



# Unreasonable Complainant Conduct Project Report

June 2009

To be read in conjunction with the Managing  
Unreasonable Complainant Conduct Practice Manual

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# Chapter 1: A joint Australian Ombudsman project

## The problem

In our work at Ombudsman offices over the years, we have noticed an increase in complainants whose behaviour is frequently challenging in a number of ways: they tend to be very angry, aggressive and abusive to our staff; they often threaten harm; they can be dishonest or intentionally misleading in presenting the facts, or deliberately withhold relevant information; our offices are frequently flooded with unnecessary telephone calls, emails and large amounts of irrelevant printed material. These complainants tend to insist on outcomes that are clearly not possible or appropriate, or demand things they are not entitled to. At the end of the process they are often unwilling to accept our decisions and continue to demand that we take further action on their complaint. Frequently, they also take their complaint to other agencies, Ministers, or courts of law where they start up the complaint cycle again. Even though the percentage of complainants who behave in this way is quite small, they nevertheless demand a disproportionate amount of our time and resources, and cause serious stress to staff and indeed themselves. Anecdotal evidence suggests that the experience of other complaint handling organisations mirrors ours.

In the process of trying to understand our experience better, we came across research that validated our experience. The most significant and frequently cited report is one published in the British Journal of Psychiatry about a study of 'unusually persistent complainants' conducted by Grant Lester, FRANZCP, Beth Wilson, LLB, Lynn Griffin, MEd, and Paul E. Mullen, DSc, Victorian Institute of Forensic Mental Health.<sup>1</sup>

The study of Lester et al found that, compared to a matched control group, the 'unusually persistent complainants' pursued their complaints for longer, produced far greater volumes of material in support of their case, telephoned more frequently and for longer, intruded more frequently without an appointment, and in the end were still complaining when their case was closed. They often involved other agencies and contacted Ministers as the complaint progressed. Their behaviour was typically more difficult and intimidating. The study found that these complainants often wanted what a complaint handling system could not deliver – vindication, retribution, revenge. The authors associate these behaviours with 'querulousness'.

In January 2006, the NSW Ombudsman wrote to the other Parliamentary Ombudsman and major complaint handlers in NSW, 20 agencies in all. He asked for their experience with 'difficult complainants' and how they managed the problem. 15 agencies responded. 12 agencies specifically stated that 'difficult complainants' posed a problem for the agency. All but one agency had a number of strategies in place. Strategies varied from agency to agency but only 4 agencies mentioned that their staff received specific training to deal with the problem.

## Project history

Staff at the NSW Ombudsman office, had been turning their minds to how best to manage 'difficult complainants' for some time. Early thinking about the issues resulted in the *Dealing with Difficult Complainants* guidelines which was first published by the NSW Ombudsman in 1998. It aimed to provide guidelines for staff about how to deal with complainants whose behaviour is challenging. It proved to be the NSW Ombudsman's most popular publication. It was updated and republished on four occasions, the last time in 2004. Subsequent to that it was made available free on the NSW Ombudsman website.

As the challenges of dealing with 'difficult complainants' grew in proportion and complexity over time, the staff at the NSW Ombudsman office felt their approach, as outlined in the *Dealing with Difficult Complainants* guidelines, needed review and improvement. They were aware that many organisations, both in Australia and internationally, had a number of approaches in place for dealing with these challenges, however, these approaches tended to be ad hoc, inconsistent and concentrated more on the person than the problem. They felt there was a need for a focused, systematic and integrated approach to dealing with the problem.

Their research, discussions and deliberations with each other eventually led to the development of an integrated framework of management strategies for dealing with the challenges presented by what they had previously referred to as 'difficult complainants'. Initially, the strategies were intended for use internal to the NSW Ombudsman office. During the 23rd Australasian and Pacific Ombudsman Regional Conference (APOR) in April 2006, the NSW Ombudsman presented the strategies to the region's Ombudsman. At that conference, all of us Australian Parliamentary Ombudsman agreed to provide finance for and to work together on a project to further develop and introduce the framework to our offices and to evaluate the approach one year after introduction. This is the first time all of us Australian Ombudsman have collaborated on a project in this way.

We appointed as project manager an investigation officer from the NSW Ombudsman office who had been working on these issues and the NSW Deputy Ombudsman took on the role of project sponsor. The project was launched at a meeting of representatives, mostly Deputy Ombudsman and equivalent, from all State, Territory and Commonwealth Ombudsman offices in early August 2006.

## Project aims

The project had three main aims:

- to ensure equity and fairness through consistency in the handling of all complaints within each office and across all Ombudsman offices
- to improve efficiency in the use of resources
- to comply with occupational health and safety and duty of care obligations by reducing the stress experienced by staff (and as an adjunct to also assist complainants reduce their stress.)

## Project methodology

### Approach

We agreed at the outset that this project was to be a quality improvement project rather than an empirical study, though the intention was to also collect indicative data as the project progressed. We used a range of approaches to introduce the management strategies around Australia and, at the same time, to collect information. The overarching project concern, however, was to introduce an approach nationally which would assist complaint handling staff to better deal with 'difficult complainants' and thereby achieve the project's aims. In summary, our methodology could best be described as 'interactive', meaning that many of the project elements involved a feedback loop. Changes and improvements were made as the project progressed and new elements were added as the need became apparent.

### Consultation

Each office appointed a project representative, in most cases the Deputy Ombudsman or equivalent, as contact person for the project and as the person who would ensure that project decisions were given effect to in each office.

Essential to the project's progress was an ongoing process of consultation. We decided every project step in consultation with all offices. Each office commented at draft stage on all project documents and signed off on the final versions.

We held three meetings of all project representatives during the course of the project. In addition, the NSW Deputy Ombudsman reported on the project to the regular six-monthly Australian Deputy Ombudsman meetings.

We consulted Professor Paul Mullen and Dr. Grant Lester at an early stage. Dr. Lester was present at the inaugural project meeting and provided us with professional psychiatric advice on a fee-for-service basis at various stages during the course of the project.

We consulted many specialist professionals from a range of disciplines including suicide intervention, mental health, consumer behaviour and a range of highly skilled complaint handlers, many from Ombudsman offices. Consultation with a range of Ombudsman officers was particularly helpful in identifying challenging complainant behaviours and constructing detailed management strategies for dealing with them.

### Literature search

Early in the project we conducted a literature search around the 'difficult complainant' issue and Dr Grant Lester provided us with the results of his search of psychiatric and psychological references.

### Documents

We developed the following project documents:

- **A framework of management strategies** – consisting of the original framework developed by the NSW Ombudsman office, refined to reflect the thinking of each office.
- **A Practice Manual** – produced at the beginning of the project, to provide guidance to staff in the use of the framework of management strategies. During the course of the project and in response to demand from agencies within our jurisdiction, we adapted the Practice Manual to suit the needs of outside agencies. It was made available as Interim Practice Manual in hard copy and free of charge on the websites of three of the Ombudsman offices.
- **A training workshop** - a 'lesson plan' and related power point presentation produced at the beginning of the project and continuously refined during the course of training delivery.

### Training

Training became a vehicle for both delivering project content to Ombudsman staff and, importantly, receiving feedback from them as to their thinking and experience. The training tours around Australia also provided the trainers with information about complaint handling practices and cultures in each Ombudsman office.

Training was delivered to all project participants around Australia by the project manager and the NSW Ombudsman training officer during a full-day workshop in each office during March and April 2007, and a half-day follow-up workshop in November 2007. Significantly, those delivering the training were an investigator and a front-line complaint handler, each with many years of complaint handling experience. This placed them in a unique position to be able to understand fully the problems encountered by those they were training.

During the course of the project, as agencies within our jurisdictions came to know about the training, the NSW Ombudsman office received a growing number of requests to train the approach in-house to these agencies. In response, the NSW Ombudsman trainer and a co-trainer, often the project manager, delivered the training to agencies around Australia and New Zealand on over 50 occasions between April 2007 and October 2008 using the Interim Practice Manual to support the workshops. Though delivery of this training was not strictly speaking part of the project, conducting it contributed to the project valuable insight into the complaint handling cultures, practices and problems of outside agencies.

### Data collection

As part of the project, we conducted a number of data collection exercises:

- **A 12-month trial of the approach.** Case officers from all Ombudsman's offices completed a one-page questionnaire for each complaint case where they had made some enquiries and where there were paper or electronic records of interchanges between complainant, case officer and possibly the agency concerned. For cases where interactions with the complainant were perceived to be unreasonably difficult, a further, comprehensive, questionnaire was completed. This questionnaire captured information about the complainant's behaviour, the case officer's responses and the complaint and complainant history. (see Appendix 2 for Questionnaire Part1 and Part 2).

- **A two-week front line survey** of complainant behaviour encountered by staff taking telephone calls in the Public Contact Team at the Commonwealth Ombudsman's office in Canberra. Team members deal with telephone calls to the office from around Australia. (see Appendix 2 for telephone contact questionnaire)
- **A staff survey**, at the conclusion of the project, designed to capture staff experience and their assessment of the project (See Appendix 2 for staff survey)
- **A statement of assessment** provided by the project representatives and Ombudsman about the project at its conclusion.

### Writing and delivering papers

During the course of the project, the NSW Deputy Ombudsman and the project manager each wrote a number of papers for delivery at various seminars. The writing process and associated discussions assisted in refining project thinking and deepened our understanding of the problem. Questions and reactions from audiences broadened our insights into the nature and extent of the problem experienced by other agencies.

### Project principles

The following overarching principles came to underpin our thinking about this project:

- We wanted to develop an approach that can easily be implemented by complaint handlers. We wanted to avoid an approach that relies on professional psychiatric or psychological knowledge for its implementation
- We wanted to ensure that the legitimate and reasonable rights and interests of complainants are protected
- We wanted to ensure that our organisations' duty of care towards our staff is met
- We wanted an approach where all complainants, whether their behaviour is challenging or not, are treated with fairness and respect
- We wanted to be able to control our interactions with complainants so that managing their behaviour can be separated from managing their issue
- We wanted an approach where complainants will not be worse off whether or not the management strategies are successful in achieving their goal.

### Key project features - an overview

The project principles outlined above lead us to an approach which incorporates the following key features:

- A focus on the specific, observable conduct of complainants, away from the complainant as 'difficult' – a focus on the problem not the person
- Clear and transparent terminology to describe the problem
- A shift in complaint handling culture which aims at viewing challenging conduct by complainants as part of our core work, rather than a nuisance and an intrusion into our daily work, to be dealt with on the periphery
- A set of systematised management strategies to assist case officers in finding an appropriate response to specific unreasonable conduct
- Active management support for staff in their management of challenging interactions
- The provision of specific staff training to introduce and maintain the new approach.

What follows in Chapter 2 is a discussion of each of these key features.

## Chapter 2: Key project features

### Focus on the conduct of the person, not the person

It is obviously appropriate for psychiatrists, or those with training in psychology, to focus on the person and to assess their mental state, and based on that professional assessment, to develop an approach to dealing with that person. For example, the approach taken by Lester et al. is to make a specific psychiatric diagnosis, that of querulance, in the case of the people we are talking about. Another example is the approach taken by Bill Eddy, an attorney, mediator and, significantly, a clinical social worker who coined the phrase 'high conflict people'. His approach is based around identifying specific personality disorders as described by the *Diagnostic and Statistical Manual* of the American Psychiatric Association and implementing strategies to manage the behaviours of people with identified disorder types<sup>2</sup>.

Complaint handlers are not competent to assess and diagnose the mental states of their complainants, and even if a complaint handler did have such a competency, to diagnose is not our role. Our role and expertise is complaint handling.

Central to the project is our realisation that we must manage complainant behaviour by managing our response to their complaint-related conduct. The starting point for developing management strategies became individual instances of observable complainant conduct.

We saw a number of advantages for shifting the focus away from the person who is being 'difficult' to the person's conduct:

- It allows for a more focused approach in targeting particular behaviours and therefore recognises that a range of management strategies may be needed.
- People who are not mental health professionals are confidently able to implement the strategies by reference to their own knowledge, experience and expertise.
- Transparency is achieved in interactions between complaint handlers and complainants – if the complaint handler is targeting individual instances of observable conduct, then this conduct can be explicitly referred to as a reason for taking particular action.
- The separation of behaviour from issue is facilitated so that the issue can be effectively addressed without being clouded by behavioural problems.

### Identifying unreasonable conduct

When participants were asked at the very beginning of our training workshops to identify what 'unreasonable complainant conduct' was for them, there was never any hesitation. Even though the trainers gave no definition or guidance as to what might be meant by the term, practically identical lists were produced by every workshop group. They typically included (in no particular order):

- Anger and aggression
- Personal attacks
- Rudeness
- Threats of harm to self and others
- Intimidation and violence
- Sarcasm
- Offensive language
- Emotional manipulation (eg. blackmail)
- Questions case officer's qualifications to deal with their matter
- Lying and withholding information
- Unwillingness to accept a decision
- Unwillingness to listen
- Wants unrealistic or unachievable remedies
- Hands in large volumes of irrelevant material

- Provides information in dribs and drabs
- Threatens to go to the media, the Minister
- Wants to speak only to the Ombudsman
- Forum shopping
- 'Rat wheeling' (repetition)
- Shifting the goalposts
- Not taking responsibility for their actions
- Deliberate helplessness
- Will not let go of their issue
- Gives instructions as to how their complaint should be handled
- Refuses to co-operate
- Refuses to compromise reasonably
- Really seeking social rather than professional interaction
- Unrealistic expectations
- Obsession with irrelevant detail
- Excessive telephone contact
- Excessive written contact
- Unreasonably wanting to speak only to a male/female officer
- Not wanting to speak to an officer of a specified racial background
- Wants revenge and retribution
- Holds conspiracy theories unsupported by evidence
- Demands priority treatment
- Manifestly illogical reasoning
- Email 'stalking'
- Wants information they are not entitled to (eg. about other complainants)
- Substance affected behaviour

We found that experienced case officers have clear insight into complainant conduct. Whilst case officers may not have had in their minds a specific definition for unreasonable conduct prior to introduction to the project, on the basis of their experience of the vast majority of complainants who act reasonably, they were well able to identify conduct which stood out as unreasonable.

