

Legal Aid ACT



Policy and Procedure
Complaints Handling

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Introduction

Complaints are a valid way of alerting an organisation to potential problems in the way it conducts its business. Through the investigation of complaints, we can gain a clearer appreciation of how or where things might be going wrong. Properly handled, complaints allow us to analyse how we administer policies and programs, deal with clients, and manage issues. They also help us to identify areas that need attention, and this in turn can lead to improvements in service delivery and better decision-making.¹

Handling complaints can be difficult, especially when complainants are upset and emotional. Sometimes, by the time people feel 'wronged' enough to make a complaint, they have understandably often developed a strong emotional link to the problem and its resolution.

Our role is to ensure that a professional and accountable process is maintained when actioning complaints. No staff member is expected to tolerate abuse, harassing or threatening conduct. This complaints policy aims to set out the obligations and, duties and responsibilities that form the parameters of dealing with complaints. If these processes are followed then a better outcome is more likely to be achieved.

Dr John Boersig PSM Chief Executive Officer July 8, 2024

¹ Prof. John McMillan, Foreword to the 'Better Practice Guide to Managing Unreasonable Complainant Conduct', Commonwealth Ombudsman, first edition, June 2009.

Complaint handling policy framework

This policy is directed at the conduct of the in-house legal aid practice lawyers, as well as Family Dispute Resolution Practitioners, who undertake work for clients on grants of legal assistance.

To enable Legal Aid ACT to ensure a high standard of service to complainants and meet our occupational health and safety and duty of care obligations to our staff, the following ground rules apply to Legal Aid ACT's staff and to complainants.

It is the responsibility of Legal Aid ACT to:

- deal with complaints professionally, efficiently and impartially
- keep complainants informed of the progress and outcome of enquiries
- provide clear reasons for our decisions, and
- treat complainants with courtesy and respect.

The performance of Legal Aid ACT in meeting these responsibilities is subject to review by the Ombudsman.

It is the responsibility of the *complainant* to:

- clearly identify the issues of complaint
- give Legal Aid ACT all the available information about the complaint in an organised format at the time of making the complaint
- cooperate with Legal Aid ACT's enquiries or investigations, and
- treat Legal Aid ACT's staff with courtesy and respect.

If complainants do not meet their responsibilities Legal Aid ACT may set limits or conditions on the handling of their complaint. Any abuse, harassment or threats to the safety or welfare of staff at Legal Aid ACT will result in the complainant being warned that we will immediately cease handling the complaint if the behaviour continues. If the behaviour recurs the complaint handling process and contact with the complainant should be referred to the Client Services Manager.

Complaints are handled by Legal Aid ACT within a framework of public access rights and responsibilities. These include:

- Legal Aid ACT has an obligation, within reasonable limits, to respond to correspondence and respond to telephone and face-to-face inquiries from the public
- Legal Aid ACT has an obligation to provide services to the public
- in the absence of good reasons to the contrary members of the public have a right of access to Legal Aid ACT and its services
- people who have dealings with Legal Aid ACT have a right to complain, and criticism and complaints are a legitimate and necessary part of the relationship between Legal Aid ACT, its clients and the wider community

- no one should unconditionally be deprived of the right to raise their concerns and have them addressed, and
- Legal Aid ACT's obligation to use its resources efficiently and effectively may mean that it is reasonable to limit the nature or scope of actions taken in response to unreasonable complainant conduct.

Complaint handling procedure

Form and acknowledgment of complaints

Legal Aid ACT will ordinarily not accept a complaint unless it is in writing.

Complainants contacting Legal Aid ACT in person or by telephone should be asked to put their complaint in writing addressed to the CEO at Legal Aid ACT's postal address or emailed to legalaidact@legalaidact.org.au. This inbox and the tracking of complaints are managed by the Client Services Unit.

If a complainant finds it difficult to lodge a written complaint due to literacy, language or other disability they should be assisted to put their complaint in writing.

