Information and Privacy Commission NSW

IPC Unreasonable Conduct by a Client Policy

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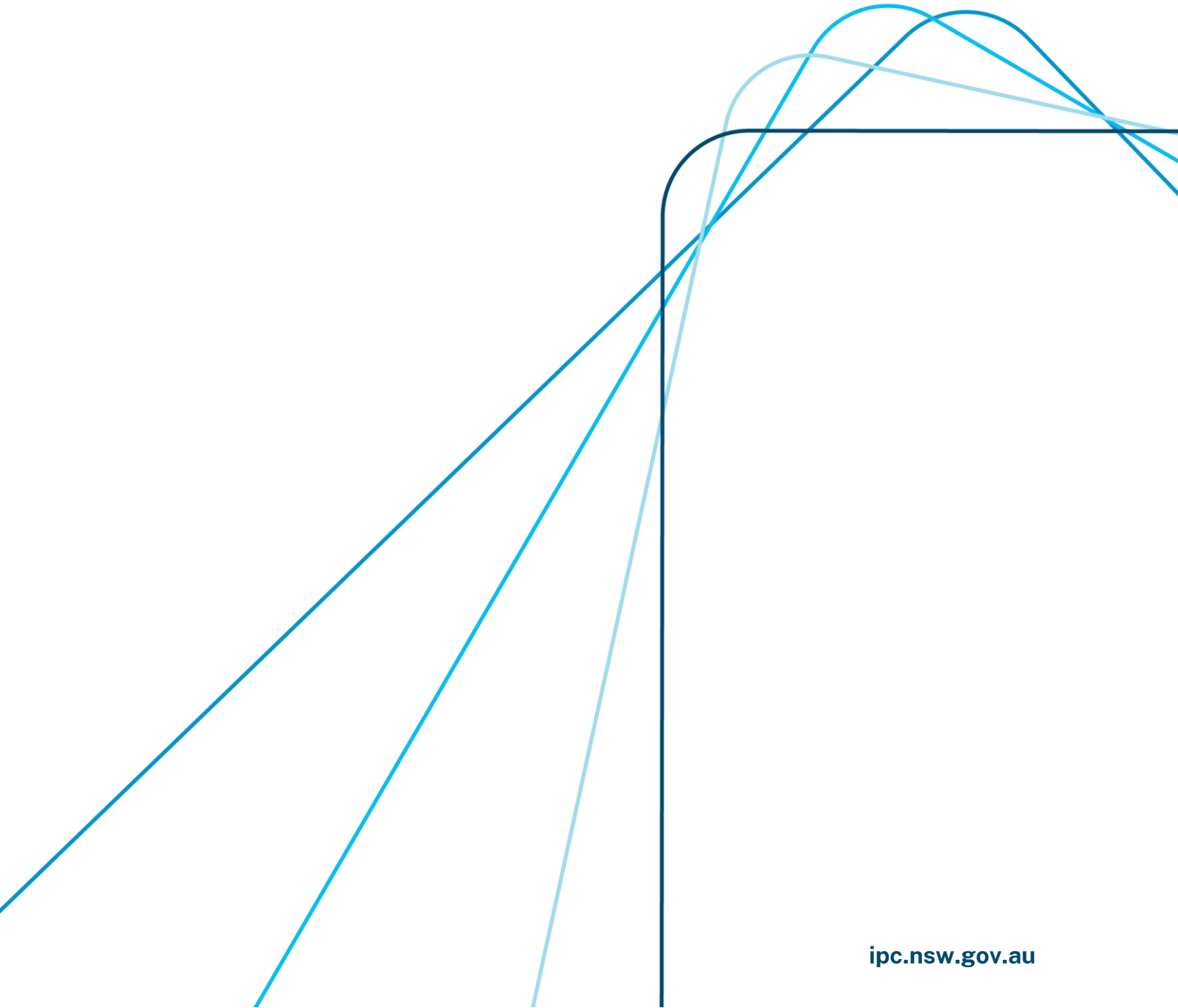

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1. Introduction

The Information and Privacy Commission NSW (IPC) is an independent statutory authority that administers New South Wales legislation dealing with privacy and access to government information.

The IPC's values are that we are accountable, service focused, proactive, independent, trusted and act with integrity. We are committed to these values and being responsive to individuals and entities (clients) who engage with our office in connection with our functions.