In *Attorney-General v Wentworth* in the NSW Supreme Court, Roden J made the following comment in his judgement in the context of vexatious behaviour: "Precision in description or definition is hardly required, within the context of the Court acting in the exercise of its inherent jurisdiction to protect its own process from any form of abuse. It is more important that the conduct be recognised than that it be defined." Nevertheless, as outlined below, we have developed guiding principles to give staff firm ground on which to name unreasonable conduct.

## Terminology

There have been a plethora of terms used to describe complainants who pose a problem for complaint handling bodies. The most frequently used term, and indeed the one Ombudsman offices have used for quite some time is 'difficult complainants'. Other terms that are commonly used by complaint handlers, commentators and researchers are 'people who monopolise resources', 'resource-intensive complainants', 'high maintenance complainants', 'vexatious complainants', 'unusually persistent complainants', and, as already mentioned, 'high conflict people' and 'querulous complainants'. All these terms, again, focus on the person who is being difficult or challenging and, if used by complaint handlers rather than psychiatrists or psychologists, have the potential to negatively influence how such complainants are perceived and responded to within a complaint handling system.

In line with our project focus on conduct, we decided to use the term 'unreasonable complainant conduct', meaning the unreasonable conduct by complainants. This terminology is in line with legislative provisions which allow Ombudsman to decide that an agency's conduct is or was unreasonable. It seems logical to apply the same reasoning to complainants. It allows for the precise definition and management of the problem and avoids judging and labelling the person.

## Defining 'unreasonable'

### Threshold considerations

Many complainants who come to Ombudsman offices are distressed for justifiable reasons; they are caught up in what they see as some outrageous wrong. Their conduct is not unreasonable under the given circumstances. For conduct to be unreasonable, it must clearly go beyond the norm of situational stress commonly experienced by complainants when they bring a grievance to an Ombudsman office.

What can be termed unreasonable will vary depending on a number of factors. The same conduct may be unreasonable in one set of circumstances, and may well not be unreasonable in another. In deciding whether or not a complainant's conduct is unreasonable, case officers will weigh:

- the merit of the case
- the circumstances of the complainant
- jurisdictional issues – specific legislation may limit how the strategies can be applied
- the proportionality of the complainant's distress to the substance and context of the complaint
- the complainant's responsiveness to calming measures
- the complainant's responsiveness to explanation
- their own personal boundaries.

It is important to also identify conduct which is unreasonable and unacceptable under all circumstances. This is conduct which involves overt aggression, violence and assault and where staff health and safety is directly threatened. Risk management protocols are in place in all Ombudsman offices to deal with this type of conduct.

In deciding the reasonableness or otherwise of complainant conduct, we are assuming that staff making the assessment have the skill, ability and attitude expected of a professional complaint handler. The fact that they hold that job means they have passed through a selection process and have been found to hold the competencies required by the job.

### Are we contributing to unreasonable conduct?

Approaches which focus on the person being difficult, rather than on their difficult behaviour, run the risk of seeing the problem as residing wholly within that person. If the focus is on the behaviour, case officers are more likely to also examine their own and their organisation's conduct when dealing with challenging interactions. Is there anything we are doing which might contribute to the complainant's conduct? For example, if the complainant's unreasonable conduct stems from unreasonable expectations about what the organisation can deliver, then the information that is given to the complainant upfront about the organisation's role and responsibilities has to be examined. The case officer's own conduct may also contribute to maintaining the complainant's unreasonable conduct.

### The case officer's conduct

People who work in Ombudsman offices are often people with a strong social conscience. They work in our organisations because they believe they can make a positive difference by doing so. They are also often strongly empathetic people who can understand complainants' stress and who are strongly motivated to help wherever they can. These are positive traits and ones we need to appreciate and nurture. We must also make sure they are put to use constructively in our organisations and this involves recognising the limitations of our role as complaint handlers in Ombudsman offices:

- We are not helpers, social workers, counsellors or, for that matter, advocates for the complainant. We are complaint handlers with legislative and organisational responsibilities. Whilst we can do our job with empathy and kindness, there are professional boundaries beyond which we cannot stray. If we do, we run the risk of inviting unreasonable conduct from our complainants.

- Strongly empathetic people in a public service role sometimes feel that they must 'put up' with unreasonable conduct from the complainant. They reason that the person behaving unreasonably because of their circumstances 'can't help it', and, anyway, they are here to serve the public. Sometimes the organisational culture is such that the case officer is in fact expected to 'put up with it'. Putting up with unreasonable conduct, only serves to condone it. It teaches the complainant that it is acceptable to behave in this way. This creates problems for our organisations and all other organisations and professional officers the complainant has contact with.

In order to deal with unreasonable complainant conduct with efficacy we must look not only at the complainants conduct but also our own.

## Shifting complaint handling culture

In our experience, complaint handling bodies, including Ombudsman offices, have tended to view challenging conduct by complainant as a nuisance, an intrusion into normal complaint handling business. Dealing with it has often been pushed to the periphery and assigned to those who are 'naturally' good at dealing with 'difficult' behaviours or senior staff members who are seen as more experienced. Lester et. al. identified in their study<sup>3</sup> the tendency of case officers to want to avoid contact with these complainants. This is something we have observed also. Complainants who feel they are being avoided or given short shrift are highly likely to escalate the behaviour others find difficult. Under these circumstances there is a very real danger that complaint handling organisations actually create the 'difficult' person. We felt the opposite could be true: that with skilful action routinely applied by individual case officers, a complainant's unreasonable conduct can be managed to everyone's advantage.

In order to appropriately and systematically deal with it, the project shifted unreasonable complainant conduct centre stage:

- We recognise that dealing with unreasonable complainant conduct is an unavoidable and integral part of our core complaint handling work
- As an integral part of our core work, it needs to be given proper priority and adequate resources
- All frontline and complaint handling staff need to be able to deal with it and therefore need ongoing training, guidance and support to overcome the natural tendency of most people to avoid difficult interactions.

## Management strategies

Central to the project approach is a framework of management strategies to deal with individual instances of observable conduct which the case officer has assessed as unreasonable. The Practice Manual contains the full framework.

It aims to systematise appropriate actions and provide a 'thinking tool' for case officers once they are confronted by challenging behaviours.

The framework comprises a list of unreasonable conduct which is the trigger conduct for putting in place management strategies. These are sorted into unreasonable conduct categories and matched with specific management strategy principles:

<b>Conduct category</b>	<b>Unreasonable conduct (trigger)</b>	<b>Management strategy principle</b>
unreasonable persistence	For example: persisting with a complaint even though it has been dealt with to finality and where valid decisions have been reached	saying 'no'
unreasonable demand	For example: insisting on outcomes that are unattainable	setting limits
unreasonable lack of cooperation	For example: deliberately withholding information, acting dishonestly	setting conditions
unreasonable arguments	For example: seeing cause and effect links where there are clearly none, holding conspiracy theories unsupported by evidence	declining or discontinuing
unreasonable behaviours	For example: angry, rude, aggressive, threatening conduct	saying 'no', setting limits and/or conditions and if necessary bringing into play risk management protocols

## Management support

The framework of management strategies is designed to encourage case officers to respond confidently, appropriately and firmly to complainants whose conduct they have assessed as being unreasonable. Properly applied, the strategies also support consistency in dealing with unreasonable conduct as a whole within an Ombudsman office and across all Ombudsman offices. In order for case officers to consistently apply the approach, they need to clearly understand that they are not only specifically authorised, but also directed, to put in place strategies for managing unreasonable complainant conduct and that, when they do, their actions will be supported. To achieve this, the approach developed by the project is supported at the highest organisational level, with all Ombudsman signing off on the Practice Manual which underpins the project and each office putting in place a system for supporting staff in their dealing with unreasonable complainant conduct.

## Staff training for managing unreasonable complainant conduct

So that staff can develop and maintain the confidence to appropriately deal with unreasonable conduct in the course of their daily work, the project thinking was that comprehensive training on an ongoing basis is fundamental.

The training workshops delivered to all Ombudsman offices, and later to a wide range of external agencies, included two component parts:

- An introduction to the framework of strategies for managing unreasonable complainant conduct. Here the trainers worked with case officers' individual experience of unreasonable complainant conduct and participants had the opportunity to workshop their own cases.
- An introduction to a non-confrontational, non-resistant communication approach. This approach essentially advocates active listening, expressing empathy, acknowledging the other person's point of view (without necessarily agreeing with it), avoiding argument, debate and unnecessary justification, and stating clearly what can, cannot or will not be done. The approach also advocates apologising appropriately.

A picture of the unreasonable conduct that case officers and front line staff were called upon to manage and how well the project's approach equipped them to do this emerges from the data collected during the 12-month trial and the associated surveys. Data relating to complainants and their complaints is presented in Chapter 3 and case officer's assessments of the project's approach are outlined in Chapter 4.

## Chapter 3: Trial findings – complainants and their complaints

At the commencement of the 12- month trial, staff in all Ombudsman offices around Australia had undergone the project training. They were familiar with the project approach to identifying unreasonable complainant conduct and were asked to give specific information about complainants and their conduct in a questionnaire (see Appendix 2).

The trial method and questionnaire return is described and discussed in Appendix 1. It must be clearly understood that, given the uneven response to the trial, the results must be read as indicative only. Nevertheless, a reasonably clear picture emerges from the 309 questionnaires returned by case officers from all States and it is unlikely that a greater number would result in a significantly different picture.

### Complainants and their complaints – a profile

We can speculate that around 5% of complainants act unreasonably when they come to our offices. This is around double the anecdotal figure of 2-3% which had currency before the project.

Complainants who acted unreasonably tended to be male (65%) and aged over 45 (67%). Age is based, in part, on estimations by case officers, and therefore of uncertain accuracy.

35% of complainants whose conduct was unreasonable had made other complaints and tended to have requested reviews of previous Ombudsman decisions. The average number of previous complaints or review requests was 2.5.

In 37% of the cases involving unreasonable complainant conduct, the complainants made contact with at least one other government agency about their current complaint. They contacted Members of Parliament in 18% of cases, and Government Ministers in 16% of cases. Other oversight bodies were drawn in in 13% of cases, and in 7% of cases the complainant went to the media.

In 36% of cases, case officers were able to identify that a complainant had sought legal advice about their current complaint. Complaint officers do not necessarily know this, so the rate could be higher. Sometimes the legal advice sought was about the manner in which their complaint had been handled by the Ombudsman office. 51% threatened to obtain legal advice, whether or not they went on to obtain legal advice is not known.

A large number of the complainants attempted to obtain information from the Ombudsman or other agency about the issues of their case under Freedom of Information legislation (64%). A significant number also went on to make a second tier application at external review or appeal level (22%). A smaller proportion sought information under privacy legislation (7%).

In many cases, complainants focussed their complaint on a single person or organisation who they perceived to have caused their initial problem (32%). In other instances, the complainant expanded the initial focus to include at least two other people or organisations (20%). 15% directed their focus broadly against the government as a whole with a tendency towards a general conspiracy between organisations and the government. A further 15% of complainants took issue with the Ombudsman's handling of their case.

### Complainant conduct

Of the 306 cases of unreasonable complainant conduct captured in the trial, case officers assessed the conduct to be regularly unreasonable in 45% of cases. A further 23% were assessed as occasionally unreasonable. 32% were assessed as unreasonable on just one occasion.

The questionnaire completed by case officers followed the categories of unreasonable complainant conduct spelled out in the framework of management strategies, ie. unreasonable persistence, unreasonable demand, unreasonable lack of cooperation, unreasonable arguments and unreasonable behaviour. Case officers characterised the unreasonable conduct, in descending order, as being unreasonably persistent in 26% of cases, involving unreasonable demands in 22% of cases, unreasonable arguments in 22% of cases, unreasonable behaviour in 16% of cases, and unreasonable lack of cooperation in 14% of cases.

## What was the complainants' observable unreasonable conduct?

The questionnaire asked case officers to identify under each category what specific behaviour they observed. The results, in descending order, can be summarised as follows:

### **Unreasonable persistence (26% of all unreasonable conduct)**

Refused to accept final decision	30%
Excessive written contact	17%
Reinterpreted the law/policy to suit own purposes and insisted on their interpretation	14%
Reframed complaint at conclusion to have it taken up again	13%
Excessive phone contact	11%
Requested review on the basis of non-specific dissatisfaction only	8%
Requests second review (all Ombudsman have a one-review policy)	4%
Other	3%

### **Unreasonable demand (22% of all unreasonable conduct)**

Gave instructions about how their complaint should be handled	35%
Demanded 'moral' (justice/public interest/principle etc.) outcome	27%
Wanted inappropriate compensation	11%
Wanted retribution/vengeance	11%
Demanded excessive resources (document copies, expert opinion etc.)	7%
Wanted inappropriate apology	6%
Other	3%

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**Unreasonable argument\* (22% of all unreasonable conduct)**

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Interpreted facts irrationally	31%
Held conspiracy theories (without proof)	24%
Held manifestly irrational beliefs	23%
Wanted own manifestly illogical/irrational solution	19%
Other	3%

\*in these cases mental illness frequently plays a role, though a case officer may often not know whether or not this is the case.

