

POLICY

Dealing with complex behaviour

Date approved	25 May 2018
Last reviewed	19 February 2024
Next review	28 February 2025
Responsible officer	Deputy Ombudsman

CONTENTS

Policy Statement.....	3
'Complex' behaviour.....	3
Behaviour can become 'unreasonable'.....	4
What about threats of harm?.....	5
Support for staff	6
Roles and Responsibilities	6
Document Management	8
Compliance.....	8
Document approval.....	8
Document review.....	8
APPENDIX A: Related documents	9

POLICY STATEMENT

The Ombudsman (VO) is committed to being accessible and accountable when we engage with the public in handling complaints and conducting investigations. We expect our staff to be respectful and provide clear, reasoned information to the public. We also recognise that people have different needs, come from diverse backgrounds or may be stressed, frustrated or upset when they engage with us.

VO recognises the public's human rights under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) ('Charter of Rights Act') when they engage with us. For example, we recognise the public's right to recognition and equality before the law (section 8), freedom of expression (section 15) and taking part in public life (section 18).

However, VO does not tolerate behaviour from the public that is unreasonable, offensive, abusive or threatening towards our staff, or unreasonably consumes a disproportionate amount of the VO's time or resources. When this behaviour occurs, we will take steps to reduce the detrimental impact on our staff and on our office's resources and productivity. We may also take stronger measures to protect a person's welfare when threats to safety are made. In these circumstances we recognise VO's obligations under the *Occupational Health and Safety Act 2004* (Vic), and we may also impose reasonable limitations on a person's human rights under the Charter of Rights Act.

This policy sets out how we deal with different types of behaviour in a way that is fair and in the public interest. It balances the interests and needs of complainants, subjects and witnesses and other parties who engage with us, as well as individual members of our staff, the organisation and our legislative obligations.

'COMPLEX' BEHAVIOUR

'Complex behaviour' is any behaviour *you* find complex and challenging as a complaint handler and investigator. This will vary from person to person. By reflecting on types of behaviour you find complex and challenging you will be in a better position to respond effectively. Some types of behaviour are never acceptable. They include verbal abuse, threats and violence.¹

¹ Victorian Ombudsman, *Good practice guide: Managing Complex Complainant Behaviour February 2022*, page 5.

1. At times, VO staff may find some of the behaviour of people we engage with challenging to respond to. We are all impacted in different ways by the behaviour of others: this is no less so with VO staff.
2. The VO encourages our staff to identify the sorts of behaviours they find challenging in the course of their work, and to use strategies to effectively deal with them in order to focus on the issues at hand.
3. When confronted by complex behaviour they find challenging, VO staff reflect on their own response and use complaint handling techniques and other strategies to reduce the incidence or intensity of the behaviour and its impact.
4. To both prevent and respond to complex and challenging behaviour, VO staff:
 - treat those who engage with us politely and with respect, listen to concerns and manage expectations about the VO's processes and possible outcomes at the outset
 - communicate in plain English and avoid jargon
 - explain our decisions clearly
 - provide opportunities to comment on our views
 - advise of any review rights
 - are responsive and timely in their dealings
 - do not avoid 'difficult' conversations.
5. VO staff also make reasonable adjustments to assist those with particular needs, such as language or communication difficulty, a disability (including mental illness) consistent with VO's obligations under the *Disability Act 2006* (Vic), the *Equal Opportunity Act 2010* (Vic), the Charter of Rights Act and VO's [Diversity, Equality and Inclusion Strategy](#).
6. Where complex behaviour occurs as a result of a welfare issue, VO staff should also consult the [Supporting the wellbeing of VO complainants and witnesses \(Welfare Policy\)](#).

BEHAVIOUR CAN BECOME 'UNREASONABLE'

7. However, some behaviours may be unreasonable in expression and degree, and are never acceptable. They may raise health, safety and resource or equity issues for the VO, our staff and other users of our service. A person's unreasonable behaviour can detract from the issues we are dealing with.
8. Unreasonable behaviour can include but is not limited to:
 - repeated contact after we have comprehensively considered the matter at hand and finalised our involvement