The IPC is committed to being accessible and responsive to all complainants who approach our office. As an integrity agency we uphold and promote the law and adopt a proactive approach to service delivery, trust and accountability. At the same time, the success of the IPC depends on:

- our ability to do our work and perform our functions in the most effective and efficient ways
- the health, safety and security of our staff
- our ability to allocate our resources fairly across all our areas of responsibility.

When clients behave unreasonably in their dealings with us, it can affect our ability to deliver our statutory responsibilities and maintain our service standards. As a result, the IPC takes the proactive approach set out in this policy to manage unreasonable conduct by clients set out in this policy.

This policy reflects the model policy for managing unreasonable conduct by a complainant developed by the NSW Ombudsman. Drawing on the model policy ensures our policies and procedures are fair and consistent with other NSW public sector agencies.

2. Objectives

Policy aims

This policy has been developed to assist IPC staff to better manage unreasonable conduct by clients (UCC). It aims to ensure that all staff:

- feel confident and supported in taking action to manage UCC.
- act fairly, consistently, honestly and appropriately when responding to UCC.
- are aware of their roles and responsibilities in relation to the management of UCC and how this policy will be used
- understand the types of circumstances when it may be appropriate to manage UCC using one or more of the following mechanisms:
    - the strategies provided in the 2021 NSW Ombudsman's Managing unreasonable conduct by a complainant (a manual for frontline staff, supervisors and senior managers) (practice manual) and Managing unreasonable conduct by complainants – Model policy, July 2022 including the strategies to change or restrict a client's access to our services
    - alternative dispute resolution strategies to deal with conflicts involving clients and members of our organisation
    - available legal protections such as trespass laws and court orders for protection from any actual or apprehended personal violence, intimidation or stalking.
- have a clear understanding of the criteria that will be considered before we decide to change or restrict a client's access to our services.

- are aware of the processes that will be followed to record and report UCC incidents as well as the procedures for consulting and notifying clients about any proposed actions or decisions to change or restrict their access to our services.
- are familiar with the procedures for reviewing decisions made under this policy, including specific timeframes for review.

3. Defining unreasonable conduct by a client

3.1 Unreasonable conduct by a client

Most of our clients act reasonably and responsibly in their interactions with us, even when they are experiencing high levels of distress, frustration and anger. However, a very small number of clients behave in ways that are inappropriate and unacceptable – despite our best efforts to help them. They may be aggressive and verbally abusive towards our staff. They may threaten harm and violence, bombard our offices with unnecessary and excessive communications (including digital communications and the posting of negative commentary on social media), make inappropriate demands on our time and our resources and refuse to accept our decisions and recommendations in relation to their complaints. When clients behave in these ways, we consider their conduct to be 'unreasonable'.

UCC is any behaviour by a current or former client which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the IPC, staff, other clients or the client.

Unreasonable conduct can be divided into five categories of conduct:

- unreasonable persistence
- unreasonable demands
- unreasonable lack of cooperation
- unreasonable arguments
- unreasonable behaviours

3.2 Unreasonable persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a client that has a disproportionate and unreasonable impact on the IPC. Some examples of unreasonably persistent behaviour include:

- an unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with
- reframing a complaint in an effort to get it taken up again
- bombarding IPC staff with phone calls, visits, letters, emails (including cc'd correspondence) after repeatedly being asked not to do so
- contacting different people within our organisation and/or externally to get a different outcome or more sympathetic response to their complaint – internal and external 'forum shopping'
- persistently raising issues about an outcome, including complaining about how their matter was handled or someone's skills or competence, even after we have explained that we cannot or will not take further action.

For more examples of unreasonable persistence see pages 21–26 of the practice manual.

3.3 Unreasonable demands

Unreasonable demands are demands made by a client that have a disproportionate and unreasonable impact on IPC staff, services, time and/or resources. Some examples of unreasonable demands include:

- issuing instructions and making demands about how we have/should handle their complaint, the priority it was/should be given, or the outcome that was/should be achieved
- insisting on talking to a senior manager or Commissioner personally when the reasons why it is not appropriate or warranted have been explained
- emotional blackmail and manipulation with the intention to 'guilt trip', intimidate, harass, shame, seduce or portray themselves as being victimised – when this is not the case
- insisting on outcomes that are not possible or appropriate in the circumstances – eg for someone to be sacked or prosecuted, an apology and/or compensation when there is no reasonable basis for expecting this
- demanding services that are of a nature or scale that we cannot provide when this has been explained to them repeatedly.