All complaints should be acknowledged in writing, either by letter or e-mail using the sample letter in **Appendix 1**.

It is not necessary to respond to correspondence which has only been copied to Legal Aid ACT unless the correspondence raises a significant issue concerning Legal Aid ACT. If in doubt the copied correspondence should be referred to the CEO.

Anonymous complaints should only be investigated where they raise issues of fraud or other serious misconduct that the CEO considers warrant investigation.

The staff involved in the investigation of a complaint include:

- The Client Services Manager who is responsible for tracking the complaint, responding to clients in connection with conduct complaints and maintaining a complaints register
- Practice or Division Head who is responsible for managing investigations and distinguishing conduct complaints from routine service requests.
- Section Manager who is responsible for managing routing service request issues
- The Chief Executive Officer who is responsible for the good governance of Legal Aid ACT

Conduct complaints

Conduct complaints comprise:

1. complaints about services provided by, or other conduct of, ongoing staff or contractors; and
2. complaints about services provided by, or other conduct of, private lawyers conducting Legal Aid funded work.

Complaints about Legal Aid ACT staff

Complaints about legal Aid ACT staff fall into two main categories:

1. *Complaints that express dissatisfaction with some aspect or aspects of how legal assistance is being provided, without amounting to a conduct complaint. Legal Aid ACT refers to these as routine service requests.*
2. *Conduct complaints.*

Handling complaints as routine service requests

Legal Aid ACT occasionally receive requests from legally assisted clients to transfer their file to another in-house lawyer. A variety of reasons may be given for making these requests. At one end of the spectrum the reasons may constitute a complaint about the conduct of the lawyer handing the file, while at the other end of the spectrum the requests are not specific complaints but arise from a breakdown in the lawyer-client relationship.

Many of these requests are appropriately dealt with at practice head level by asking the lawyer concerned to resolve the matter with the client, or by assigning the file to another lawyer.² In this way these requests are appropriately treated as routine service requests and handled accordingly, rather than being treated as conduct complaints for the purpose of the Complaints Handling Policy and Procedure.

The following guidelines determine what constitutes a conduct complaint for the purpose of the Complaints Handling Policy and Procedure, and what may be handled informally by way of rectification of a routine service delivery issue.

1. Where the complainant is a Legal Aid ACT client and it is unclear whether unsatisfactory service is involved the matter will be referred to the section supervisor or other manager who, after consulting the Practice Head, will conduct a preliminary investigation and advise whether in their view unsatisfactory conduct is involved, or whether the matter can be resolved

² An initial request for a service or action is not a complaint (however, subsequent requests may be an implicit complaint about service, inaction or delay) Commonwealth Ombudsman *Better Practice Complaint Handling Guide 2023* at page 6.

informally with the client by way of rectification of a service delivery issue.

2. If the section head or other manager after investigating the matter considers that it discloses unsatisfactory conduct on the part of a member of staff, then the Practice Head must be informed.
3. The Practice Head will consider whether the conduct amounts to a serious breach of duty or Legal Aid ACT values. The Practice Head will determine if it is appropriate to handle the concerns of the client informally or whether it should be escalated to the CEO to be dealt with under the following provisions of the Complaints Policy and Procedures.
4. Notify CSU of the resolution of the request.

Information for clients considered to be raising routine service request issues

Clients who raise issues that are not immediately treated as a conduct complaint under this policy, must receive acknowledgement of their concerns as soon as possible along with information about the complaints policy that will enable the client to escalate the matter should they choose to. To achieve this, the acknowledgement should include the paragraph shown **Appendix 2**.

Handling conduct complaints

Conduct complaints about any behaviour of Legal Aid ACT staff or contractors must be made to (or forwarded by a receiving staff member to) the Legal Aid ACT email inbox legalaidact@legalaidact.org.au.