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**Unreasonable behaviour (16% of all unreasonable conduct)**

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Displayed confronting behaviour (eg. rudeness, anger, aggression)	43%
Displayed manipulative behaviour (eg. overly ingratiating, put on - as opposed to genuine - tears etc.)	23%
Sent rude, confronting, threatening letters/faxes/emails	19%
Made direct threats of harm to others	3%
Made indirect threats of harm to others	2%
Made direct threats of self harm	2%
Made indirect threats of self harm	2%
Threatened to damage property	1%
Other	5%

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**Unreasonable lack of cooperation\* (14% of all unreasonable conduct)**

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Provided disorganised information	32%
Provided excessive or unrelated information	22%
Refused to define issue of complaint	15%
Provided information in dribs and drabs	12%
Withheld information, provided false information, was dishonest	11%
Used previously withheld information to attempt to have case reopened	3%
Other	5%

\*in cases where it could be assumed that the complainant was capable of cooperation.

## How did complainants interact with Ombudsman offices?

Most complainants restricted contact with the office to their case officer (74%). Some complainants sought to involve other officers as well during the course of their complaint (16%), and some demanded to speak to the Ombudsman him or herself (10%).

Complainants had contact with their Ombudsman office in writing - including emails, by telephone and in person. Whilst information was collected on number of contacts per type, the data does not reveal any particular trend.

Legislation mostly requires complaints to Ombudsman offices to be in writing. Complaints were therefore typically made either by letter, fax or email (77%) and responses to complainants were also mostly in writing with 42% being in writing only and 28% being in writing and telephone. The exception are the Queensland and Commonwealth Ombudsman where legislation allows for complaints to be handled to finality by telephone. In Queensland 48% of complaints were made by telephone and 42% of responses to complainants were by telephone only. Though this information was not collected during the trial, the Commonwealth has advised that in the 2007/08 period, 79.8% of all approaches were by telephone, although 10-15% involved subsequent written contact.

Most of the complaints involving unreasonable complainant conduct were not sustained (53%), or were assessed but did not proceed (24%). Those cases warranting action (8%) were usually resolved.

The number of internal reviews of Ombudsman office decisions captured by the trial was small. In 94% of those cases, the original decision was confirmed.

Complainants whose conduct was identified as unreasonable made several contacts with their Ombudsman office. Per case they made an average of 5.3 email contacts, 4.4 telephone contacts 4.6 fax contacts and 2.4 letters were written. In almost half (46%) of cases, case officers reported that the number of contacts made were excessive and/or unrelated to the complaint made. Staff mentioned receiving large volumes of printed and written material and copies of media information that the complainants argued were relevant to their complaint, although in most instances they were assessed as not relevant.

## What did the written complaint look like?

In 39% of cases where unreasonable conduct was identified, case officers reported excessive emphasis in written communication by way of the idiosyncratic use of capitals, italics, bolding or changes in type size. Complainants also tended to use excessive punctuation (19%) and to provide annotated copies of other's written material.

Staff reported other stylistic elements of the complainant's written material, including the use of self-appointed titles, deliberate manipulation of official titles to ridicule authority (eg. Ombudsman's office became 'Dumbodsman's' office). Some complainants' writing style deliberately imitated more official correspondence, for example the use of police operational format to describe their case.

Case officers assessed the complaint to have been formulated briefly and succinctly in only 25% of cases involving unreasonable complainant conduct. 28% contained irrelevant detail. Case officers found 16% to be difficult to understand and 14% to be excessively long. A further 17% were found to be long, but appropriately so.

Case officers identified that only 24% of the complainants who displayed unreasonable conduct used appropriate language in their complaint formulation. The remaining complainants used one or more inappropriate or unreasonable communication element. Of these, overly dramatic language was the most commonly used (29%), followed by the inappropriate use of medical/legal terms (14%), repetitious language (13%), and the use of rhetorical questions (11%). Other elements included threats of various kinds (10%) and offensive language (8%).

## What did the complainant want?

Case officers were asked for their opinion about the goals of complainants who displayed unreasonable conduct. The question was formulated in such a way as to differentiate between what are for a complaint handling context reasonable and rational goals and what are unreasonable and irrational goals.

Case officers believed in 4% of cases that the complainant sought reasonable provision of services and in 18% of cases unreasonable provision of services. In 2% of cases, case officers felt the complainant was seeking reasonable compensation for a specific loss and in 8% of cases, unreasonable compensation. The remaining figures for this question showed inconclusive results.

## Unreasonable behaviours: the experience of front line staff

As mentioned above, case officers encountered unreasonable behaviours in 16% of all unreasonable conduct. The behaviours most frequently encountered were confronting ones – rudeness, anger, aggression (43% of unreasonable behaviours). In order to experience these behaviours directly, a case officer must have telephone or face to face contact with the complainant. Case officers may predominantly deal with complainants in writing and therefore may not necessarily routinely have direct contact with complainants.

During the course of the project training, it became apparent that staff who worked primarily on telephones taking initial calls from complainants were faced with specific behavioural challenges from complainants. As the first contact person for a worked-up complainant, they often carried the brunt of the complainant's anger and abuse. We therefore decided that the behaviours front line staff were required to manage warranted a closer examination. Because the Public Contact Team (PCT) at the Commonwealth Ombudsman takes the calls to that office from all over Australia, we felt that what the staff of that Team dealt with would most likely be representative of what all Ombudsman staff at the front line dealt with. We decided to run a short two-week survey to capture unreasonable conduct encountered at in the PTC (see Appendix 2 for survey questionnaire). The PTC staff assisted in constructing the questionnaire which asked about the type of unreasonable conduct dealt with and, on a scale of 1 to 5, how difficult that interaction was (whereby 1 = a little difficult and 5 = very difficult).

### Survey results

During the two- week period 501 calls were taken by the PTC. 31 of those calls were deemed to involve unreasonable complainant conduct representing a rate of contacts involving unreasonable complainant conduct of 6.2%. These 31 calls involved 164 instances of observable unreasonable conduct, in descending order of frequency, as follows:

<b>Unreasonable conduct</b>	<b>%</b>	<b>% rated 5 (very difficult)</b>
Unwillingness to accept advice	12	65
Constant interruptions	11.6	84.2
Rudeness	11	50
Circular arguments	11	77.7
Shouting	9.8	37.5
Sarcasm	8.5	57.1
Confusion/irrationality/delusion	8	61.5
Threats to go to the Minister, Court, higher authority	8	53.8
Idiosyncratic interpretations of policy/law	6.1	50
Overly ingratiating	4.3	14.2
Crying	3.7	nil
Other difficulties	2.4	75
Threats to harass	1.8	66.7
Threats of suicide	1.2	100
Threats of harm to you others (1case)	0.6	nil

On several of the questionnaires, staff independently indicated that they found the interaction extremely difficult by marking the scale with up to four ticks in the 5 (very difficult) box.

We also asked staff what effect dealing with these complainants had on them. In 54.8% of the 31 cases involving unreasonable complainant conduct, the staff member said they spent more time on the phone than for a usual case. In 38.7% of cases, staff said they felt upset, threatened or anxious as a result of the interaction. In 54.8% of cases the strategy employed by the staff member was successful in helping them deal with the call.

## Our findings in context

The only study we are aware of that captures what we call unreasonable complainant conduct is the 2004 study of Lester et al.<sup>4</sup> That study explores the modus operandi and motivation of 52 'unusually persistent complainants' to certain Australian Ombudsman offices by comparison to a matched control group of 44, with a view to determining whether their behaviours fit the now little used psychiatric diagnosis of querulous paranoia. The study finds evidence to this effect and concludes: 'Perhaps it is time to restore querulousness to a legitimate place among the problem behaviours that mental health professionals study and manage.'<sup>5</sup>

As already mentioned, our project, rather than constituting an empirical study, involved a quality improvement approach. We wanted to introduce and trial an approach developed *by* complaint handlers *for* complaint handlers and in the course of the trial also gather information that would help us profile the complainants presenting with what case officers deemed unreasonable complainant conduct, assess the nature of their complaints, and evaluate the effectiveness of our approach to managing this conduct. In other words, by running this project, we were wanting to change our approach to unreasonable conduct by complainants and at the same time gather indicative data.

The aims and methodology of the respective studies, by definition, differ significantly. However, in terms of painting a picture of the complainants and their complaints, there are considerable parallels in our findings. The complainants Lester et al. call 'unusually persistent' and the complainants we identify as manifesting unreasonable conduct often share the following characteristics:

- They are predominantly men (our data indicates they tend to be over 45 years of age)
- The number of times they made contact with the office during the course of their complaint tended to be excessive
- They tended to involve other agencies, members of Parliament and government in Ministers in the issue of their complaint (our data shows that complainants also tended to seek legal advice about their complaint)
- They tended to take issue with the handling of their case
- They tended to want outcomes which were unrealistic or disproportionate to their complaint
- They tended to reframe or vary the nature of their complaint over time.
- They tended to reinterpret laws and policy to suit their own purposes and use medical and legal terminology inappropriately
- They tended to use rhetorical questions
- 'Moral' outcomes, retribution and revenge themes were present in a significant number of complaints
- The written material provided by complainants showed unusual methods of emphasis and stylistic idiosyncrasies
- The material provided to support their complaint often tended to be excessively voluminous and often irrelevant to the complaint (our data found it was also often disorganised)
- The complaint tended to be excessively lengthy and difficult to follow
- Their behaviour was frequently rude, aggressive, manipulative and threatening

These characteristics are intuitively understood by most case officers as evidenced by the list of unreasonable conduct training workshop participants spontaneously came up with when asked 'what is unreasonable complainant conduct to you' (see page 10 above).

It is clear from our project data that the instance of unreasonable complainant conduct is relatively infrequent in our offices - around 5% of complaints. However, it is also clear that the challenges that case officers and front line staff are faced with when dealing with unreasonable complainant conduct are significant and time-consuming. After dealing with these challenges over the 12-month trial period by using the framework of management strategies and bringing into play the non-confrontational, non-resistant communication approach advocated by the project, case officers provided their assessment of the project's approach. It is outlined in the next Chapter.

## Chapter 4: Trial findings – case officer’s management of unreasonable complainant conduct

In addition to seeking the information about the complainant and their complaint outlined in the last Chapter, the trial questionnaire also sought information in open-ended questions from case officers about which strategies they found most effective in managing the particular conduct they were reporting. (for questionnaire refer to Appendix 2; for comments on data collection refer to Appendix 1; for Framework of management strategies refer to the Managing Unreasonable Complainant Conduct Practice Manual).

The trial results show a considerable overlap in strategies employed by case officers given that, on many occasions, they reported needing to manage more than one category of unreasonable conduct by the same complainant. To the extent that case officers reported strategies used under the separate categories, the following were reported as those found most effective:

### Unreasonable persistence – strategy principle: saying ‘no’

- telling the complainant firmly that something is ‘not going to happen’
- adopting a firm no-further correspondence or contact stance and requiring any variation from this to be authorised at a high level
- not allowing the complainant to re-enter the process by merely reframing the complaint
- making clear to the complainant that our decision is final

Example responses:

*‘I was very firm my decision is final. I am delegated by the Ombudsman himself to review and have done this and advised clearly we do not agree. Advised we can speak again after she reads the letter but my decision is final.’*

*‘Clearly raised issues of complaint at the start and referred back to these issues being only things under investigation.’*

*‘Made review letter firm about ... no further action – no letters responded to and no phone calls accepted.’*

### Unreasonable demands – strategy principle: setting limits

- clarifying the limitations of the particular complaint handling system
- making sure the complainant is clear that the Ombudsman decides how the complaint should be handled (that is not allowing the complainant to dictate process)
- not allowing caller to control the conversation
- ending telephone calls that are unproductive / limiting contact to writing only
- not doing something for unreasonably demanding complainants that the Ombudsman would not normally do for any other complainant
- setting timeframe for complainant to provide information
- setting limits on available time and acceptability of conduct
- not engaging in ‘excessive discussion’

Example responses:

*‘Set clear boundaries on what he must do in providing evidence. Set a deadline for all ‘new’ evidence.’*

*‘Advised that I am handling case, will only make recommendations to agency that I feel are appropriate.’*

*‘I explained that this office would only focus on the administrative actions and that this was unlikely to result in the return of her adult daughter to her care as she was seeking.’*

## Unreasonable lack of cooperation – strategy principle: setting conditions

- requiring complainants to organise or summarise the information they have provided before we will look at the complaint (where they are clearly able to do this)
- requiring complainants to define what their issues are

Example responses:

*'In closing correspondence I explained that we expect him to state his issues of complaint and organise and summarise large amounts of documents.'*

*'Complainant initially refused to define what she was seeking and how she was affected and I explained that I needed this information to determine if enquiries would be made.'*

*'Advised complaint would not be re-opened until a full and detailed complaint was submitted.'*

## Unreasonable argument (irrational beliefs, conspiracy theories, excessively trivial) – strategy principle: decline or discontinue as soon as possible

- refuse to deal with the unreasonable portion of the otherwise reasonable arguments
- unreasonable arguments declined at the outset
- discontinued as soon as it was clear that the arguments are unreasonable or the complaint is otherwise groundless

Example responses:

*'I discontinued discussion with the complainant, and closed the case as soon as it became clear that issues were old and often irrational such as a conspiracy involving OV staff.'*

*'I asked her what she was hoping we could do for her. When she said to get respect as a citizen of Australia, I told her we could not achieve that for her.'*

*'One issue of the complaint about which complainant had irrational belief was declined as soon as it became clear that this issue was groundless.'*

## Unreasonable behaviour – strategy principles: invoking risk management protocols, setting limits and conditions on aspects of behaviour

- setting limits on emotional, angry, aggressive and abusive interaction
- setting conditions where complainant is angry, aggressive or abusive
- ending telephone calls and interviews where the complainant becomes abusive and confronting.