For more examples of unreasonable demands see pages 32–37 of the practice manual.

3.4 Unreasonable lack of cooperation

Unreasonable lack of cooperation is an unwillingness and/or inability by a client to cooperate with IPC staff, or the IPC complaints-handling processes that results in a disproportionate and unreasonable use of our services, time and/or resources. Some examples of unreasonable lack of cooperation include:

- sending a constant stream of communications and/or disorganised information without explaining how it relates to the core issues being considered by the IPC – where the client is clearly capable of doing this
- providing little or no detail with a complaint or application, or presenting information in 'dribs and drabs'
- refusing to follow or accept our instructions, assistance or advice without a clear or justifiable reason
- arguing frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments and explanations
- displaying unhelpful behaviour – such as withholding information, acting dishonestly or misquoting others
- unhelpful behaviour – such as repeating previous submissions
- providing irrelevant and inappropriate information – such as extensive quotes, content and materials from sources that have no connection to the functions of the IPC.

For more examples of unreasonable lack of cooperation see pages 46–48 of the practice manual.

3.5 Unreasonable arguments

Unreasonable arguments include any arguments that are not based in reason or logic, that are incomprehensible, false, inflammatory or trivial and that disproportionately and unreasonably impact upon the IPC, staff, services, time, and/or resources. Arguments are unreasonable when they:

- fail to follow a logical sequence

- are not supported by any evidence and/or are based on conspiracy theories
- lead a client to reject all other valid and contrary arguments
- are trivial when compared to the amount of time, resources and attention that the client demands
- are false, unethical, illegal, inconsistent, inflammatory or defamatory.

For more examples of unreasonable arguments see pages 52–54 of the practice manual.

3.6 Unreasonable behaviour

Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated that a client is – because it unreasonably compromises the health, safety, wellbeing and security of the IPC staff, other clients or the client. Some examples of unreasonable behaviours include:

- acts of aggression, verbal abuse and statements that are derogatory, discriminatory on the grounds of race, religion or gender or defamatory
- harassment, intimidation or physical violence
- rude, confronting or threatening correspondence
- threats of harm to self or third parties, threats with a weapon or threats to damage property including bomb threats
- stalking (in person, online or via email)
- emotional manipulation.
- persistent questioning about a staff member's personal life, relationship status, religious or cultural background or other harassing behaviour
- contacting staff outside of work, including via social media platforms.
- posting illegal, threatening or defamatory statements about staff on social media or other websites
- audio or video recording interviews or phone calls without prior consent.

For more examples of unreasonable persistence see pages 60–69 of the practice manual.

All staff should note that the IPC has a zero tolerance policy towards any harm, abuse or threats directed towards them. Any conduct of this kind will be dealt with under this policy, together with the "Dealing with Unacceptable Behaviour or Threats to Personal Security for IPC staff" procedure, applicable work, health and safety policies, and in accordance with our duty of care and work health and safety responsibilities.

4. Roles and responsibilities

4.1 IPC staff

All staff are responsible for familiarising themselves with this policy as well as the *Service standards and client responsibilities* in Appendix A. Staff are also encouraged to refer to this policy when dealing with all clients particularly those who engage in UCC or exhibit the early warning signs for it. See pages 122–124 of the practice manual.

Staff are also encouraged and authorised to use the strategies and scripts provided in Part 2 of the practice manual to manage client conduct , in particular:

- strategies and scripted responses for managing unreasonable persistence: pages 21–31
- strategies and scripted responses for managing unreasonable demands: pages 32–45.

- strategies and scripted responses for managing unreasonable lack of cooperation: pages 46–51.
- strategies and scripted responses for managing unreasonable arguments: pages 52–59
- strategies and scripted responses for managing unreasonable behaviours: pages 60–72.

However, it must be emphasised that any strategies that effectively change or restrict a client's access to our services must be determined by the IPC CEO on a briefing by a Director as provided in this policy.

Staff are also responsible for recording and reporting all UCC incidents they experience or witness to their Director within 24 hours of the incident occurring. A file note of the incident should also be saved into Resolve or EDRMS as appropriate.

4.2 IPC CEO

The IPC CEO has the responsibility and authority to change or restrict a client's access to our services in the circumstances identified in this policy. The IPC CEO is to be briefed by the relevant Director in the matter. The IPC CEO and Directors will take into account the criteria in Part 6.2 below and will aim to impose any service changes/restrictions in the least restrictive ways possible. Their aim, when taking such actions will not be to punish the client, but to manage the impacts of their conduct.

