrawn or extended.

Training and assistance for our team

We will provide ongoing training about unreasonable complainants to our frontline teams to help them to recognise and better deal with unreasonable complainants.

We will also help team members who are impacted by unreasonable complainants. This may include debriefing, formal assistance through our Employee Assistance Program or assistance with legal remedies.

Relevant laws, regulations, or standards

- Work Health and Safety Act 2011 (NSW)

Policy information

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