Complaints arriving at this email address will be identified by the Client Services Unit (CSU) and added to the Complaints Register that it maintains. The CSU has responsibility for managing Legal Aid ACT's complaint's process in cooperation with relevant divisions and practice heads and the Chief Executive Officer.

CSU reports monthly to the CEO with a summary of the Complaints Register, for the current and previous two months, showing the number of:

- unresolved complaints
- overdue unresolved complaints
- complaints resolved
- complaints resolved late
- complaints for which CSU has provided extensions
- complaints resolved late by Division, and
- Legal Practice Staff and other staff complaints.

The complaints register is available to the CEO for scrutiny at all times.

Complaints about Legal Practice Staff

For complaints about Legal Practice staff (including contractors), the CSU will, within 5 business days, notify the staff concerned and the relevant practice head who will promptly investigate the complaint and provide a written report.

The report must be provided to CSU within 30 business days subject to any agreed extension.

Once the CSU is satisfied with the outcome of the investigation, CSU will provide the CEO with a response to the complainant for review and delivery to the complainant.

Complaints about other staff

If the complaint concerns any other staff of Legal Aid ACT (including contractors) the CSU will, within 5 business days, notify the relevant Division or Practice Head who will promptly investigate the complaint and provide a written report.

The report must be provided to CSU within 20 business days subject to any agreed extension.

Once the CSU is satisfied with the outcome of the investigation, CSU will provide the CEO with a response to the complainant for review and delivery to the complainant.

Complaints about the CEO or the Manger of CSU

Complaints about the CEO are to be managed in the same way as other complaints except for the fact that any role in the complaints process that would normally be filled by the CEO will be filled by the Manager of CSU. The reverse also applies.

To any extent that is necessary to avoid a conflict of interest the Complaints Register may be partly redacted.

Complaints about private lawyers

Complaints about services provided by, or other conduct of, private lawyers performing work for Legal Aid ACT must be made to or forwarded to the Legal Aid ACT email inbox legalaidact@legalaidact.org.au. Complaints arriving at this email address will be identified by the Client Services Unit and added to the Complaints Register that it maintains.

The CS Manager will assess and categorise these complaints as either routine service requests or conduct complaints by reference to the same standards used in assessing complaints about lawyers working at Legal Aid ACT.

Routine service requests will be resolved in consultation with the private lawyer and/or through assigning a different lawyer. If a conduct complaint is identified the complainant will be advised to raise the matter with the ACT Law Society.

CSU will notify the private lawyer concerned and request a response to the complaint within 30 business days.

On receipt of the private lawyer's response CSU will prepare a report and draft a response to the complaint for consideration by the CEO.

Complaints about FDR Practitioners

Complaints about services provided by FDR Practitioners performing work for Legal Aid ACT must be made to or forwarded to the Legal Aid ACT FDR Practice at FDR@legalaidact.org.au

The FDR manager (or another Officer of the Commission if a conflict exists) will assess these complaints against relevant provisions of the Family Law Act 1975 (The Act) and the Family Law (Family Dispute Resolution Practitioners) Regulations 2025 (The Regulations) to categorise the complaint as serious or less serious.

A serious complaint is one that involves a breach of practice standards or obligations or other provisions under The Act or The Regulations.

Less serious complaints (eg, does not involve a breach) will be resolved in consultation between the FDR Manager and the FDR Practitioner.

If the FDR manager categorises a complaint as potentially serious, because it may indicate that an inappropriate service was provided, the following process will be followed:

- Complaint registered with the Legal Aid ACT Complaints Register.
- Notice in writing to the complainant, acknowledging the complaint and that a formal response will be forthcoming within 30 days or if longer time required, notice of further time.
- The complaint forwarded to the FDR Practitioner seeking a response within 14 days.
- Notice to the FDR Practitioner that if the Commission determines the complaint to be substantiated and serious, the obligation of the Commission to report it to the Australian Government Attorney General's Department.