When applying this policy, the CEO and Directors will also aim to keep at least one open line of communication with a client. However, in extreme situations all forms of contact may need to be restricted for some time to ensure the health, safety and security of our staff and/or third parties.

The relevant Directors are also responsible for recording, monitoring and reviewing all cases where this policy is applied, to ensure consistency, transparency and accountability for the application of this policy. They will also manage and keep a file record of all cases where this policy is applied. This will be reported to the CEO at Executive meetings.

4.3 Senior managers

All senior managers are responsible for supporting staff to apply the strategies in this policy, as well as those in the practice manual. Senior managers are also responsible for ensuring compliance with the procedures identified in this policy and ensuring that all staff members are trained to deal with UCC.

Following an incident of UCC and/or stressful interaction with a client, senior managers are responsible for providing affected staff members with the opportunity to debrief and vent their concerns either formally or informally. Senior managers will also ensure that staff are provided with proper support and assistance including medical and/or police assistance and support through programs such as Employee Assistance Program (EAP), if necessary.

Depending on the circumstances, senior managers may also be responsible for arranging other forms of support for staff such as training and development

5. Responding to and managing unreasonable client conduct

5.1 Changing or restricting a client's access to our services

UCC incidents will be managed generally by limiting or adapting the ways that we interact with and/or deliver services to clients by restricting:

- **Who they have contact with** – e.g. limiting a client to a sole contact person/staff member in our organisation.

- **What they can raise with us** – e.g. restricting the subject matter of communications that we will consider and respond to.
- **When they can have contact** – e.g. limiting a client's contact with the IPC to a particular time, day, or length of time, or curbing the frequency of their contact with us.
- **Where they can contact** – e.g. taking steps to make sure an interview takes place in a safe facility or area.
- **How they can make contact** – e.g. limiting or modifying the forms of contact that the client can have with us. This can include requiring the client to use a specific form to make a complaint or seek a review, modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to our premises, contact through a representative only, taking no further action or terminating our services altogether.

We recognise that discretion will need to be used to apply and adapt these restrictions to a client's personal circumstances, including: literacy, communication ability, and cultural background. We also recognise that more than one strategy may be used in individual cases.

5.2 Who – limiting the client to a sole contact point

Where a client tries to 'forum shop' internally within our organisation, changes their complaint or application repeatedly, reframes their complaint or application, or raises an excessive number of complaints or applications, it may be appropriate to restrict their access to a single staff member (a sole contact point) who will exclusively manage their matter(s) and interactions with our office. This may ensure they are dealt with consistently and may minimise the chances of misunderstandings, contradictions and manipulation.

To avoid staff 'burn out', the sole contact officer's supervisor will provide them with regular support and guidance. Also, the relevant Director will review the arrangement every six months to ensure that the officer is managing/coping with the arrangement and, in some instances, contact may be re-assigned.

5.3 What – restricting the subject matter of communications that we will consider

Where clients repeatedly call or send written communications or complete online forms that raise trivial or insignificant issues, contain inappropriate or abusive content or relate to a complaint/issue that has already been comprehensively considered and/or reviewed (at least once) by our office, we may restrict the issues/subject matter the client can raise with us or we will respond to. For example, we may:

- refuse to respond to correspondence – the client will be advised that future correspondence will be read and filed without acknowledgement unless we decide that we need to pursue it further in which case, we may do so on our 'own motion'
- restrict the client to one complaint/issue per month – any attempts to circumvent this restriction, for example by raising multiple issues in the one letter may result in modifications or further restrictions being placed on their access
- return correspondence to the client and require them to remove any inappropriate content before we will agree to consider its contents – a copy of the inappropriate correspondence will also be made and kept for our records to document incidents of unreasonable client conduct.

