

## POLICY

# Dealing with challenging behaviours from members of the public

<b>TRIM record number</b>	DOC/18/22584
<b>Date approved</b>	25 May 2018
<b>Last reviewed</b>	25 May 2018
<b>Next review</b>	25 May 2020
<b>Responsible officer</b>	Assistant Ombudsman, Portfolios & Administrative Improvement

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## **POLICY STATEMENT**

The Ombudsman is committed to being accessible and responsive when dealing with the public and taking complaints. We expect our staff to be respectful, provide clear and reasoned information to the public; and we recognise that people making complaints to us may be stressed, frustrated or upset. We also recognise that people who contact this office have diverse backgrounds and needs. However, we do not tolerate behaviour that is offensive, abusive, threatening or consumes disproportionate resources. Where this is the case, we may take steps to reduce any detrimental impact of such behaviour on our staff, our office's productivity and resources. This policy sets out how we deal with challenging behaviours in a way that is fair and balances the interests of complainants, our officers, our organisation and the public.

## **WHAT IS 'CHALLENGING BEHAVIOUR'?**

1. 'Challenging behaviour' in the context of service delivery, is any behaviour which a Victorian Ombudsman (VO) officer finds to be challenging to deal with or respond to. Different behaviours by complainants will affect VO officers in different ways.
2. The phrase 'challenging behaviour' encourages VO officers to identify the sorts of behaviours which they find challenging, and to use strategies to effectively deal with such behaviours where they arise in the course of their work.
3. There is a wide spectrum of potentially challenging behaviour. Most types of challenging behaviour can be dealt with by using preventive and responsive strategies which de-escalates conflict and re-focuses the interaction on the issue at hand, rather than how it is affecting the person complaining. However, some types of challenging behaviour, such as verbal abuse, threats and violence, are unreasonable in expression and degree and are therefore never acceptable.

## **WHAT IS 'UNREASONABLE BEHAVIOUR'?**

4. 'Unreasonable behaviour' means any behaviour by a complainant which, because of its nature or frequency, raises health, safety, resource or equity issues for an organisation, its staff and other service users. The focus of the idea is on the behaviour, rather than the complainant.

5. Unreasonable behaviour can include:
  - repeated contact by a complainant after we have comprehensively considered and finalised their complaint
  - persistent demands by a complainant on how VO should handle a complaint, the priority it should be given, or the outcome that should be achieved
  - a continual unwillingness by a complainant to cooperate with our staff and processes
  - constant and repeated arguments by complainants that are not based on reason or logic, that are incomprehensible, false, inflammatory or trivial
  - acts of aggression, threats, verbal abuse, derogatory, racist or defamatory remarks.
6. Unreasonable behaviour is not limited to telephone communications or face-to-face interactions. It can occur over the internet, on social media, in public locations or in written correspondence.

## **WHY DO WE NEED STRATEGIES TO DEAL WITH CHALLENGING BEHAVIOUR?**

7. VO serves the public interest and assists members of the public to exercise their rights under the *Charter of Human Rights and Responsibilities Act 2006*, so it is imperative that we be accountable and accessible to members of the public who wish to complain to us.
8. While having regard for the human rights of those who complain to us, VO does not expect its officers to tolerate behaviour that is offensive, abusive, threatening, or which consumes disproportionate resources.
9. We value good communication and assist complainants where possible. Our front line staff are skilled in dealing with complex issues and taking preventative measures when complainants display challenging behaviour, before escalating the issue to more senior officers in VO.
10. VO is not an emergency or crisis service, and our officers do not offer specialised crisis support. Our expertise is complaint handling, not diagnosing the motivation behind a complainant's behaviour.
11. However, we will take practical steps and implement strategies to reduce or mitigate the impact of challenging behaviour from complainants to ensure staff wellbeing, proper use of our resources and productivity within the office. VO will

usually issue a warning to a complainant who is engaging in unreasonable behaviour, and provide them with an opportunity to cease the behaviour before we implement more formal communication strategies.

12. At the same time, we will ensure that we properly consider the subject matter of the complaint, regardless of a person's behaviour.

13. The *Charter of Human Rights and Responsibilities Act 2006* sets out the rights, freedoms and responsibilities shared by everyone in Victoria. When we consider implementing strategies to best respond to unreasonable behaviour, the following rights may be affected:

- recognition and equality before the law (section 8)
- freedom of expression (section 15)
- taking part in public life (section 18).

This list is not exhaustive and other rights in the Charter may apply depending on the circumstances.