Example responses:

*'we wrote to the complainant and told him we were not going to respond to his ...insults against staff.'*

*'careful not to buy into manipulation (no one wants to help me; I knew nothing would be done).'*

*'I set these issues (claims of anti-Semitism...) to one side and dealt with administrative issues raised.'*

Surprisingly, even though threats of harm, direct and indirect, to self, others and property, was reported in 10% of unreasonable behaviour cases, no case officer specifically reported invoking risk management protocols. One case officer did report calling the police in a case of threatened self harm.

## Common strategies

The first three unreasonable conduct categories - persistence, demand and lack of cooperation - in addition to specific management strategies, share three common strategies:

- managing expectations from the outset, including ensuring initial expectations are realistic
- adopting a firm and authoritative communication style both in writing and verbally
- defining key issues and keeping the focus on them.

Case officers widely reported these strategies as being very effective in managing unreasonable complainant conduct generally.

## Effective communication strategies

Case officers also reported as effective the communication approach to which they were introduced during project training. Apart from the firm and authoritative communication style mentioned above, case officers listed as being effective:

- keeping a 'level tone of voice' in the face of agitated complainants
- not arguing
- not engaging in debate
- expressing empathy with complainant's emotional difficulties
- acknowledging emotion while remaining disengaged
- clarifying with complainant
- remaining calm
- not reacting to complainants behaviour.

Example responses:

*'...I acknowledged complainant's point of view and emotions but explained that his expectations were unreasonable.'*

*'gave my opinion without 'arguing' with his position.'*

*'treated him as I would any other complainant and did not allow his aggression and bullying behaviour to influence how to deal with his issues.'*

No case officer reported that any strategies categorically did not work, although some officers reported that no strategies worked with a particular complainant. There is of course no guarantee that particular strategies will work in a given situation. The framework of management strategies is designed to give the case officer a systematic 'thinking tool' and a repertoire of ways to manage unreasonable conduct. The expectation is that case officers will try out strategies and with practice, experience, reinforcement, training and management support will become confident in applying the approach taking into consideration the circumstances of each case.

The data presented above reflects the strategies case officers had the confidence to use. The fact that some framework strategies were not reported as useful may not mean that they were in fact not useful, only that the case officer did not use them and therefore did not have the experience of them as being useful. Our expectation is that as case officers work with the management strategies, they will expand their repertoire of what they feel confident in using and may also develop additional strategies of their own and thereby expand the framework.

## Chapter 5: What case officers said about the project

### Training evaluation feedback

The project approach was introduced to all Ombudsman offices during a one-day workshop. A half-day follow up training was delivered six months later. During the course of the two training workshops 525 staff members were trained in the use of the framework of management strategies and in a non-confronting, non-resistant communication approach. Evaluation feedback from the training workshops indicated that

- 37% of staff found the training very helpful
- 47% of staff found the training helpful
- 16 % of staff found the training somewhat helpful.
- One staff member found it not helpful.

### Staff survey

At the conclusion of the trial case officers in all offices were asked to complete a survey which aimed at finding out whether and how exposure to the project had changed the way they dealt with complainants whose conduct was challenging. (See Appendix 2 for the questionnaire.)

### Survey participation

106 completed questionnaires were returned. Of these, 11 had not participated in either of the two training sessions and had not been exposed to the approach outlined in the Practice Manual and were therefore not required to complete to finality the questionnaire, leaving an effective sample size of 95.

Of all the respondents, 73% had participated in the one day seminar, 68% had participated in the half-day follow up seminar and 49% had participated in both seminars.

### How often did case officers deal with unreasonable complainant conduct?

91 case officers answered the question about the frequency with which they had to deal with unreasonable complainant conduct:

- 9% daily
- 9% 3-4 times per week
- 25% 1-2 times per week
- 55% rarely
- 2% never.

### How often did case officers use the project management strategies?

90 case officers answered the question about the frequency with which they used the project management strategies in dealing with unreasonable complainant conduct:

- 10% daily
- 9% 3-4 times per week
- 32% 1-2 times per week
- 46% rarely
- 3% never.

It is noteworthy that the frequency with which case officers reported using the strategies is quite similar to the frequency with which staff reported encountering unreasonable complainant conduct.

### How useful did case officers find the project management strategies?

89 case officers answered the question about the usefulness to them of the management strategies:

- 9% found them extremely useful
- 51% found them very useful
- 32% found them somewhat useful
- 8% found them of minor use
- no one found them not at all useful.

### Which strategies did staff say were most useful?

Staff were asked to identify the management strategies they felt had been most useful to them. As multiple responses were permitted, there were a total of 152 responses to this question. In descending order, staff reported the following strategies as being most useful:

- Setting limits
- Saying 'no'
- Managing expectations
- Declining or discontinuing in the case of unreasonable argument
- Setting conditions

The strategies employed would of course depend on the conduct which needed to be managed and it is possible that responses to this question say more about the conduct to be managed than the usefulness of strategies overall.

### Which strategies did staff say were least useful?

A small number of staff rated as least useful strategies that the majority rated as most useful. The reasons given by these case officers indicate a lack of understanding of the purpose of the strategy.

Saying 'no' was a strategy some case officers had difficulty with. The reasons given were that the complainant would not accept it, that they thought it would aggravate the complainant, or that it would fuel the complainant's belief that the office is acting unfairly.

Setting conditions or limits was also mentioned as not being useful. The reasons given were that they thought some complainants would not accept or would not understand what is to be achieved by limit setting and this could make the situation worse.

These three strategies require some degree of negotiation skill and confidence in asserting the relevant position. The fact that a complainant cannot or will not accept or understand conditions and limits, or an answer that spells 'no', should not affect our response to their unreasonable conduct. If the officer is confident that they have done their job properly and that their decision is correct, the fact that the complainant does not like the strategy put in place to manage their unreasonable conduct is largely irrelevant.

### Did the management strategies help case officers do their job?

88 case officers answered the question about whether the strategies helped them do their job. Of these:

- 89% indicated that the strategies did help them do their job
- 11% answered that the strategies did not help them do their job.

### How often did case officers use the project scripts?

The Practice Manual included a number of scripted examples of how case officers might respond to the most frequently encountered challenging questions or comments by complainants. The scripts are a collection of possible responses provided by experienced complaint handlers and brought together in systematic category order.

89 Case officers answered the question about the frequency with which they used the scripts. Of these:

- 1% used them daily
- 4% used them 3-4 times per week
- 28% used them 1-2 times per week
- 34% used them rarely
- 33% never used them.

### How useful did case officers find the project scripts?

66 case officers answered the question about the usefulness of the scripts. Of these:

- 5% found them extremely useful
- 38% found them very useful
- 32% found them somewhat useful
- 20% of minor use
- 6% not useful at all.

It should be noted that the scripts are probably most useful to the less experienced staff, and once used in a particular scenario, are likely to become part of the case officer's response repertoire for that scenario without the need to again refer to the manual. Many case officers were already giving the responses suggested in the scripts without being specifically aware that their responses are scripted as best practice responses.

### How frequently did case officers use the project's non-confrontational communication approach?

During the project training, case officers were introduced to a non-confrontational, non-resistant communication approach.

85 case officers responded to the question about how frequently they used this approach. Of these,:

- 13% used the approach daily
- 9% used the approach 3-4 times per week
- 27% used it 1-2 times per week
- 40% used it rarely
- 11% never used it.

### How effective did case officers find the non-confrontational communication approach?

71 case officers answered the question about the usefulness of the project's communication approach. Of these:

- 7% found the approach extremely effective
- 41% found it very effective
- 41% found it somewhat effective
- 11% found it not at all effective.

It should be noted that the training sessions revealed that good communicators tended to naturally use this communication approach. For these case officers, the project may have reinforced what they already do, but may not have offered anything new.

For those who had not specifically encountered this communication approach before, the project served to introduce it to them. A different way of communicating takes some practice. Again with ongoing training, good supervision and management support, we envisage that consistent, confident and effective communication skills can become natural for all staff.

### Did the project change the way staff felt about having to deal with people whose conduct can be challenging?

91 case officers responded to the question about whether the way they felt about dealing with challenging conduct by complainants changed as a result of exposure to the project. Of these:

- 71% said 'yes'
- 29% said 'no'.

### How did the project change the way staff felt about dealing with conduct that can be challenging?

68 case officers provided an answer to this open-ended question. Of these:

37% said their confidence level had increased in terms of being able to say 'no', setting limits, dealing with complainant behaviour and maintaining control of interactions. Comments were also made about confidence being derived from the knowledge that consistency was achieved by the strategies because everyone was using them and that the strategies had been endorsed by the office as being appropriate.

16% of case officers said that the way they personally responded to challenging situations had changed in some way, including:

- Feeling less guilty
- Not being personally drawn in, that is recognising that a complainant's behaviour is the complainant's problem, not the officer's
- An increase in understanding, empathy
- An increase in patience, tolerance
- Being able to 'think' about the complainant behaviour rather than 'feel' it
- An increase in ability to stay calm
- Being less judgemental
- Being more able to 'let go'.

12% of case officers indicated that they were now more comfortable with or effective in dealing with aggressive behaviours.

Other comments about how the project changed the way staff felt about challenging conduct included:

- The project reinforced or confirmed approaches already used
- Feeling in control of the situation
- Finding it easier to say 'no'
- Realising and accepting that dealing with challenging behaviours is part of the Ombudsman's business
- Feeling able to manage conduct earlier to prevent escalation
- Believing that there is more support from management
- Knowing that the organisation as a whole is thinking about how this issue can be better dealt with is beneficial
- Shifting the focus to include protection of self
- Feeling better equipped
- Changing expectation about what can be achieved with the complainant

Reasons why the project did not change the way some felt about dealing with conduct that can be challenging.

35 case officers answered this question. The most commonly given reason was that they already had the experience and skills, and that they were already using strategies advocated by the project. Some case officers also indicated that dealing with challenging conduct had not been a problem for them in the first place.

Several case officers who answered this question at the same time mentioned benefits from the project in terms of reinforcement of what they already do or refreshing ideas they already subscribe to. Others indicated limited exposure to the project and therefore no change in how they felt about challenging conduct.

How well did case officers feel supported by their management in implementing the project approach to dealing with unreasonable complainant conduct?

89 case officers answered this question by indicating their assessment on a scale of 1 to 5 (whereby 1 = no support and 5 = extremely well supported). Of these:

- 38% indicated level 5 support
- 46% level 4 support
- 14% level 3 support
- 2% level 2 support
- no one indicated no support.

## Chapter 6: What management said about the project

In order to get a management perspective on the impact of the project, we asked the project representative in each State, in most cases the Deputy Ombudsman or equivalent, to provide their comments about the project's impact on their office and whether the project's aims were achieved. We also asked each Ombudsman for a brief summary statement on the project.