5.4 When – limiting when and how a client can contact us

If a client's telephone, written or face-to-face contact with our organisation places an unreasonable demand on our time or resources because it is overly lengthy (e.g. disorganised and voluminous correspondence) or affects the health, safety, wellbeing and security of our staff because it involves behaviour that is persistently rude, threatening, abusive or aggressive, we may limit when and/or how the client can interact with us. This may include:

- Limiting their telephone calls or face-to-face interviews to a particular time of the day or days of the week.
- Limiting the length or duration of telephone calls, written correspondence or face-to-face interviews, e.g.:
    - telephone calls may be time limited and will be politely terminated at the end of the time period
    - lengthy written communications may be restricted to a number of typed or written pages, single sided, font size Arial 12 or be sent back to the client
    - limiting the client in the case of email to a single email address for correspondence.
- Limiting the frequency of telephone calls, written correspondence or face-to-face interviews. For irrelevant, overly lengthy, disorganised or frequent written correspondence we may also:
    - require the client to use a nominated form to make a complaint or seek a review, giving targeted information to assist us to understand the issues and outcome sought
    - require the client to clearly identify how the information or supporting materials they have sent to us relate to the central issues that we have identified in their complaint or application
    - restrict the frequency with which clients can send emails or other written communications to our office
    - restrict a client to sending emails to a particular email account (eg the organisation's main email account) or block their email access altogether and require that any further correspondence be sent through Australia Post only.

5.5 Writing only restrictions

When a client is restricted to 'writing only', they may be restricted to written communications through:

- Australia Post
- email to a specific staff email or our general office email account.
- use of a single email address by the client.

If a client's contact is restricted to 'writing only', the CEO/Directors will notify the client in writing.

Any communications that are received by our office in a manner that contravenes a 'writing only' restriction will be filed without acknowledgement. The client will be notified of this when the CEO/Director advises of the 'writing only' restriction.

5.6 Where – limiting face-to-face interviews to secure areas

If a client is violent or overtly aggressive, unreasonably disruptive, threatening or demanding or makes frequent unannounced visits to our premises, we may consider restricting our face-to-face contact with them.

These restrictions may include:

- restricting access to particular secured premises or areas of the office – such as the reception area or secured room/facility
- restricting their ability to attend our premises to specified times of the day and/or days of the week – for example, when additional security is available or to times/days that are less busy
- allowing them to attend our office on an 'appointment only' basis and only with specified staff – during these meetings staff should always seek support and assistance of a colleague for added safety and security
- banning the client from attending our premises altogether and allowing some other form of contact – e.g. 'writing only' or 'telephone only' contact.

5.7 Contact through a representative only

In cases where we cannot completely restrict our contact with a client and their conduct is particularly difficult to manage, we may restrict communications to contact through a support person or representative only.

The support person may be nominated by the client but must be approved by the CEO (on advice, as required, by a Director).

When assessing a representative/support person's suitability, the CEO/Director should consider factors like the nominated representative/support person's competency and literacy skills, demeanour/behaviour and relationship with the client.

If the CEO determines that the representative/support person may exacerbate the situation with the client, the client will be asked to nominate another person.

5.8 Completely terminating a client's access to our services

In rare cases, and as a last resort when all other strategies have been considered and/or attempted, the CEO may decide that it is necessary for the IPC to completely restrict a client's contact or access to our services. This does not mean that an individual's statutory rights are affected.

A decision to have no further contact with a client will only be made if it appears that the client is unlikely to modify their conduct or their conduct poses a significant risk to our staff or other parties. Conduct that poses a significant risk includes:

- acts of aggression, verbal or physical abuse, threats of harm, harassment, intimidation, stalking, assault
- damage to property while on our premises
- threats with a weapon or other item that can be used to harm another person or themselves
- physically preventing a staff member from moving around freely either within their office or during an off-site visit
- conduct that is otherwise unlawful.

In these cases, the client will be sent a letter notifying them that their access has been restricted as outlined in Part 6.4 below.

A client's access to our services and our premises may also be restricted (directly or indirectly) by using legal protections that prevent trespass or protect members of our staff from personal violence, intimidation or stalking. Legal mechanisms may be used to deal with UCC through:

- applying the provisions of the *Inclosed Lands Protection Act 1901* (NSW) (unauthorised entry onto agency premises)

- court orders to address violence, threats, intimidation and/or stalking by clients.

5.9 Using alternative dispute resolution strategies to manage conflicts with clients

If the CEO or Director determines that we cannot terminate our services to a client in a particular case or that our staff bear some responsibility for causing or exacerbating their conduct, they may consider using alternative dispute resolution strategies (ADR) such as mediation (in which a neutral mediator supports participants to discuss issues and make decisions about resolving a dispute) and conciliation (similar to a mediation but the conciliator may have specialist knowledge and provide legal information or options for resolving the dispute) to resolve the conflict with the client and attempt to rebuild our relationship with them. If ADR is considered to be an appropriate option in a particular case, it may be conducted with assistance of an independent third party.