- An investigation of the complaint by the FDR Manager to determine if an inappropriate service was provided; giving primary consideration to The Act and The Regulations.
- Formal Response to complainant.
- If complaint found to be substantiated and serious - Notice to Australian Government Attorney General's Department that includes name of FDR Practitioner and identifies the relevant breach of The Act or The Regulations.

Communicating with complainants regarding conduct complaints

Following investigation a written response should be sent to the complainant that includes the decision made and reasons for that decision. The response should be as short and concise as possible, while containing sufficient information to provide the complainant with an appropriate response.

Communication with complainants should be courteous and respectful at all times and the basic principles to be kept in mind when interacting with complainants are that:

- the public has the right to access Legal Aid ACT;
- unreasonable complainant conduct (see below) does not preclude there being a valid issue;
- the substance of the complaint dictates the resources allocated to it, not the behaviour of the complainant;
- Legal Aid ACT owns the complaint, the complainant owns the issue.

When an apology should be made

One of the most effective ways to defuse a complaint situation, or prevent the situation from escalating to a point where the complainant's conduct becomes unreasonable, is to offer a full or partial apology. It is always important that we own any mistakes and that we do not seek to mask poor behavior or conduct.

Apologies are one outcome of a complaint process. An apology, when made, should be contained within the response to the complainant at the end of the complaints process. Apologies prior to this stage should only be made in consultation with the CS Manager.

Legal Aid ACT will sometimes make mistakes, and sometimes delays, omissions and misunderstandings occur. If this occurs, action should be taken immediately to remediate the problem. However, remediation on its own is generally not enough and an apology should be made as well.

When things go wrong, complainants generally want no more than to be listened to, understood, respected and (if appropriate) given an explanation and apology. A prompt and sincere apology for any misunderstanding is likely to stop ongoing problems from developing.

The most effective apologies incorporate the following elements:

- an explicit recognition that the action or inaction was incorrect, inappropriate or unreasonable, and the acknowledgment of any harm caused;
- acceptance of responsibility for the wrong and any harm caused;
- an explanation of the cause in plain English;
- a sincere statement of regret; and
- an explanation of the action to be taken or proposed to address the problem and an indication that the action or inaction will not happen again;

Legal implications of an apology

The ACT has legislated to protect ‘full’ apologies - that is apologies that include an admission of fault or responsibility - from incurring civil liability. *The Civil Law (Wrongs) Act 2002* does not protect apologies relating to liability for defamation, under the Discrimination Act or under the Workers Compensation Act.

Also, Case law indicates that even if a person makes an apology that includes an acceptance or admission of fault or responsibility, this will not necessarily be regarded by the courts as an admission that creates legal liability in civil proceedings (see *Dovuro Pty Ltd v Wilkins* [2003] HCA 51 (11 September 2003)).

Complaints about Legal Aid ACT’s provision of legal assistance

Most complaints concerning the provision of assistance are in the form of allegations that another person (usually a party to proceedings involving the complainant) does not qualify for assistance because of means or lack of legal merit. Because these complaints concern the affairs of others Legal Aid ACT is prevented by section 92 of the *Legal Aid Act 1997* from divulging or communicating any information held by Legal Aid ACT concerning the another person, unless one of the exceptions in section 92AA applies.³

However these complaints must not be ignored unless the allegations are known to be false.

All allegations concerning the eligibility of a person for legal assistance should, if the person has applied for or been granted legal assistance, be investigated. However, the

³ The exceptions are where a person gives their express or implied consent to disclose information about them; or for the purpose of facilitating the investigation or prosecution of an offence against the Act; or in response to a subpoena under the *ACT Civil and Administrative Tribunal Act 2008*, in relation to an application to the ACAT under the *Legal Profession Act 2006*

complainant must not be told whether or not the other person has applied for assistance, or be informed of the outcome of an investigation.

The normal procedure on receiving complaints of this type is for Client Services to acknowledge the allegations without disclosing whether the person has applied for legal assistance (because this is protected information). The acknowledgement of the allegations should be in the following terms or to like effect:

We acknowledge your [letter or email] of [date].