### Project representatives said:

#### Commonwealth

*The project is of great importance to our office. We have significant contact with complainants exhibiting unreasonable behaviour. The resource cost, impact on staff and distraction from being able to help complainants (including those exhibiting the behaviour), is substantial. Unfortunately, due to staffing and structural changes within our office, we did not exploit the project as well as we wanted to. Nevertheless, we have obtained substantial benefits from participation. These include participation in the training that has come out of the project, and participation in the development of the manual (both through consideration and use of the draft manual and through the benefits of deliberate focus on strategies as a result of participating in the development of the manual). I also anticipate substantial further benefit as we consider the outcomes of the project (manual, report, analysis of the survey, training) and deliberately draw on these to improve the handling of this behaviour. I anticipate that there will be further evolution of our responses to difficult behaviour as the office continues deliberate focus on the issue and on the outputs from the project.*

*The impact on the office so far has been to better train staff in handling such behaviour. This is more evident in the responses from new staff who had not built up a range of skills and strategies over time. While we have not been able to measure impacts on stress or resource usage on managing these behaviours, anecdotal evidence is that there has been an improvement in both. Over time I expect that we will be more deliberate in both utilising the outputs of the project (particularly the manual) and in trying to measure impact.*

#### New South Wales

*A notable effect of the project and the training was an increase in the confidence of staff to deal assertively with unreasonable complainant conduct and to feel more in control of this difficult area of their work. That confidence not only came from the mastery of techniques that generally worked, but also from the fact that they knew the strategies had the endorsement of their supervisors and the Ombudsman. This allowed them to make 'tough' decisions and discuss unreasonable complainant conduct more objectively and to focus on solutions rather than just 'letting off steam' after stressful interactions or, in some cases, where needed which in the end benefited everybody. The manual and training also allowed people to open up hiding feelings of personal inadequacy if they previously didn't handle such interactions well.*

#### Northern Territory

*The overall experience, from the training to the documentation and then the application of the process, has been very positive for this office. Staff now have a greater understanding and knowledge about how to deal with unreasonable complainant conduct. As a result, they have greater confidence in their ability to deal with these complainants in an effective and equitable manner.*

*Because the whole process has the support of management and all staff, there is far less stress now placed on the person taking and actioning complaints from complainants whose conduct is unreasonable. It has certainly led to these complaints being handled in a much more efficient manner, which in the main has resulted in a reduction in the amount of time and resources required to manage them.*

*The Manual that has been developed for guidance is excellent. It is practical, easy to understand and user friendly. It is consistently used by staff as a resource.*

## Queensland

*One of the greatest benefits of our Office's participation in the project has been to generate awareness and discussion about the challenges associated with our daily work of dealing with complainants. Officers and teams have engaged in a dialogue about what we do and how we do it as a result of the project, whereas prior to our participation some of the practical challenges of dealing with unreasonable complainant conduct and strategies for managing it were not articulated. This dialogue has been of benefit to all staff in terms of reviewing our individual practices as well as organisational policies and guidelines.*

*Our involvement in the project has added structure and context to the regular debriefing sessions which we already had in place for our intake staff. The project manual continues to be an invaluable resource for officers across our Office, most particularly for intake staff who benefit daily from our Office's participation in the project. Based on our recognition of the value of the information and guidance the manual contains, we now provide a copy of it and briefing on its content to all new intake and investigation staff joining our Office.*

## South Australia

*The Unreasonable Complainant Conduct project has assisted staff with useful strategies in dealing with conduct that is often challenging and time consuming. These strategies were well received by staff who have used them as practical tools in complaint handling. It has assisted staff with better utilisation of their time and to give all complainants the time needed to investigate their complaints. The manual developed for the project is a valuable resource and is provided to new staff members as part of their induction process.*

## Tasmania

*The primary advantage of the project has been the development of an awareness, particularly in less experienced staff and those on the front line, that there is a way to deal with difficult situations and challenging behaviours calmly, politely and appropriately without the need for stress and anxiety. Recognising that they are supported and can control a situation rather than being controlled by it has also led to more confidence on the part of those members of staff, which in turn has resulted in a greater measure of tolerance. This has had an effect on both sides; staff are more comfortable when dealing with unreasonable conduct, and the way they deal with it has, on many occasions, caused the conduct itself to be modified and abated.*

*For more experienced staff, the project served as a useful reminder to them, and as recognition, that the strategies and responses to unreasonable complainant conduct they have developed are the right ones.*

*A uniform approach to unreasonable conduct, supported by management, has meant that less time and resources are spent on it, and it is no longer the bogey it once was.*

## Victoria

*Ombudsman Victoria has found the project very useful. Not only has it helped staff to focus on the key issues for dealing with unreasonable complainant conduct, but has also helped bring all complaints-handling staff up to a consistent level of understanding.*

*As a result of participating in the project, we have updated our complaint-handling guidelines, incorporated the project learnings in our staff training and regularly remind staff of the lessons learned.*

## Western Australia

*The project has been a positive experience for staff in this office. The training sessions accompanying the project have, in fact, shown that existing practices utilised by staff to manage unreasonable complainants are respectful, reasonable and effective. For those staff who were new to the office, the training assisted in introducing them to concrete strategies and scripts for successfully managing such interactions.*

*Management and staff have confidence that a considered, thorough and appropriate approach is being utilised to deal with unreasonable complainant conduct. Even greater confidence stems from the fact that this approach is now used in, and supported by, all Parliamentary Ombudsman offices across Australia.*

## Parliamentary Ombudsman said:

### Commonwealth

*In short: the project has helped us put deliberate focus on the management of a component of our business that requires a disproportionately large share of resources, is stressful for staff and has the potential to interfere with the quality of service we provide. The training and manual that the project generated have provided some immediate gains, but there is substantial further opportunity for additional gains as we build deliberate focus on the management of difficult behaviour into our work practices.*

### New South Wales

*Unreasonable conduct by complainants presents significant challenges for Ombudsman offices. Although they are only a minority of our complainants, we have traditionally devoted a disproportionate amount of our resources to dealing with them without necessarily understanding them well and adopting the best and most appropriate practices. This project has provided the opportunity for a focussed sharing of information and experiences across offices and a practical consideration of how we can deal with the problems identified more effectively and consistently. The project has been a great success. We are now better equipped to recognise unreasonable behaviours and to respond to them confidently and appropriately and we now have well tested and documented strategies to guide and support our staff in their interactions with challenging complainants. This project will not only provide many benefits to our own offices, but given the interest it has generated in many other agencies, it is clear that it will provide guidance and assistance to many others.*

*My thanks and congratulations to all staff who have been involved.*

### Northern Territory

*Management has been enlightened by attending the training sessions and hearing the minute details of how dealing with unreasonable conduct affects the well being of front line staff. That exposure was itself worth while to promote good corporate team spirit. The most outstanding benefit was the increased confidence of staff who recognise that they are recognised and that the few people who behave in challenging ways are not confined to just this office. The inevitable sense of disappointment and feeling of failure at not being able to achieve resolution has diminished for staff as a consequence of knowing that there are always some complainants who will behave unreasonably. That peace of mind has been as valuable as the tools and strategies on how to manage unreasonable behaviour.*

*The end result has been greater harmony for all staff and management.*

## Queensland

*The involvement of my Office in the project has provided a number of benefits. It has afforded valuable professional development opportunities to my officers through the training provided during the project and, consequently, has enhanced their skills and knowledge. In particular, the practical tools and strategies provided in the resource manual and through the training have provided my officers with new techniques for dealing with unreasonable complainant conduct and, almost as importantly, have reinforced for many of my experienced staff the suitability of the strategies they were already employing.*

*Ultimately, the project has assisted my staff to more effectively deal with all complainants. I was pleased to learn that in the staff survey 89% of my officers considered that the management strategies for unreasonable complainant conduct had assisted them to do their job and 79% considered their exposure to the project had changed their approach to dealing with challenging complainant behaviour. These results are a testament to the value of our participation in the project.*

*My officers are continuing to use strategies identified in the manual. The manual has also been well received by officers from agencies within my jurisdiction who also report the great value of the strategies and ideas provided.*

*Overall, I consider that my Office's involvement in the project has been extremely beneficial in improving practice and enhancing customer service as well as in the professional development of my staff.*

## Tasmania

*The Project has been of considerable value to my office, particularly through the initial training. My staff are now able to better recognise unreasonable behaviour in a complainant, and are consequently able to better avoid the risk of taking the behaviour personally, or being caught up in it. This has benefits in enabling complaints brought by complainants whose conduct is unreasonable to be more efficiently managed, with less stress on the personnel involved. The manual will also be an enduring resource, providing continuing guidance for those who have been through the training, and being a useful tool in the induction, training and guidance of future staff.*

## Victoria

*The effect that the Project has had on my office is two-fold. Firstly it has provided an avenue for inter-office discussion and reflection on how we have handled unreasonable complainant conduct in the past. This has led to a revision of our internal policies on managing complainants who exhibit difficult behaviours.*

*Secondly, the focus on training in and responding to unreasonable conduct has contributed to staff identifying the principles underlying effective complaint-handling. The Project has also increased staff awareness of the options and techniques available to respond to unreasonable conduct and the support that management is able to offer. I believe that this has contributed to staff identifying my office as a positive workplace. It has also led to staff developing innovative ways in which to handle complaints.*

*My office has been pleased to participate in the Project...*

## Western Australia

*The Unreasonable Complainant Conduct project was designed to assist Ombudsman staff in their interaction with complainants whose conduct is challenging. The experience of staff in my office is that the project has given them practical tools to use during such interactions. In doing so, staff can approach the important relationship with such complainants confident that they are dealing with these complaints in a way that is consistent, fair, respectful and effective*

## Chapter 7: Discussion and recommendations

In the following chapter, a number of recommendations are made. They deal with suggested actions or considerations that logically flow from the experience of the project and the data collected during its course.

The word 'recommendation' is used in the broadest possible sense, referring to something worthy of consideration, advisable or potentially beneficial. Clearly each Ombudsman office must reach its own conclusion and make decisions that suit their own jurisdiction and context.

### How well did our approach work?

At the beginning of the project, we made some key assumptions upon which the project was based:

- that focusing on specific, observable conduct by complainants was better than focusing on the complainant as a difficult person in a complaint handling context
- that dealing with unreasonable complainant conduct should be seen as part of our core work rather than a nuisance to be dealt with on the periphery,
- staff should, therefore, have proper tools, training and support to deal with unreasonable conduct.

These assumptions were based on solid complaint handling experience and a long history of trying to find an efficient and fair way of dealing with the more challenging of our complainants.

Project outcomes have shown us that focusing on complainant conduct, rather than the complainant as a difficult person, is clearly the most appropriate approach for managing unreasonable conduct in a complaint handling setting. We think a focus on the person is only appropriate for trained professionals such as psychiatrists and psychologists.

One of the tools we developed for complaint handlers to deal with unreasonable complainant conduct was the framework of management strategies. It is entirely based on complainant conduct.

As already mentioned, the project's direction was to achieve quality improvement rather than empirically study the problem. Therefore we do not have a control group to compare our project outcomes with. In order to assess whether our assumptions were valid and have been borne out by the project's experience, we examined what staff and management have said about the project.

As reported in Chapter 6, 89% of staff responding to the staff questionnaire said that the strategies helped them do their job. 60% said they found the strategies extremely useful or useful. 32% said they found them somewhat useful. 42% said they used the strategies between daily and 1-2 times per week. This is in line with the frequency with which staff reported having to deal with unreasonable complainant conduct, i.e. 43% of staff dealt with it between daily and 1-2 times per week.

It seems clear that the framework of management strategies, based as it is on complainant conduct, is a potent tool for assisting staff manage unreasonable complainant conduct.

Staff training and explicit management support were the vehicles for moving the management of unreasonable complainant conduct centre stage and making it part of our core business. How useful this emphasis was can be gleaned from the comments made by staff.

Again, as reported in Chapter 6, 84% of staff who participated in training found it very helpful or helpful. 71% indicated that the way they now feel about dealing with challenging conduct had changed as a result of exposure to the project. In terms of the change experienced 37% reported an increase in confidence. An increase in confidence was the most frequently reported change. 98% reported above average support from their management.

The conclusion can be reached that equipping staff with relevant and appropriate skills and support has been very successful in ensuring that all staff members are able to deal with unreasonable complainant conduct whenever it arises in the context of their own work.

The comments of State project representatives and State Ombudsman on the effect the project had on each of the offices are quoted in the previous chapter. There is unanimous agreement that the project has had significant beneficial effects in all offices in a number of ways. In the immediate term, management sees the new approach as providing assistance and support to staff in their management of challenging interaction with complainants. The new approach has also led to the revision of internal practices. Comments also touch upon the positive flow on effects of the project to agencies beyond Ombudsman offices.

### **RECOMMENDATION:**

1. That the project approach be adapted by all Australian Parliamentary Ombudsman offices as an efficient way to manage unreasonable complainant conduct.

### **What is the extent of unreasonable complainant conduct?**

Though the percentage of our complainants whose conduct is unreasonable is still small at around 5%, it is larger than first anticipated (around 2-3%). In 45% of cases assessed as unreasonable during the trial, case officers found the complainant's conduct was unreasonable 'regularly' during the course of the case (as compared to 23% 'occasionally' and 32% 'on just one occasion').

We did not collect data about the actual cost of dealing with complainants who manifested unreasonable conduct, however, anecdotal evidence suggests that it is in the order of 20%-30% of our resources. The study conducted by Lester et. al. found that the mean period of involvement with the complaint organisations for what they call the 'persistent group' was an astonishing 35 months, compared with 8.3 months for the control group<sup>6</sup>. It is clear that systematic management of the problem is required.

Unreasonable complainant conduct must be recognised as a significant demand on the resources of Ombudsman offices. It is more extensive than was estimated at the beginning of the project.

### **Managing complaints from the outset**

Managing complaints well from the beginning is obviously the best course of action in the case of all complainants and particularly important where unreasonable complainant conduct is concerned. In actual fact this management process starts before a complaint is ever made, for example with the information available to the public about the role and functions of the Ombudsman.

During the training sessions, a significant number of staff members in all offices indicated their view that the public was poorly informed about what the Ombudsman does and therefore complainants often came to the office with unrealistic expectations about the possible outcomes for them: they tended to believe that the Ombudsman could 'fix' things, or could instruct an agency to take action. They frequently believed that *"...the role of the Ombudsman is to be a citizen's defender and a representative of the people"* to quote a disgruntled complainant to the NSW office. He was very disappointed to find the Ombudsman was impartial and was therefore not going to mount a defence on his behalf. His conduct has become unreasonably persistent as he attempts to convince the office to take his matter up.

Accurate and comprehensive information in the public domain about what the Ombudsman does, and particularly what the Ombudsman does not do, is essential. As part of this information, the respective responsibilities of the Office and the complainant need to be spelled out.

### **RECOMMENDATION:**

2. That each office examine the information made available to the public to ensure it is comprehensive and realistic and includes a statement of responsibility pertaining to both the office *and* the complainant (see Practice Manual p... for an example)

## Managing unreasonable complainant conduct

When a complainant behaves angrily, or is aggressive, rude or threatening towards their case officer, their conduct is in most cases easily identified as unreasonable. A confident case officer is immediately able to set limits or conditions on the interaction and thereby nip unreasonable behaviour in the bud, or if that does not work, they can get themselves out of harms way and end the interaction.