In some situations, ADR may not be an appropriate or effective strategy, particularly if the client is uncooperative or resistant to compromise. Therefore, each case will be assessed on its own facts to determine the appropriateness of this approach.

6. Procedure to be followed when changing or restricting a client's access to our services

6.1 Consulting with relevant staff

When a Manager/Director is notified of an incident of UCC by a staff member, they will discuss the incident with the staff member, addressing:

- the circumstances that gave rise to the UCC/incident
- the impact of the client's conduct on the IPC, staff, our time and resources
- the client's responsiveness to the staff member's warnings/requests to stop the behaviour
- the actions the staff member has taken to manage the client's conduct
- the ways that the situation could be managed.

6.2 Criteria to be considered

Following a consultation with relevant staff, the Manager/Director will search Resolve/EDRMS for information about the client's prior conduct and history with the IPC. They will also consider the following criteria:

- whether the conduct in question involved overt anger, aggression, violence or assault (which is unacceptable in all circumstances)
- whether the client's case has merit
- the likelihood that the client will modify their unreasonable conduct if they are given a formal warning about their conduct
- whether changing or restricting access to our services will be effective in managing the client's behaviour
- whether changing or restricting access to our services will affect the client's ability to meet their obligations, such as reporting obligations
- whether changing or restricting access to our services will have an undue impact on the client's welfare, livelihood or dependants etc
- whether the client's personal circumstances have contributed to the behaviour – for example, the client is under significant stress as a result of the following:

  - homelessness
  - physical disability
  - illiteracy or other language or communication barrier
  - mental or other illness
  - personal crises
  - substance or alcohol abuse
- whether the client's response/conduct in the circumstances was moderately disproportionate, extremely disproportionate, or not at all disproportionate to the circumstances of the case/complaint
- whether there are any legal requirements that would limit any restrictions we may place on the client's contact/access to our services.

Once the Manager/Director has considered these factors, they will brief the CEO, who will then decide on the appropriate course of action. They may suggest formal or informal options for dealing with the client's conduct, which may include one or more of the strategies provided in the practice manual and this policy.

6.3 Providing a warning letter

Unless a client's conduct poses a substantial risk to the health, safety and wellbeing of IPC staff or others, the CEO will provide a written warning about their conduct in the first instance.

The warning letter will:

- specify the date, time and location of the relevant incident/s
- explain why the client's conduct is problematic
- list the types of access changes and/or restrictions that may be imposed if the behaviour continues – listing only those that are most relevant)
- provide clear and full reasons for the warning being given
- include an attachment of the IPC's Service standards and client responsibilities (Appendix A) or briefly state the standard of behaviour that is expected of the client
- provide the name and contact details of the staff member they can contact about the letter
- be signed by the CEO and Director.

See Appendix B – Sample warning letter.

6.4 Providing a notification letter

If a client's unreasonable conduct continues after they have been given a written warning, or in extreme cases of overt aggression, violence, assault or other unlawful/unacceptable conduct, the CEO has the discretion to send a notification letter immediately restricting the client's access to our services.

This notification letter will:

- specify the date, time and location of the relevant incident(s)
- explain why the client's conduct is problematic
- identify the change and/or restriction that will be imposed and what it means for the client
- provide clear and full reasons for this restriction

- specify the duration of the change or restriction imposed, which will not exceed 12 months
- indicate a time period for review
- provide the name and contact details of the senior officer who they can contact about the letter and/or request a review of the decision
- be signed by the CEO and Director.

See Appendix C – Sample letter notifying clients of a decision to change or restrict their access to our services.

6.5 Notifying relevant staff about access changes/restrictions

The Manager/Director will notify relevant staff about any decisions to change or restrict a client's access to our services, in particular reception and security staff in cases where a client is prohibited from entering our premises.

The Manager/Director will also update Resolve with a record outlining the nature of the restrictions imposed and their duration.

6.6 Continued monitoring/oversight responsibilities

Once a client has been issued with a warning letter or notification letter, the Manager/Director will review the client's record/restriction every 3 months to ensure that the client is complying with the restrictions/the arrangement is working.

If the Manager/Director determines that the restrictions have been ineffective in managing the client's conduct or are otherwise inappropriate, they may brief the CEO and decide either to modify the restrictions, impose further restrictions or terminate the client's access to our services altogether. They may also decide to remove/limit restrictions if they decide they are no longer necessary.