The privacy provisions of the *Legal Aid Act 1977* prohibit disclosure of any information that may be held by Legal Aid ACT concerning the affairs of any person without that person's consent.

If appropriate your allegations will be investigated, but you will not be informed of the outcome of the investigation.

If the person has applied for and been refused legal assistance the allegations should be noted on the file but ordinarily no further action will be necessary.

If the person has been granted legal assistance and the complaint involves the client's financial eligibility for legal aid, CSD will review the client's file including by seeking an update of financial circumstances form.

If the person has been granted legal assistance and CSU identifies credible allegations about merits, CSU will enquire with the lawyer acting for the person, informing them of the allegations (without disclosing the source) and request a response to the allegations within a stipulated time. Credible allegations about merits are those that relate to the assessment process for a grant of legal aid. A court or tribunal, and not the complaints process, is where allegations that relate to the substance of a dispute between our client and another party should be aired.

Details of action taken in response to allegations should be retained on the relevant file. If the allegations raise important issues of policy or practice; or include allegations of misconduct on the part of Legal Aid staff or others in circumstances which, if misconduct was established, could constitute a financial or business risk to Legal Aid ACT, the Client Services Manager will notify the CEO before responding to the complainant.

A flow chart describing the complaints process is included as **Appendix 3**.

Managing unreasonable complainant conduct

Sometimes we receive complaints from people who have come to the end of their tether. Some are justifiably upset, angry and generally difficult because they are caught up in what they perceive to be some outrageous wrong. Others are difficult for reasons that go beyond the circumstances of their case. These complainants often tend to be angry, aggressive and abusive. They may threaten harm; be dishonest or intentionally misleading in presenting the facts, and deliberately withhold relevant information. They may flood Legal Aid ACT with unnecessary telephone calls, e-mails and large amounts of irrelevant printed material. These complainants tend to insist on outcomes that are not possible or appropriate, or demand things to which they are not entitled. At the end of the process they are often unwilling to accept decisions and continue to demand further action on their complaints. They frequently take their complaints to other forums such as the Ombudsman, Human Rights Commission, government ministers, or local MPs.

Sometimes these complainants change the focus of their complaints so that the substantial complaint is followed by a string of complaints about how their case is being handled. The same person's complaint can often be found in a number of agencies at the same time.

In summary, these are behaviours that go beyond what is acceptable, even allowing for the fact they may be experiencing high levels of stress about the issue of the complaint.

There is anecdotal information from the Ombudsman and other organisations that the number of people who present as difficult seems to be on the increase and the problems that agencies have to deal with seem to be getting more complex.

Over the years, the Commonwealth Ombudsman has observed changing complainant conduct which suggests increasing generalised failure to recognize the link between rights and responsibilities. Some complainants overlook the fact that a condition of being able to exercise one's own rights is, in most cases, an acceptance of the rights of others. They are not mindful of the need to balance their right to make a complaint with the rights of staff to safety and respect or the rights of other complainants to equal time and resources.⁴

Unreasonable complainant behaviour can sometimes be seen as a nuisance, and a side issue that interferes with the core business of the organisation. This can lead to an unsystematic approach to dealing with more difficult complainants, which may in turn lead to problems with resource management, inequity in case handling and staff stress.

⁴ Ombudsman Western Australian *Managing unreasonable complainant conduct: Practice manual* Page 9.

Guidelines for managing unreasonable complainant conduct

The following guidelines on managing unreasonable complainant conduct are based on the Commonwealth Ombudsman's *Better Practice Guide to Managing Unreasonable Complainant Conduct* (1st Edition, June 2009).