Other conduct can be more difficult to identify as unreasonable, particularly near the start of the interaction between the complainant and complaint handler. Most complainants are very reasonable and cooperative during the early stages of their complaint. They foster a cooperative relationship with the case officer and often initiate what appear on the surface to be very positive interactions. However, in the case of some complainants, their conduct changes when they begin to understand that their complaint will not be pursued for whatever reason. The fact that their complaint will not be entertained often means:

- in their view the case officer is not qualified enough to make decisions about their complaint and they therefore demand that a more senior person, in some cases the Ombudsman him or herself, take carriage of the matter;
- In their view the case officer needs help and they attempt to dictate to the case officer how the case should now be progressed
- they have not provided enough information to make their case clear enough and so provide the office with voluminous additional information.
- the office is in some kind of conspiracy with the agency or official complained about and so they must find evidence to prove the conspiracy (many Freedom of Information applications both to the Ombudsman office and other agencies result from this kind of thinking).

Once a situation has reached this stage, the conduct of the complainant has most likely already become difficult to manage.

Managing complaints and complainants well from the outset, as already mentioned, would appear to be the best possible antidote to unreasonable complainant conduct. Early identification of cases which are likely to involve unreasonable conduct, and putting in place firm strategies for managing such conduct as soon as it manifests, is essential.

Data gathered during the course of the project allows us to confidently identify some early warning signs, though we emphasise that none of the signs of themselves necessarily mean the case will involve unreasonable conduct. We hesitate to indicate any formula for identifying unreasonable complainant conduct, such as a specific number from a list of factors. Instead we advocate flexibly and carefully weighing the circumstances and context of the complaint. For example, if the complainant is able to accept explanations designed to manage their unrealistic expectations, if they are able to moderate inappropriate behaviour once this is drawn to their attention and if, in the end, they are able to cooperate with the process, then unreasonable complainant conduct is most likely not involved.

Based on our data, the questions that case officers should consider in making decisions about bringing into play management strategies for unreasonable conduct are:

### What is the complainant history?

- Previous complaints about this issue or related issues
- Review requests, especially second review requests about the same issue
- Contact with other government agencies, Members of Parliament, Government Ministers, other oversight bodies about their current complaint
- Legal advice sought about the current complaint or the Ombudsman's handling of the complaint
- Freedom of Information requests about the issue of complaint to the Ombudsman or other agencies
- The subject matter of the complaint has expanded from the initial focus to include other people or agencies
- The subject matter of the complaint has expanded to include conspiracy issues
- Issues about the case officer's handling of the case are raised.

### What outcome does the complainant seek?

- Has unrealistic expectations about what the Ombudsman can achieve
- Wants manifestly inappropriate provision of services
- Wants manifestly inappropriate compensation
- Wants manifestly illogical or irrational solution
- Wants an apology where this is clearly not warranted, or where the terms of the apology sought are clearly unreasonable
- Desired outcomes stated and restated in terms of 'morals', 'justice', 'public interest', 'principle'
- Wants what amounts to revenge or retribution

### What does the written complaint look like?

- Displays excessive and idiosyncratic emphasis
- Excessive use of punctuation
- Use of coloured highlighting
- Uses legal or medical terminology inappropriately
- Imitation of official reporting style, e.g. police operational format
- Uses excessively dramatic language
- Contains excessive and/or irrelevant information, which might also be annotated.

### How does the complainant interact with the office and the case officer?

- Makes excessive written and telephone contact
- Gives forceful instructions about how the complaint must be handled
- Refuses to define issues of complaint
- Is resistant to the case officer's explanation or accept advice
- Refuses to accept case officer's advice
- Provides information in dribs and drabs
- Withholds information
- Provides false information
- At the end of the process, provides previously withheld information to attempt to have case reopened
- Makes excessive demands on resources (copies, expert opinion, etc)
- Is rude and confronting
- Is angry and aggressive
- Is overly ingratiating
- Is manipulative
- Makes threats.

### How does the complainant react to the news that their complaint is declined or discontinued?

- Refuses to accept the case officer's or Ombudsman's decision
- Reframes complaint in an attempt to have it taken up again
- Expects a review of the decision based merely on an expression of dissatisfaction, unsupported by any arguments, new evidence, etc
- After the review, expects a second review
- Takes the complaint to another forum [where the complainant goes on to allege bias or corruption on the part of the Ombudsman on the basis of no more than the fact that the decision went against them].

### Motivations for unreasonable conduct

Most of the warning signs listed above coincide with the behaviours of complainants that Lester et.al. have identified as being consistent with the psychiatric diagnosis of querulance<sup>7</sup>. However, complaint handlers also quite frequently come across motivations for some of these behaviours that do not appear to necessarily derive from the psychology of the complainant. These are, in the main, the hobbyists, the retired professionals and the crusaders in the 'public interest'. These people tend to pursue a matter not for its outcome, but because they derive some gratification from the process. One complainant told us:

*I am an 82 year old war veteran, who in an endeavour to keep my mind active has spent three years disputing the Director General of Local Government's instructions on the use of a casting vote.*

He wanted the Ombudsman to help him keep his dispute going. Often, the last thing these complainants want is for their matter to be resolved. Though mostly impeccably cooperative, respectful and polite, they actively resist any actions that may lead to a resolution as this would end the process they seem to enjoy. Their conduct can be considered unreasonable because their motivation is inconsistent with the role of the Ombudsman.

### Resistance to explanation

Whatever the driving force behind a resistance to explanation (the complainant's refusal to accept advice or a decision, won't listen, etc.) this is the conduct that case officers most frequently reported as having difficulty with. It therefore warrants separate mention.

Most case officers do not feel they have done their job properly until they have explained, to the complainant's satisfaction, their decision, their referral, or whatever other information they are trying to convey to the complainant. If the complainant refuses to accept what the case officer is saying, and the case officer does not feel they have done their job until the complainant understands, the case officer will invariably become embroiled in an unproductive interaction which runs the risk of ending in a heated debate.

The fact is that complainants sometimes form a view based on something other than logical reasoning. It is therefore not possible to convince these complainants using logical reasoning of the correctness of decisions or advice.

In the case of unreasonable persistence (unreasonably not accepting the case officer's explanation), no amount of explaining and arguing is going to convince the complainant. Therefore, any discussion or debate the case officer engages in is going to lead nowhere.

Provided that the case officer has done their job properly and they are confident that their decision or advice is correct, it is not the case officer's problem or responsibility if the complainant is not able to accept it. In these circumstances, case officers do not have to convince complainants of the correctness of their thinking. Once they have outlined their reasoning once or twice, and it is clear that the interaction with the complainant is becoming unproductive, it can be ended at this point, perhaps with the acknowledgement that the complainant has a different view to the one the case officer/Ombudsman has come to.

Based on these considerations, unreasonably not accepting advice or a decision should be one of the more straightforward complainant conduct types to handle, rather than, as currently reported, one of the more difficult.

### RECOMMENDATIONS:

3. That each office put in place a system to recognise and manage unreasonable complainant conduct at the earliest possible opportunity.
4. That early management include the involvement of a case officer's supervisor in the formulation of a concrete management plan for the particular case.
5. A procedure to deal with unreasonable persistence where the complainant is resistant to explanation be included in policy statements. Such a procedure should limit the number of times the same explanation is provided to the complainant. For example, a case officer should not deliver the same explanation more than twice verbally and once in writing.

## Implementing management strategies

Chapter 4 of this report outlines how the framework of management strategies was used during the course of the project. Specific strategies were reported as having been used to varying degrees. Other strategies were not reported as having been used at all. Whilst the later category may simply indicate that the strategies were not necessary because the conduct did not arise, it is more likely to mean that case officers did not bring into play the full range of strategies, perhaps out of uncertainty or lack of confidence. It is also possible that strategies were used by the case officer, but not identified as such.

Strategies fall into two categories: those that case officers can implement of their own initiative and those which properly form part of office policy. For an Ombudsman office to derive maximum benefit from the project approach, it is necessary for the management of each office to assume responsibility for those strategies that need to form part of office policy and to ensure that their office policies are updated to incorporate the strategies for managing unreasonable complainant conduct. To derive consistently best practice, staff must then not only be authorised, but must also be *directed* to put the strategies in place where relevant.

### RECOMMENDATIONS:

6. That each office examine the framework of management strategies for unreasonable complainant conduct as outlined in the Practice Manual, decide on the management strategies best suited to that office's specific experiences and ensure that they are incorporated in office policies.
7. That staff be authorised and directed to consistently implement the strategies where relevant.

## Complainant conduct – unreasonable behaviour

As already mentioned, unreasonable behaviours (anger, aggression, threats) are easy to identify. It takes case officer confidence and good communication strategies to manage these well. Unreasonable behaviours can easily escalate whether or not an attempt has been made to manage them.

The high end of unreasonable behaviours (serious threats to self, others and property) occur vary rarely according to project data (see pp 22-23). To give another perspective, in the NSW Ombudsman office between September 2005 and June 2008, there were 17 serious threats of suicide, 8 serious threats of harm to staff and 5 serious threats to others. Though quite infrequent, the outcome, should a complainant indeed carry out their serious threat, could be catastrophic. The question about whether a seriously aggrieved complainant could, at the end of a thwarted complaint process, run amok and what to do about it has exercised the minds of some European complaint handlers.<sup>8</sup> In the end, whether a threat is carried out or not, to be the subject of such a threat causes unacceptable stress levels for staff. Dealing with serious threats relies on well-developed risk management protocols and staff who are familiar with them and trained to take decisive action.

Observation during the various training sessions indicates that all offices have well-developed risk management protocols in place. However, staff members were often unaware of the specific content of the protocols and sometimes were not sure where to find them.

### RECOMMENDATIONS:

8. That risk management protocols be reviewed to identify whether security arrangements are adequate
9. That risk management protocols spell out specific ways of terminating interviews where anger and aggression threatens to get out of hand (see p.... of the Practice Manual)
10. That risk management protocols include specific strategies to guide staff in dealing with direct threats of harm to self, others and property
11. That staff be required to familiarise themselves with the details of the protocols on a regular basis.
12. That drills be held to ensure that relevant staff are capable of reacting appropriately in situations where they are faced, without notice, with a direct and specific threat.
13. That relevant staff receive training in suicide intervention.

## Debriefing

The staff survey did not specifically ask about staff needs for debriefing after stressful interactions or critical incidents. Our observations during training sessions indicate that staff mostly debrief informally with colleagues. This is often adequate and acceptable. Nevertheless critical incident stress may have a significant effect on individuals in terms of health and morale and on the wider work environment in terms of team dynamics, absenteeism and staff turnover. In order to properly support staff and to meet duty of care obligations it is important that formal debriefing mechanisms are in place and that those who provide debriefing are properly trained.

### RECOMMENDATION:

14. That all offices put in place formal debriefing mechanisms, either by engaging an external professional service, or by establishing a formal internal system.
15. That all staff designated to provide debriefing be professional trained for the task.

## Conclusion

The overall conclusion that can be reached is that our systematic, complaint handler focused approach to managing unreasonable complainant conduct, implemented by a well trained workforce, supported by strong management commitment is highly effective.

### RECOMMENDATION:

16. That the project approach, as outlined in the Practice Manual and supported by the *Managing Unreasonable Complainant Conduct* training workshop be adopted by all Australian Parliamentary Ombudsman as best practice for dealing with unreasonable complainant conduct.
17. That a full-day *Managing Unreasonable Complainant Conduct* training workshop be delivered on a yearly basis to all offices.
18. That the relevant staff be acquainted with the project approach and given a Practice Manual as part of their induction.
19. That a position in each office carry the responsibility, written into the job description, for overseeing and coordinating the unreasonable complainant conduct approach in that office.
20. That the unreasonable complainant conduct approach be monitored nationally by the six-monthly meetings of Deputy Ombudsman.

## Postscript

The Unreasonable Complainant Conduct project focused on situations where there is a significant discretion to manage the conduct of the complainant. This is not always the case. Many agencies that handle complaints must maintain a continuing relationship and interaction between the agency and the complainant: schools and parents, hospitals and patients, gaols and inmates, public housing and tenants. These agencies are not necessarily able to say 'no', to set limits on interactions or to refuse to deal with a specific situation. Given the strong interest in our approach from all manner of agencies around Australia, it is desirable to adapt our approach to suit those agencies that must maintain an ongoing relationship.

### RECOMMENDATION:

21. That the remaining project funds be used to adapt the project approach to suit situations where an ongoing relationship between agency and client needs to be maintained in as productive a manner as possible.

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## Notes

<sup>1</sup> Lester G, Wilson B, Griffin L, Mullen PE, unusually persistent complainants *British Journal of Psychiatry*, 2004, 184, P252

<sup>1</sup> Eddy B., *High Conflict People in Legal Dispute*, Janis Publications, Canada, 2006

<sup>1</sup>Op.cit. p354

<sup>1</sup>Op.cit.

<sup>1</sup>Op.cit.

<sup>1</sup>Op.cit. p352

<sup>1</sup>Op.cit.

<sup>1</sup>Volker Faust, *Amok heute*, Schwerpunktthema, Kanton Zurich Ombudsman, Switzerland, [www.ombudsmann.zh.ch](http://www.ombudsmann.zh.ch)

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# Appendix 1: Unreasonable complainant conduct data collection

## The trial return figures

During the 12 months from 1 May 2007 and 30 April 2008 staff completed the questionnaire at Appendix 2. Part 1 was completed for all cases opened after 1 May 2007 and still open on 30 April 2008. Part 2 was completed for those cases which the case officer assessed as involving unreasonable complainant conduct.