14. Section 7(2) of the Charter allows for VO to limit or restrict a human right provided it is reasonable and justified, taking into consideration the following criteria:

- the nature of the right
- the importance of the purpose of the limitation
- the nature and extent of the limitation
- the relationship between the limitation and its purpose; and
- any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

## HOW DO WE RESPOND TO CHALLENGING BEHAVIOUR?

15. Most challenging behaviour can be dealt with using good complaint handling and defusing strategies. These include both preventive and responsive strategies, which reduce the incidence and intensity of challenging behaviour.
16. To both prevent and defuse challenging behaviour, VO staff will:
- Treat complainants politely and with respect, including listening to concerns, explaining decisions, and providing opportunities to discuss or comment on any preliminary findings
  - Use plain English
  - Be responsive and timely in their dealings with complainants
  - Manage expectations about the complaint process and possible outcomes
  - Not avoid difficult conversations with complainants.
17. Responsive strategies also include making reasonable adjustments to assist complainants with a disability (including mental illness) to access VO's services, consistent with VO's obligations under the *Disability Act 2006*, the *Equal Opportunity Act 2010*, the Charter and the VO Accessibility Action Plan.
18. It is only when challenging behaviour is or becomes truly unreasonable that VO will consider implementing contact response strategies or limiting a complainant's access to VO's services.
19. If a person's behaviour is or becomes unreasonable, VO officers can apply appropriate and proportionate strategies to respond to the behaviour. The strategies will depend on the type of behaviour involved.
20. Before we make a decision to limit a complainant's contact with VO, we take less formal steps such as warnings and apologies where appropriate, to address challenging behaviours that raise safety, resource and equity issues.
21. To respond to these incidents, we may limit or adapt the ways a complainant interacts with the office by restricting:
- whom they have contact with – for example, limiting a complainant to a single contact person
  - what issues we will respond to – for example, restricting the subject matter of a complaint unless it raises new issues that warrant investigation
  - when a complainant can have contact with the office
  - where they can make contact – limiting the location where we will conduct face-to-face interviews

- how they make contact – for example, limiting or modifying the ways a complainant can contact us.

22. When choosing an appropriate strategy to respond to or limit a complainant's contact with VO, we will consider the nature and degree of the complainant's conduct, the likely effectiveness and impact of a strategy, and VO's legal obligations (including human rights considerations). More than one strategy may need to be used in individual cases. We will use our discretion to adapt strategies to suit a complainant's personal circumstances or special needs, and level of language or literacy skills, for example.

23. Instances of complainants engaging in unreasonable behaviour must be recorded or documented and should describe what the complainant did or said and what action was taken in response. These records will be considered prior to implementing a response strategy.

24. In all instances, we will inform a complainant of when and why a response strategy is to be implemented. The complainant is able, as is the case with all of our decisions, to request a review of a restriction or limitation placed on them (see our 'Complaints about the Ombudsman' policy for more information).

25. We periodically review response strategies to reassess whether the strategy is still effective and relevant. We will tell complainants when their strategy will be reviewed. In some circumstances, we may write to the complainant advising them of any changes to restrictions on contacting the office.

26. In rare circumstances, we receive threats from individuals that they will harm themselves or others. When this occurs, we may contact the appropriate authority (such as Victoria Police) to report the threat.

## SUPPORT FOR STAFF

27. VO recognises that dealing with challenging behaviour can be upsetting and stressful, and is committed to supporting its officers as part of its obligations under the *Occupational Health and Safety Act 2004* to provide a safe workplace. VO will provide a safe workplace and support its officers through formal and informal training, coaching and mentoring arrangements, and its Employee Assistance Program.

28. Managers will speak with officers who handle complaints regularly to check on their welfare, in addition to any other supervision arrangements.

29. Officers are encouraged to monitor the impact of challenging behaviour on their wellbeing, draw on available supports and maintain a healthy approach to managing stress.
30. Officers who are injured at work can report this in accordance with VO's Occupational Health and Safety (OHS) Policy and Incident Reporting Policy, as applicable.

## ROLES AND RESPONSIBILITIES

Role	Responsibility
<b>Assistant Ombudsman, Portfolios &amp; Administrative Improvement</b>	<i>Owner</i> – Accountable for ensuring the drafting, maintaining and seeking authorisation of the policy and standards from a suitable Senior Leadership Meeting.
<b>Manager, Human Rights Portfolio</b>	<i>Charter compliance</i> – Responsible for checking compatibility of the policy with the human rights protected by the <i>Charter of Human Rights and Responsibilities 2006</i> .
<b>Executive Committee</b>	<i>Authorisation</i> – Authorises, leads, monitors and reports on information management activities.
<b>All staff, contractors and third parties</b>	<i>Implementation</i> – Responsible for acting in compliance with the policy, standards, procedures and associated documents.

## DOCUMENT MANAGEMENT

### Compliance

VO maintains a compliance management system. Compliance to this policy, including use of information and systems, is subject to regular monitoring and reporting to the Senior Leadership Meeting (Executive Committee). For further details on compliance checks please refer to the compliance management system.

### Document approval

This document was approved by the Executive Committee on 25 May 2018.

### Document review

This document is due for review upon major changes or three years from the date of the last review.

### Document control

Version	Date	Section	Brief Description of Change
1.0	17/12/2015	All	Policy approved by Governance Committee
2.0	28/2/2017	All	Policy content transferred to new template
3.0	29/5/2018	All	Redrafted to conform with Guide to Managing Challenging Behaviours

## APPENDIX A: Related documents

Title	Location
<i>Protected Disclosure Act 2012</i>	<a href="#"><u>Protected Disclosure Act 2012</u></a>
<i>Ombudsman Act 1973</i>	<a href="#"><u>Ombudsman Act 1973</u></a>
<i>Charter of Human Rights and Responsibilities Act 2006</i>	<a href="#"><u>Charter of Human Rights and Responsibilities Act 2006</u></a>
<i>Equal Opportunity Act 2010</i>	<a href="#"><u>Equal Opportunity Act 2010</u></a>