1. Focus on the conduct, not the person

Complainants may engage in certain behaviours to an unreasonable degree for a variety of reasons, including:

- Emotional or psychological
 - anger or frustration as a result, for example, of unmet expectations;
 - refusing to accept an unfavourable outcome;
 - seeking vindication, retribution or revenge, holding an exaggerated sense of
 - entitlement; or
 - needing to blame others.
- Attitudinal
 - dissatisfaction with the person, agency, government or life in general;
- Aspirational
 - seeking justice or a moral outcome;
 - focusing rigidly on a matter of principle
- Recreational
 - an all consuming hobby;
 - deriving pleasure from the activities associated with the complaint process; or
 - social contact.

The most effective way for complaint handlers to manage a complainant's challenging behaviour is to manage their own response to that behaviour. This is done by implementing strategies to manage that conduct. These strategies include:

- focusing on the conduct of the complainant, rather than on the complainant as a 'difficult' person - separating the behaviour of the complainant from the issue being complained about, so that the issue can be effectively addressed without it being clouded by behavioural problems; and
- targeting individual instances of observable conduct and citing that conduct as a reason for taking particular action.

2. Ensure ownership and control

No matter what the underlying reasons for unreasonable conduct may be, experience shows that the primary trigger for most unreasonable complainant conduct is likely to be a struggle for control over how a complaint is handled.

It needs to be made clear to complainants that Legal Aid ACT owns the complaint and decides whether it will be dealt with; by whom it will be dealt with; how quickly it will be dealt with; what priority it will be given, and what the outcome will be. Complainants own their issues and, if dissatisfied with Legal Aid ACT's response, are entitled to pursue them through other available avenues such as the ombudsman or the courts.

In the end the complaint must be handled and concluded to Legal Aid ACT's satisfaction, not the complainant's satisfaction.

3. Good communication

It is important to provide clear, timely and firm communication with complainants. If complainants are not kept informed about what is happening, they are likely to make negative assumptions.

4. Manage complainant expectations

Complainants may hold unrealistic expectations about how their complaint will be handled. They may believe that they have the right to dictate how Legal Aid ACT will handle the complaint, including how the investigation should proceed and what the outcome should be. Some complainants have an unrealistic expectation that significant action will be taken as a result of their complaint, for example, that a particular staff member will be disciplined. Complainants sometimes think that their complaint is more important than any other complaint the agency is handling and expect such things as on demand attention from staff, urgent consideration of the matter, the provision of significant amounts, or particular types, of information and so on.

Unreasonable expectations can lead to unreasonable conduct. It is essential to manage complainant expectations from the very beginning of the complaint handling process.

Complainants need to be aware of:

- who will be handling the complaint;
- how the complaint will be handled;
- the timeframe for handling the complaint; and
- what is expected of the complainant in regard to handling the complaint.

Complainant expectations should be managed by:

- providing clear information about the complaint handling process on the public website;
- including in the letter or email acknowledging receipt of the complaint, information about the complaint handling process and the respective roles of the agency and the complainant. See the example acknowledgment in Appendix 1.
- reality testing the complainant's expectations (What do you hope to get from this process? What to expect the outcome to be? What did you hope to achieve when you decide to contact us?) and then addressing and correcting any unrealistic expectations

5. Insist on respect and cooperation

Staff handling complaints should insist that complainants show respect and cooperate as a prerequisite to further contact and communication.

6. Show respect and impartiality

An important part of preventing unreasonable conduct and giving complainants confidence in the complaint handling process is to remain calm in the face of unreasonable conduct, and to show respect for all complainants even under provocation.

It is also important to demonstrate impartiality. The complaint handler is not an advocate for the complainant, but nor should the complaint handler adopt an adversarial role.

7. Clarify the complaint

If it is not clear from the initial complaint specifically what conduct or decisions the complainant is concerned about, telephone or write to the complainant before taking up the complaint to clarify or confirm the issues of their complaint. For example: *As I understand it you are complaining about . . . is this correct?*

8. Communicate clearly and appropriately

Above all the complaint handler should maintain professionalism in all their dealings with the complainant, including the language they use in written and oral communications.