6.7 Right of complaint

If a client is dissatisfied with our decision to change or restrict their access to our services, they may complain to the NSW Ombudsman. The Ombudsman may accept the review (in accordance with its administrative jurisdiction) to ensure that we have acted fairly, reasonably and consistently and have observed the principles of good administrative practice, including procedural fairness.

7. Non-compliance with a change or restriction on access to our services

7.1 Recording and reporting incidents of non-compliance

All staff members are responsible for recording and reporting incidents of non-compliance with access restrictions by clients. This should be done in a file note in Resolve or EDRMS and a copy forwarded to your Manager/Director who will decide whether any action needs to be taken to modify or further restrict the client's access to our services.

7.2 Criteria to be considered during a review

When conducting a review, the Manager/Director will consider:

- whether the client has had any contact with the organisation during the restriction period
- the client's conduct during the restriction period
- any other information that may be relevant in the circumstances.

The Manager/Director may also consult any staff members who have had contact with the client during the restriction period.

Note – Sometimes a client may not have a reason to contact our office during their restriction period. As a result, a review decision that is based primarily on the fact that the client has not contacted our organisation during their restriction period (apparent compliance with our restriction) may not be an accurate representation of their level of compliance/reformed behaviour. This should be taken into consideration.

7.3 Notifying the complainant of the outcome of a review

The nominated manager or relevant officer will tell the complainant the outcome of their review using an appropriate method of communication, as well as a written letter explaining the outcome.

The review correspondence will:

- briefly explain the review process
- identify the factors that have been considered during the review
- explain the decision or outcome of the review and outline the reasons.

If the outcome of the review is to maintain or modify the restriction, the review letter will also:

- indicate the nature of the new or continued restriction
- state the duration of the new restriction period
- provide the name and contact details of the nominated manager or relevant officer who the complainant can contact to discuss the letter
- be signed by the nominated manager or preferably the CEO/Director

7.4 Recording the outcome of a review and notifying relevant staff

Like all other decisions made under this policy, staff are responsible for keeping a record of the outcome of the review, monitoring, updating Resolve or EDRMS and notifying all relevant staff of the outcome of the review. See Parts 4.2 and 5.5 above.

8. Managing staff stress

8.1 Staff reactions to stressful situations

Dealing with clients who are demanding, abusive, aggressive or violent can be extremely stressful, distressing or even frightening for our staff at any level. It is a normal reaction to get upset or experience stress when dealing with difficult situations.

As an organisation, we have a responsibility to support staff members who experience stress because of situations arising at work, and we will do our best to provide staff with debriefing and counselling opportunities, when needed. However, to do this we also need help of all IPC staff to identify stressful incidents and situations. As a result, all staff have a responsibility to notify relevant supervisors/managers of incidents of UCC and any stressful incidents that they consider require management involvement. Managers/Directors should also be alert to staff needs in response to such incidents.

8.2 Debriefing

Debriefing means talking things through following a difficult or stressful incident. It is an important way of 'off-loading' or dealing with stress. Many staff members naturally do this with colleagues after a difficult telephone call. Debriefing can also be done with a Manager or Director, or as a team following a significant incident. We encourage all staff to engage in an appropriate level of debriefing, when necessary.

Staff may also access an external professional service on an as-needs basis. All staff can access the Employee Assistance Program – a free, confidential counselling service. To make an appointment call Benestar: 1300 360 364 or install the Benestar App. Or the IPC approved EPA provider as providers may change over time.

9. Other remedies for staff

9.1 Compensation

Any staff member who suffers injury as a result of UCC is entitled to make a worker's compensation claim. If you are the victim of an assault, you may also be able to apply to the Victims Compensation Tribunal for compensation.

Where damage is suffered to clothing or personal effects as a result of conduct by a client, compensation may be sought. Staff may consult with their Manager/Director to receive support should compensation be sought.

9.2 Legal assistance

If a staff member is physically attacked, or is a victim of employment generated harassment and the police do not lay charges, the CEO will consider providing reasonable legal assistance if the staff members wishes to take civil action.

See Premier's Memorandum *M2019-01-Guidelines for the Provision of Ex-Gratia Legal Assistance for Ministers, Public Officials and Crown Employees*.

9.3 Threats outside the office or outside working hours

Where threats are directed at a particular staff member and it appears those threats may be carried out outside normal working hours or outside the office, the staff member will receive the support of the IPC. Requests for such assistance should be made to your Director.