The questionnaire was designed to capture information about the complaint, the complainant's conduct and what strategies were effective in managing the conduct.

The questionnaire results were collated by ARTD Consultants and the results as presented by them form the basis for discussion in this report.

Ombudsman legislation varies from state to state and the way offices conduct their business varies also. In order to standardise as much as possible the cases captured by the trial, offices were instructed to complete Part 2 for the cases where some enquiries were conducted and where there were paper or electronic records of interchanges between complainant, Ombudsman office and possibly the agency.

Part 2 questionnaires completed between 1 May 2007 and 15 August 2007 were called in on 16 August in order to monitor the beginning of the trial. The following return resulted:

State	Part 1 questionnaire	Part 2 questionnaire	Total questionnaires	% unreasonable conduct
NT	21	6	27	22.2
SA	54	4	58	6.9
NSW	439	26	465	5.6
Victoria	378	18	396	4.5
WA	216	8	224	3.6
Qld	1523	29	1552	1.87
Cth	636	3	639	0.47
Tasmania	52	nil	52	Nil
Total	3319	94	3413	2.8

For the period 16 August 2007 to the end of the trial on 30 April 2008 the following return resulted:

State	Part 1 questionnaire	Part 2 questionnaire	Total questionnaires	% unreasonable conduct
NT	48	6	54	11.11
Tas	81	7	88	8.0
NSW	1671	102	1773	5.8
SA	405	20	425	4.7
Vic	1458	34	1492	2.3
WA	399	4	403	1.0
Qld	3405	32	3437	0.9
Cth	3749	10	3759	0.3
Total	11216	215	11431	1.9

The return achieved for the total 12- month trial period is:

State	Part 1 questionnaire	Part 2 questionnaire	Total questionnaires	% unreasonable conduct
NT	69	12	81	14.8
NSW	2110	128	2238	5.7
Tas	133	7	140	5.0
SA	459	24	483	5.0
Vic	1836	52	1888	2.8
WA	615	12	627	1.9
Qld	4928	61	4989	1.2
Cth	4385	13	4398	0.3
Total	14535	309	14844	2.08

There was a significant drop off in questionnaires completed as the trial progressed. A number of factors explain the drop off:

- Staff changes at management level in several Ombudsman offices meant that the project did not enjoy the continuity it did in some of the other offices.
- Staff changes among complaint handling staff in a number of offices resulted in some staff not being aware of the need to complete questionnaires.
- The questionnaire was lengthy and a certain level of fatigue may have set in among staff.
- It seems likely that there is a 'cultural' difference between certain offices in terms of threshold considerations when deciding on what constitutes unreasonable complainant conduct. For example, we observed that case officers in the Commonwealth Ombudsman offices were far more inclined than staff in other offices to tolerate anger, aggression and abuse because they saw it as part of the job.
- Queensland conducts a significantly larger part of its business by telephone than any other state and given the total number of formal complaints handled is significantly larger than any other state, it is likely that types of cases were included in Queensland's count that were not included in other states.
- The Commonwealth office elected not to complete Part 1 of the questionnaire, and to rely on database information for the total of cases handled instead. This meant that the project was not as present in the minds of the Commonwealth staff as it was in the minds of the staff of all the other offices where those staff completed Part 1 of the questionnaire for every case handled. It is very unlikely that the Commonwealth Ombudsman office experienced only 13 cases of unreasonable complainant conduct, or 0.3% of all the cases handled by that office throughout Australia during the course of a 12-month period. This figure appears particularly doubtful given that the results of the telephone contact survey conducted in the Commonwealth Office's Public Contact Team indicates that the rate of unreasonable complainant conduct runs at 6.2% in relation to telephone complaints.

Other anomalies in the figure include:

- A very high rate for the Northern Territory. It seems clear that this office experiences the problem to a much greater degree than other offices simply due to its unique demographic.
- Tasmania went from a nil return after the first collection to an 8% unreasonable conduct rate after the second.
- The figures for Western Australia dropped significantly from the first to the second collection. This may have been connected with staff changes.

## Telephone contact survey

In order to capture telephone interactions which staff found difficult, a 2-week survey was conducted between 3 and 14 March in the Commonwealth Ombudsman office Public Contact Team (PCT). This team receives telephone calls to the office from all around Australia. Team members completed a questionnaire (see Appendix 2) every time they found a telephone interaction with a complainant difficult.

The following questionnaire return resulted:

Telephone calls received	Number of questionnaires completed	% unreasonable conduct
501	31	6.2

## Calculating an unreasonable complainant conduct rate

In order to arrive at a realistic estimate for an unreasonable conduct rate, some adjustments in the figures are necessary:

- The very high figure for the Northern Territory needs to be excluded because the situation there is clearly not representative of the rest of Australia
- The very low trial return for the Commonwealth needs to be excluded because it is not possible that this is representative of the Commonwealth office's experience of unreasonable complainant conduct. Much more realistic for that office is the return for the Public Contact Team telephone contact survey which is substituted for the Commonwealth's trial figure in the calculation below.
- The Queensland figure need to be excluded because it would appear that it includes, by virtue of legislative peculiarity, a large number of cases of a type not included in other States. These are primarily cases dealt with by telephone and therefore outside the definition of those that were to be included in the trial.
- Overall, given the large drop off in returns between the first three months and the next nine months, it would appear to be more realistic to base a rate estimation on the first three months only. Taking into account the above, the unreasonable complainant conduct rate can be identified based on the following calculation:

State	% unreasonable conduct
South Australia	6.9
NSW	5.6
Victoria	4.5
WA	3.6
Commonwealth	6.2
Average	5.4 %

The NSW figures are the most consistent taken over the 12 month period (this is no doubt due to the fact that the NSW office was the 'home' of the project and therefore the project was constantly in the minds of staff). The rate for NSW over the 12 months is 5.7%, very close to the national average as adjusted. This would appear to provide a realistic comparison figure.

## Trial questionnaires

In total, 309 completed Part 2 questionnaires were returned for the 12-month trial period. This is sufficient to glean indicative data to tell us something about the complainants who present with unreasonable conduct, broadly what the nature of that conduct is and what strategies were useful in managing that conduct.

In terms of the questions about strategies employed, overall, these were inconsistently answered. There tended to be a drop-off in answers to these questions as the trial progressed. It is possible that some case officers felt that, once they had answered the question for a particular strategy for one complainant, they did not need to answer it again for another complainant whose conduct was the same.

Additionally, staff changes occurred during the course of the trial and new case officers were not necessarily familiar with the specifics of the management strategies. In the 309 questionnaires returned, the use of strategies was not reported on around 30 occasions for each of the five conduct categories. Nevertheless there is sufficient data to indicate trends in the effectiveness of strategies.

## **Staff survey**

At the end of the project, staff completed a survey (see Appendix 2 for the questionnaire). Again ARTD Consultants collated the results and the results as presented by them form the basis of discussion in this report.

106 questionnaires were returned. Those who had not participated in the introductory training, who had not attended the half-day training and who had not been exposed to the approaches outlined in the Practices Manual were not required to complete the survey. As a result, the effective sample size was 95 from all Ombudsman offices.

## Appendix 2: Questionnaires

### UNREASONABLE COMPLAINANT CONDUCT QUESTIONNAIRE PART 1

Applies to all files

#### Instructions

- Complete this questionnaire at the time of closing the file for all files.
- Return the completed questionnaire to the unreasonable complainant conduct project supervisor

Ombudsman Office (circle)	Cth	NSW	NT	Qld	SA	Tas	Vic	WA
Complaint officer								
Complaint file number								
<b>OR</b>								
Review file number (if different from complaint file number)								
Complaint file number to which this review request relates								

#### Complainant conduct

In your view, in dealing with this case, overall the complainant's conduct was (tick one):	tick
a) Cooperative	
b) Neutral	
c) Unreasonable* - on one occasion	
d) Unreasonable* - occasionally	
e) Unreasonable* - regularly	

If the complainant displayed cooperative or neutral conduct, thank you, there is no need to answer any more questions. Give this Part of the questionnaire to the project supervisor now.

If the complainant displayed unreasonable conduct, please continue and complete all the pages of Part 2 of this questionnaire. Attach this Part to Part 2 of the questionnaire for this complaint case and return them to the unreasonable complainant conduct supervisor.

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\* refer to practice manual for definition and examples of unreasonable conduct

## UNREASONABLE COMPLAINANT CONDUCT QUESTIONNAIRE PART 2

Applies to files where there is unreasonable conduct

### Instructions

- Complete this questionnaire for complaint cases and review cases where there is unreasonable complainant conduct and where a file for the complaint exists.
- Complete this questionnaire at the time of closing the file.
- Complete a separate questionnaire for the complaint stage and the review stage of the case.
- As soon as it is completed, return the questionnaire to the unreasonable complainant conduct project supervisor with Part 1 attached to it.

### A. Complaint details

Ombudsman Office (circle)	Cth	NSW	NT	Qld	SA	Tas	Vic	WA
Complaint officer								
Complaint file number								
<b>OR</b>								
Review file number (if different from complaint file number)								
Complaint file number to which this review request relates								
Time taken to complete the file								

Since 1 May 2007, has this complainant made other complaint/s or review requests (circle)	yes	no
If yes, provide file number/s		

Gender of complainant (circle)	M			F	
Known or estimated age of complainant (circle)	<30	30-44	45-54	55>	Not known

<b>1. Complaint outcome:</b> (tick one)	tick
a) Complaint sustained* in whole or in part	
b) Complaint not sustained*	
c) Complaint resolved (to Ombudsman satisfaction) with Ombudsman intervention	
d) Complaint assessed, decision not to proceed/declined at outset	
e) Complaint withdrawn by complainant	
f) Other (please specify)	

OR

<b>2. Review outcome:</b> (tick one)	tick
a) Original decision confirmed	
b) Case reopened following review	
c) Review request withdrawn by complainant	

\* Ombudsman offices record outcomes in a variety of ways. For the purpose of this questionnaire, 'sustained' covers any outcome used by your office to indicate the Ombudsman has found some evidence of wrong administrative conduct supporting the complaint allegations.

<b>3. The complaint was made:</b> (tick one)	tick
a) By telephone	
b) In writing (letter, fax)	
c) By email	
d) In person	

<b>4. Your initial response to the client was by:</b> (tick one)	tick
a) In writing only	
b) By telephone only	
c) By telephone and in writing	
d) In person	

**B. Complainant conduct**

<b>5. In your view, in dealing with this case, overall the complainant's conduct was:</b> (tick one)	tick
a) Unreasonable – on one occasion	
b) Unreasonable – occasionally	
c) Unreasonable - regularly	

<b>6. What category of conduct* occurred?</b> (tick as many as apply)	tick
a) Unreasonable persistence ( <i>go to question 7</i> )	
b) Unreasonable demands ( <i>go to question 8</i> )	
c) Unreasonable lack of cooperation ( <i>go to question 9</i> )	
d) Unreasonable arguments ( <i>go to question 10</i> )	
e) Unreasonable behaviour ( <i>go to question 11</i> )	

<b>Did any of the following types of complainant conduct* occur?</b> (tick as many as apply)		<b>What strategies* were most effective in managing (preventing or limiting) the type/s of conduct?</b> (Please describe. Write on the back of this page if you need more space)
<b>7. Unreasonable persistence</b>	tick	
Refused to accept final decision		
Reframed complaint at conclusion in an attempt to have it taken up again		
Reinterpreted the law/policy to suit own purposes		
Made excessive telephone contact		
Wrote excessively (letters/faxes/emails)		
Requested review on the basis of dissatisfaction only (did not argue a case)		
Requested a second review		
Other (please describe)		

\* refer to practice manual for examples of conduct and their categories and strategies

Did any of the following types of complainant conduct* occur? (tick as many as apply)		What strategies* were most effective in managing (preventing or limiting) the type/s of conduct? (Please describe. Write on the back of this page if you need more space)
<b>8. Unreasonable demands</b>	tick	
a) Demanded 'moral' (justice/public interest/principle etc) outcome		
b) Gave instructions about how complaint should be handled		
c) Demanded excessive resources (copies of documents, expert opinion etc)		
d) Wanted inappropriate compensation		
e) Wanted inappropriate apology		
f) Wanted retribution/vengeance		
g) Other (please list)		

Did any of the following types of complainant conduct* occur? (tick as many as apply)		What strategies* were most effective in managing (preventing or limiting) the type/s of conduct? (Please describe. Write on the back of this page if you need more space)
<b>9. Unreasonable lack of cooperation</b>	tick	
a) Provided disorganised information		
b) Refused to define issues of complaint		
c) Provided excessive or unrelated information		
d) Provided information in dribs and drabs		
e) Withheld information, provides false information or was dishonest		
f) Used previously withheld information to attempt to have complaint reopened		
g) Other (please list)		

\* refer to practice manual for examples of conduct and their categories and strategies

Did any of the following types of complainant conduct* occur? (tick as many as apply)		What strategies* were most effective in managing (preventing or limiting) the type/s of conduct? (Please describe. Write on the back of this page if you need more space)
<b>10. Unreasonable arguments</b>	tick	
a) Held irrational beliefs		
b) Held conspiracy theory		
c) Wanted own illogical/irrational solution		
d) Interpreted facts irrationally		
e) Other (please list)		