- persistent demands about how VO should handle a matter (whether a complaint, conciliation, or investigation, for example), the priority it should be given, or the outcome that should be reached
 - a continual unwillingness to cooperate with our staff and comply with our processes
 - constant and repeated arguments that are not based on reason or logic, that are incomprehensible or false
 - acts of aggression, threats, verbal abuse or derogatory or offensive remarks.
9. Unreasonable behaviour can occur via telephone, during face-to-face interactions and also over the internet, on social media, in a public location or in written correspondence.
10. After considering the Charter of Rights Act and the unique circumstances of the person, VO may respond to unreasonable behaviour and limit:
- how the person may contact the VO – e.g. in writing rather than via telephone
 - the person's contact to a particular staff member
 - which issues we will respond to – e.g. we will not reconsider a complaint unless it raises new issues that warrant our assessment
 - when the person may contact VO.
11. Generally, we provide a warning to a person to give them the opportunity to change the way they engage with us before we consider limiting their contact with us. However, if behaviour is dangerous or poses a risk to our staff, we may not provide a warning before limiting access to our service.

What about threats of harm?

12. We may report threats of harm made against a VO staff member or against another person to the Police. If a threat of harm is made against a person, we will endeavour to inform that person or their employer.
13. When a person makes a threat of suicide or self-harm, we may report this to the Police.
14. VO will not tolerate threats against a VO staff member or behaviour intended to intimidate a VO staff member. In most cases, we will limit the person's access to the office using a stronger contact management strategy. We will consider:
- the nature and degree of the behaviour
 - the likely effectiveness and impact of different strategies
 - VO's legal obligations (including human rights and occupational health and safety considerations).

15. More than one strategy may need to be used in an individual case. We will use our discretion to adapt strategies to suit personal circumstances or special needs.
16. We document instances of unreasonable behaviour, including threatening behaviour in our case management system. These records describe the details of the interaction and any action taken as a result.
17. We consider these records when we decide on a response strategy.
18. We will inform the person of when and why we will implement a particular response strategy. The person is able, as is the case with all of our decisions, to request a review of a limitation placed on them (see our Complaints about and oversight of the Ombudsman policy for more information).
19. The VO periodically reviews our response strategies to reassess whether the strategy is still effective and relevant. Where appropriate, we will inform the person of any changes to limitations on contacting the office.

SUPPORT FOR STAFF

20. The VO recognises that dealing with complex behaviour can be challenging, upsetting and stressful, and we are committed to supporting our staff as part of our obligations under the *Occupational Health and Safety Act* to provide a safe workplace. VO aims to provide a safe workplace and support its staff through formal and informal training, coaching and mentoring arrangements, and its Employee Assistance Program.
21. Managers also regularly check on their team members' welfare, in addition to other supervision arrangements.
22. VO encourages staff to monitor the impact of complex and challenging or unreasonable behaviour on their wellbeing, draw on available supports and maintain a healthy approach to managing any potential stress.
23. Officers who are injured at work should report this to their manager and in accordance with VO's Occupational Health and Safety Policy and Incident Reporting Policy, as applicable.

ROLES AND RESPONSIBILITIES

Role	Responsibility
Assistant Ombudsman	<i>Owner</i> – Accountable for maintaining policy drafting, reviews and authorisation from the Executive.

Role	Responsibility
Principal Legal Adviser	<i>Legal compliance</i> – Responsible for ensuring compatibility with the <i>Charter of Human Rights and Responsibilities 2006</i> (Vic) and compliance with other legislation under which VO operates.
Executive Committee	<i>Authorisation</i> – Authorises policies and significant amendments.
All staff, contractors and third parties	<i>Implementation</i> – Responsible for acting in compliance with the policy, standards, procedures and associated documents.

DOCUMENT MANAGEMENT

Compliance

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

Document approval

This document was first approved by the Executive Committee on 25 May 2018.
This document was last approved by the Executive Committee on 19 February 2024.

Document review

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

APPENDIX A: Related documents

Title	Location
<i>Charter of Human Rights and Responsibilities Act 2006 (Vic)</i>	Victorian legislation available at: http://www.legislation.vic.gov.au/
<i>Disability Act 2006 (Vic)</i>	
<u><i>Disability Services and Inclusion Act 2023 (Cth)</i></u>	
<i>Equal Opportunity Act 2010 (Vic)</i>	
<i>Occupational Health and Safety Act 2004 (Vic)</i>	
<i>Ombudsman Act 1973 (Vic)</i>	
<i>Public Interest Disclosures Act 2012 (Vic)</i>	
<i>Good practice guide: Managing Complex Complainant Behaviour February 2022</i>	Available at: https://www.ombudsman.vic.gov.au/learn-from-us/practice-guides/managing-complex-complainant-behaviour/
<i>Supporting the wellbeing of VO complainants and witnesses (Welfare Policy).</i>	Available at: <u>Policies</u>