Written and oral communications should be clear, concise and firm, and appropriate to the specific complainant. For example, if a complainant has difficulties in comprehension, the communications should be in as simple language as possible.

Keep complainants informed of the progress of their complaint. If there is going to be a delay, contact them and explain why.

9. Provide clear reasons for decisions

Complainants are more likely to be satisfied with the outcome of a complaint if clear and comprehensive reasons are provided for the decision that is made. Even if the complainant is not satisfied, the provision of adequate reasons will help to ensure that there are no grounds for legal or other challenge to the decision.

It is a good idea in the letter reporting on the outcome of the complaint to provide the reasons for the decision before stating the decision itself. This will maximize the likelihood of the complainant focusing on the arguments underpinning the decision.

Strategies for dealing with types of unreasonable complainant conduct

Unreasonable complainant conduct can be grouped into five categories. Each category is briefly described in the table below and strategies for dealing with the type of conduct noted.

Conduct category	Unreasonable Conduct	Management Strategies
1. Unreasonable persistence	<ul style="list-style-type: none"> • Persisting with the complaint after it has been comprehensively considered • and all avenues of review exhausted. • Reframing a complaint in an attempt to get it taken up again. • Showing an inability to accept the final decision. • Insisting that a particular solution is the correct one in the face of valid contrary or alternative arguments. 	<p>Strategies for dealing with unreasonable persistence are about saying ‘no’ and include:</p> <ul style="list-style-type: none"> • communicating clearly that something is not going to happen; • telling complainants that not all problems have an institutional solution; • requiring complainants who want a review to provide an argument for one e.g. to explain how we have erred, or provide new information; • maintaining a ‘no means no’ stance following review; • adopting, when appropriate, a firm ‘no further correspondence’ or contact stance; • ending unproductive telephone calls; • asserting Legal Aid ACT's position e.g. ‘I acknowledge that your view is . . . , we see it differently’, or ‘I acknowledge • that your view differs from ours, however, our job is to make a decision about . . . and this is what we have decided’.

Conduct category	Unreasonable Conduct	Management Strategies
2. Unreasonable demand	<ul style="list-style-type: none"> • Insisting on outcomes that are unattainable • Wanting revenge or retribution. • Issuing instructions and making demands about how a complaint should be handled. • Providing supporting evidence in extraordinary detail when the detail is not relevant to the complaint • Making unreasonable resource demands out of proportion to the seriousness of the issue. Showing reactions or demanding actions that are out of proportion to the significance of the issue. Shopping around for a sympathetic ear. • Placing Legal Aid ACT on extensive e-mail copy list and expecting responses to these e-mails. • Consistently creating complexity where there is none. 	<p>Strategies for dealing with unreasonable demands are about setting limits and include:</p> <ul style="list-style-type: none"> • letting the complainant know in advance how Legal Aid ACT intends to deal with the complaint; • restricting contact to defined times and staff members were necessary; • responding only to e-mails and mail addressed to Legal Aid ACT directly, not communications where we are merely copied in; limiting contact to writing only; and • as a last resort, informing the complainant that their interactions are unreasonably demanding and setting defined limits on further contact.
3. Unreasonable lack of cooperation	<ul style="list-style-type: none"> • Presenting a large quantities of information which is not organized or summarized when the complainant is capable of doing this. • Presenting information in dribs and drabs. • Changing the complaint and raising new issues while the complaint is being considered. Withholding information, misquoting others, or • swamping Legal Aid ACT with documents. 	<p>Strategies for dealing with unreasonable lack of cooperation are about setting conditions and include:</p> <ul style="list-style-type: none"> • requiring complainants to define what their issues are or pursue further inquiries before we will look at the complaint; • ending our involvement in the complaint if it is discovered that the complainant has been wilfully misleading or untruthful in a significant way.
4. Unreasonable arguments	<ul style="list-style-type: none"> • Holding irrational beliefs -- e.g. seeing cause and effects links where there are none. • Holding what is clearly a conspiracy theory unsupported by evidence. • Insisting on the importance of an issue that is clearly trivial. 	<p>These complaints should be declined at the beginning, or discontinued as soon as it becomes clear that the complaint is groundless. Alternatively, if unreasonable arguments are mixed with reasonable arguments, the strategy is to refuse to deal with the unreasonable portion.</p>