Did any of the following types of conduct* occur? (tick as many as apply)		What strategies* were most effective in managing (preventing or limiting) the type/s of conduct? (Please describe. Write on the back of this page if you need more space)
<b>11. Unreasonable behaviour</b>	tick	
a) Displayed confronting behaviour (eg. rudeness, anger, aggression)		
b) Displayed manipulative behaviour (eg. overly ingratiating, tears etc)		
c) Sent rude, confronting, threatening letters/faxes/emails		
d) Made indirect threats of self harm		
e) Made direct threats of self harm		
f) Made indirect threats of harm to others		
g) Made direct threats of harm to others		
h) Threatened to damage property		
i) Other (please list)		

**C. Complainant-staff interaction**

<b>12. While you were handling this case, did the complainant:</b> (tick one)	tick
a) Contact you as case officer only	
b) Attempt to involve or did involve another officer	
c) Indiscriminately contact other staff members	
d) Demand to speak to manager/Ombudsman	

\* refer to practice manual for examples of conduct and their categories and strategies

**D. Communication from complainant**

<b>13. What form of communication did the complainant use? (tick as many as apply)</b>	<b>tick</b>
a) Letter/s	
b) Fax/s	
c) Email/s	
d) Telephone call/s	
e) In person visit/s with appointment	
f) In person visit/s without appointment	
g) Other (please describe)	

<b>14. How many contacts did the complainant make during the course of the case? (give numbers)</b>	<b>number</b>
a) Number of letters	
b) Number of faxes	
c) Number of emails	
d) Number of telephone calls	
e) Number of in person visits with appointment	
f) Number of in person visits without appointment	
g) Other (please describe)	

<b>15. In your opinion were the contacts made by the complainant during the course of the complaint (as indicated in question 14 above): (tick one)</b>	<b>tick</b>
a) Reasonable and relevant to the complaint in terms of their numbers	
b) Excessive in terms of their numbers	

<b>16. Written material from the complainant displayed: (tick as many as apply)</b>	<b>tick</b>
a) Highlighting in single colour	
b) Highlighting in multiple colour	
c) Inappropriate emphasis (underlining, italics, capitalisation of words, changes in type size)	
d) Inappropriate punctuation (exclamation/question/quotation etc marks)	
e) Annotations to other people's written material	
f) Other unusual styles (please describe)	

<b>17. Overall, the complainant explained their case:</b> (tick one)	tick
a) Briefly and succinctly	
b) At length but with appropriate detail	
c) With excessive length	
d) With inappropriate or irrelevant detail	
e) In a manner very difficult or impossible to understand	

<b>18. The language used in communications from the complainant included:</b> (tick as many as apply from b) on)	
a) Reasonable language only	
<b>OR</b>	
b) Legal terms inappropriately used or used out of context	
c) Medical terms inappropriately used or used out of context	
d) Reference to self in third person	
e) Overly ingratiating/manipulative	
f) Overly repetitious language	
g) Rhetorical questions	
h) Veiled threats	
i) Direct threats	
j) Suicide threats	
k) Threats to others	
l) Offensive language	
m) Overly dramatic or emotional language	
n) Other (please describe)	

**E. Complainant's goal**

<b>19. In your opinion, did the complainant want:</b> (tick as many as apply)	tick
a) Reasonable provision of service	
b) Unreasonable provision of service	
c) Reasonable compensation for specific loss	
d) Unreasonable compensation for specific loss	
e) Acknowledgement of their loss and its consequences by those complained about	
f) Acknowledgement of their loss and its consequences by society in general	
g) Protection of the 'public interest'	
h) 'Justice' for themselves	
i) 'Justice' for society as a whole	
j) Appropriate punishment of another, eg formal reprimand	
k) Inappropriate revenge or punishment of another, eg humiliation, public exposure, dismissal	
l) Cessation of alleged persecution or harassment by others	
m) Bizarre or incomprehensible outcomes	
n) Other (please describe)	

**F. Focus of the complaint**

<b>20. The complainant raised allegations about:</b> (tick as many as apply)	tick
a) Primarily the person or organisation causing the initial problem only	
b) Initial problem and one other linked person or organisation	
c) Initial problem and two or more linked persons or organisations	
d) Multiple persons or organisations not linked with their initial problem	
e) Generalised conspiracy by others	
f) The Ombudsman's handling of their complaint	
g) Other (please describe)	

**G. Systemic interaction**

<b>21. To your knowledge, has the complainant contacted other organisations about this matter:</b> (tick as many as apply)	tick
a) Other government agency/agencies	
b) The Ombudsman's oversight body (if one exists)	
c) Other oversight bodies (eg. Health Care, Anti-Discrimination, Anti-Corruption, Auditor General)	
d) Member/s of Parliament	
e) Minister/s	
f) Advocacy body/NGO	
g) Media organisation/s	
h) Other (please list)	

<b>22. Has this complaint involved legal action by the complainant:</b> (tick as many as apply)	tick
a) Current	
b) Past	
c) Threatened	

<b>23. To your knowledge, has the complainant made application to your office or any other organisation for information related to the complaint:</b> (tick as applicable)	tick
a) Under Freedom of Information type legislation	
b) Under privacy type legislation	
c) Made a second tier application at external review or appeal level	
d) Other: (please list)	

**H. Complainant perception**

<b>24. The complainant speaks of their loss and pursuit of complaint as: (tick as many as apply)</b>	<b>tick</b>
a) Unfinished business needing resolution	
b) An important issue on a personal level (sees it as the cause of financial loss, family breakdown, loss of physical/mental health etc.)	
c) An important principle for society	
d) Typical example of their general experience in society	
e) Life quest	
f) Other: (please describe)	

<b>25. The complainant believes that failure to achieve their goals would be: (tick one)</b>	<b>tick</b>
a) Disappointing for them	
b) Disastrous for them	
c) Life threatening for them, cannot consider not achieving goal	
d) Not known	

**I. Your comments**

Did the unreasonable complainant conduct practice manual assist you in dealing with this complainant? If so, how?

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Did the unreasonable complainant conduct training seminar provide you with skills to assist you in your interaction with this complainant?

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Any other comments / suggestions:

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## UNREASONABLE COMPLAINANT CONDUCT QUESTIONNAIRE TELEPHONE CONTACT

### Instructions

Please fill in this questionnaire every time you find a telephone interaction with a complainant difficult. The assessment of what is difficult will vary from person to person. This questionnaire asks what was difficult specifically for you.

#### A. Complaint details

1. Complaint officer	
2. Time taken to complete this call	

#### B. Complainant details

1. Gender of complainant (circle)	M			F		
2. Known or estimated age of complainant	<30	30-44	45-54	55>	Not known	

#### C. How was this interaction difficult for you? (tick as many as apply)

1. In your interaction with this complainant, did you perceive any of the following:	Please rate: 1=a little, 5=very much				
	1	2	3	4	5
a) Rudeness					
b) Shouting					
c) Sarcasm					
d) Crying					
e) Overly ingratiating (eg. you are such a wonderful person, I just know you can help)					
f) Unwillingness to accept advice					
g) Constant interruptions					
h) Circular arguments					
i) Idiosyncratic interpretation of policy/law					
j) Confusion/irrationality/delusion					
k) Threats to go to Minister/Media/Court/'higher authority'					
l) Threats of suicide Did you report this threat <b>Yes / No</b>					
m) Threats of harm to you or other person/s (eg. to follow you home, bomb threats) Did you report this threat <b>Yes / No</b>					
n) Threats to harass (eg. to bombard office with emails, to ring every day) Did you report this threat <b>Yes / No</b>					
o) Other (please describe)					

#### D. How did the complainant's conduct affect you?

2. Did you: (circle)		
a) Spend more time on the phone than usual for this type of call because of the complainant's conduct?	Yes	No
b) Feel upset, threatened or anxious as a result of the interaction with this complainant?	Yes	No
c) Did the strategy you used to deal with the complainant work particularly well?	Yes	No
d) If the strategy you used worked particularly well, please describe it on the back of this form and tell us what effect it had in managing the complainant's conduct.		

## UNREASONABLE COMPLAINANT CONDUCT PROJECT

### Survey to be completed by all complaint handling staff

The unreasonable complainant conduct project has been running for the last 12 months. The project comprises:

- The Unreasonable Complainant Conduct **Practices Manual** introducing a framework of management strategies
- The **training program** which introduced the management strategies and a non-confrontational approach to communication
- The **trial** which ended on 30 April 2008, and involved the completion of questionnaires designed to capture information about unreasonable complainant conduct and strategies employed to manage the conduct.

At the conclusion of the trial, we would like to find out whether having been exposed to this project has changed the way you deal with people whose conduct can be challenging and, if it has, how it has changed. The information you provide will help in fine-tuning and fleshing out the Practice Manual and in developing future training seminars.

<b>Question 1.</b>									
a. Which Ombudsman do you work for? (circle)	Cth	NSW	NT	Qld	SA	Tas	Vic	WA	
b. What is your job? (eg. enquiry officer, investigation officer, complaints manager etc) Please enter opposite.									
c. Did you participate in the one day introductory seminar? Please circle	Yes						No		
d. Did you participate in the half-day follow up training session? (circle)	Yes						No		
e. If you answered 'No' to c. and d. above, were you exposed to the approach outlined in the Practices Manual in any way? (circle)	Yes						No		
If you answered 'No' to question e. you may stop here and return the questionnaire to the collection point. Thank you for your time. If you answered 'Yes', please continue.									

<b>Question 2.</b>				
In your day-to-day work, how often do you encounter complainants whose conduct you find unreasonable? Please circle.				
1=never; 2=rarely; 3=once or twice a week; 4=three or four times a week; 5=daily				
1	2	3	4	5

**Question 3.**

In your day-to-day work, did you apply any of the **management strategies** for dealing with unreasonable complainant conduct?

The management strategies are:

- 1. Unreasonable persistence – strategy principle: saying ‘no’
- 2. Unreasonable demands – strategy principle: setting limits
- 3. Unreasonable lack of cooperation – strategy principle: setting conditions
- 4. Unreasonable argument – strategy principle: declining or discontinuing
- 5. Unreasonable behaviour – strategy principle: setting limits and conditions, invoking risk management protocols.

(see Part C of your Practice Manual for details)

Please circle.

1 = never; 2 = rarely; 3 = once or twice a week; 4 = three or four times a week; 5 = daily

1	2	3	4	5
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**Question 4.**

If you applied any of the management strategies, overall, taken over the 12-month trial period, how useful did you find them? Please circle.

1 = not at all useful; 2 = of minor use; 3 = somewhat useful; 4 = very useful; 5 = extremely useful

1	2	3	4	5
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**Question 5.**

Which strategy/strategies did you find **most** useful and why? Please enter below.

1.
2.
3.
4.
5.

<b>Question 6.</b> Which strategy/strategies did you find <b>least</b> useful and why? Please enter below
1.
2.
3.
4.
5.

<b>Question 7.</b> Generally speaking, did the <b>strategies</b> for managing unreasonable complainant conduct help you do your job? (circle)	Yes	No
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<b>Question 8.</b> In your day-to-day work, did you apply any of the suggestions outlined in the <b>scripts</b> set out in Part G, Annexure 1 of the Practice Manual? Please circle.				
1=never; 2=rarely; 3=once or twice a week; 4=three or four times a week; 5=daily				
1	2	3	4	5

<b>Question 9.</b> If you did apply scripts suggestions, how useful did you find them? Please circle.				
1=not at all useful; 2=of minor use; 3=somewhat useful; 4=very useful; 5=extremely useful				
1	2	3	4	5

<b>Question 10.</b> During training sessions you were introduced to a non-confrontational communication approach [finding something to agree with, acknowledging, clarifying checking understanding, apologising if appropriate and generally avoiding disagreeing, defending, denying, arguing, justifying and giving excuses]. Did you apply this communication approach? Please circle.				
1=never; 2=rarely; 3=once or twice a week; 4=three or four times a week; 5=daily				
1	2	3	4	5

**Question 11.**

If you did apply this non-confrontational communication approach, how effective did you find it in managing unreasonable complainant conduct? Please circle.

1=not at all effective; 2=effective to a minor degree; 3=somewhat effective; 4=very effective; 5=extremely effective

1	2	3	4	5
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**Question 12.**

Taken overall, did your exposure to the unreasonable complainant conduct project (Practice Manual, training, team discussions etc) change the way you now feel about having to deal with people whose conduct can be challenging?

Yes

No

**Question 13.**

If how you feel about dealing with people whose conduct can be challenging **has changed** as a result of exposure to the project, how has it changed? Please state below.

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**Question 14.**

If how you feel about dealing with people whose conduct can be challenging **has not changed** after exposure to the project what are the reasons? (eg dealing with challenging conduct was not a problem for you in the first place; you need skills/support not provided by the project – please list - etc)

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**Question 14.**

How well do you feel supported by your management in applying the approach to managing unreasonable complainant conduct outlined in the Practice Manual and in the training sessions? Please rate on the scale below.

1=no support

5=extremely well supported

1	2	3	4	5
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**Question 15.**

How frequently do you think you should receive refresher training in dealing with unreasonable complainant conduct? Please state below.

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**Question 16.**

What should be covered in refresher training? Please state below.

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**Question 17.**

Is there any information you would like to see added to the Practice Manual? Please state below:

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**Question 18.**

Think back to the full day training seminar which introduced you to the new approach. Is there anything you would like to see included in any future introductory training seminar which would be delivered to new Ombudsman staff or to staff from other agencies? Please state below:

**Question 19**

Any other comments (anything at all to do with unreasonable complainant conduct):

Please use extra pages if the space provided is insufficient for your comments and suggestions.

Thank you for your time.