Conduct category	Unreasonable Conduct	Management Strategies
5. Unreasonable behaviour	<ul style="list-style-type: none"> • Displaying confronting behaviour e.g. rudeness, aggression, threats or harassment. • Sending rude, confronting or threatening letters. • Making threats of self harm or harm to others. • Displaying manipulative behaviour 	<p>The strategies for dealing with unreasonable behaviour are primarily about saying 'no' to unacceptable behaviours, and setting limits and conditions for future interactions. Overt anger, aggression and threats in person, on the phone or in writing are never acceptable.</p> <p>Return letters framed in rude and intemperate language and request that the complainant reframe their concerns in more moderate language. Point out that more moderate language is clearer and more likely to achieve better outcomes.</p> <p>End telephone calls and interviews if the complainant becomes abusive and confronting.</p>

Closing off the complaint process

One of the most troubling types of behaviour for complaint handlers to deal with is the unwillingness of complainants to listen to or accept advice or decisions, resulting in unreasonable persistence.

Provided that the complaint handler has done their job properly and is confident that the decision or advice is correct, it is not the complaint handlers responsibility or problem if the complainant is unable to accept the decision or advice. Once you have outlined the reasoning behind the decision once or twice, and it is clear that the interaction with the complainant is becoming unproductive, the complaint process can be ended at this point, with or without an acknowledgment that the complainant has a differing view to the one Legal Aid ACT has come to.

In the end it is for Legal Aid ACT, not the complainant, to be satisfied that the complaint has been properly handled.

Limiting complainant access

In extreme cases where unreasonable complainant conduct is involved, limiting the complainant's contact with Legal Aid ACT may need to be considered, but only as a last resort and with the CEO's approval. The CEO should sign the correspondence informing the complainant of such limitations.

Contact can be limited in terms of the times a complainant may make contact with us; the staff the complainant may have contact with, or the form in which contact may take place (e.g. in writing, with a direction not to enter Legal Aid ACT's premises).

In the small number of cases where it is clear that the complainant will not accept a decision on the matter, and all appropriate avenues of internal review had been

exhausted, it may be appropriate to notify the complainant that in future their telephone calls will not be taken, and correspondence received will be read and filed, but only acknowledged or responded to if it contains significant new information or raises new issues warranting fresh action.

The only circumstances where Legal Aid ACT would contemplate withdrawing services or refusing access altogether would be where the complainant:

- is consistently abusive, or intimidates or threatens physical harm to staff or others;
- is physically violent; or
- causes damage to Legal Aid's property.

Appendices

Appendix 1: Letter acknowledging complaint

Dear

[Brief reference to nature of complaint]

We have received your complaint concerning this matter.

Your complaint will be investigated and we will respond as soon as our investigation is completed.

If for any reason the investigation cannot be completed within 30 business days we will let you know when we expect to be able to respond.

If you are dissatisfied with our response to your complaint, you may discuss it with us or make a complaint to the Ombudsman.

Yours sincerely,

Appendix 2: Paragraph explaining complaint treated as Routine Service Request

We are currently working to resolve the issues you have raised with the lawyer assigned to you. Issues like the ones you raised do occur from time to time and Legal Aid takes them seriously, it is important for clients and their lawyers to have a good professional relationship. We expect to be able to resolve the situation with you. However, separate to work we are currently doing for you, anyone can make a complaint about the conduct of Legal Aid or its staff by writing to the CEO at Legal Aid ACT's postal address or by sending an email to legalaidact@legalaidact.org.au.

Appendix 3: Flow Chart