9.4 Escorts home

When a staff member fears for their safety following a threat from a client, another staff member may accompany them home or the IPC can meet the cost of the staff member going home in a taxi. Ask your Director for more information.

9.5 Other security measures

If other security measures are necessary, the IPC will give consideration to providing all reasonable support to ensure the safety and welfare of the staff member.

10. Training and awareness

The IPC is committed to ensuring that all staff are aware of and know how to use this policy. All staff who deal with clients in the course of their work will also receive appropriate training and information on using this policy and on managing UCC on a regular basis, and in particular, on induction.

11. Ombudsman may request copies of our records

The IPC will keep records of all cases where this policy is applied, including a record of the total number of cases where it is used every year. This data may be requested by the Ombudsman to conduct an overall audit and review in accordance with its administrative functions and/or to inform its work on UCC.

12. Policy review

All staff are responsible for forwarding any suggestions they have in relation to this policy to the Director, Investigation and Reporting, who along with the executive team will review it every 3 years.

13. Supporting documents and policies

13.1 Statement of compliance

This policy is compliant with and supported by the following documents:

- Dealing with Unacceptable Behaviour or Threats to Personal Security for IPC staff Procedure (D17/046483/DJ)
- Fact Sheet – How to make a complaint about us
- IPC WHS Plan
- IPC Mental Health and Wellbeing Policy
- IPC First Aid Plan and Procedure
- IPC Service Charter
- NSW Ombudsman's Managing unreasonable conduct by a complainant (a manual for frontline staff, supervisors and senior managers)

Appendix A – Service standards and client responsibilities

For the IPC to ensure that all complaints and applications are dealt with fairly, efficiently and effectively, and that work health and safety standards and duty of care obligations are adhered to, the following standards and responsibilities must be observed and respected by all parties.

Mutual responsibilities

Clients are responsible for:

- treating staff of the IPC with courtesy and respect
- clearly identifying to the best of their ability the issues in their complaint or application, or asking for help from the staff of the IPC to assist them in doing so
- to the best of their ability providing the IPC with all the relevant information available to them at the time of making the complaint or application
- being honest in all communications with the IPC
- informing the IPC of any other action they have taken in relation to their complaint or application
- cooperating with the staff who are assigned to assess/ investigate/resolve/determine or otherwise deal with their complaint or application.

If clients do not meet their responsibilities, the IPC may consider placing limitations or conditions on their ability to communicate with staff or access certain services.

The IPC has a zero-tolerance policy in relation to any harm, abuse or threats directed towards its staff. Any such conduct of a possibly criminal nature will be reported to police and in certain cases legal action may also be considered.

Staff are responsible for:

- providing reasonable assistance to clients who need help to make a complaint or application and, where appropriate, during the complaint or review process
- dealing with all clients professionally, fairly and impartially
- giving clients or their advocates a reasonable opportunity to explain their complaint or application, subject to the circumstances of the case and the conduct of the client
- giving people or organisations the subject of complaint or review a reasonable opportunity to put their case before any final decision is made that is adverse to them
- keeping clients informed of the actions taken and the outcome of their complaints
- giving clients reasons that are clear and appropriate to their circumstances and adequately explaining the basis of any decisions that affect them
- treating clients and any people involved in a complaint or review with courtesy and respect at all times and in all circumstances
- giving adequate warning of the consequences of unacceptable behaviour.

If clients consider that the IPC or its staff have failed to comply with these responsibilities, they may complain to the Ombudsman NSW: Contact us – NSW Ombudsman or phone 1800 451 524.

Subjects of a complaint or review are responsible for:

- cooperating with the staff of the IPC who are assigned to handle the complaint or application, particularly where they are exercising a lawful power in relation to a person or body within their jurisdiction
- providing all relevant information in their possession to the IPC or its authorised staff when required to do so by a properly authorised direction or notice
- being honest in all communications with the IPC and its staff
- treating the staff of the IPC with courtesy and respect at all times and in all circumstances
- refraining from taking any detrimental action against the client in reprisal for them making the complaint.

If the subjects of a complaint fail to comply with these responsibilities, action may be taken under relevant laws and/or codes of conduct.

The IPC is responsible for:

- having an appropriate and effective system in place for receiving, assessing, handling, recording and reviewing complaints and applications
- decisions about how all complaints and applications will be dealt with
- ensuring that all enquires, complaints and applications are dealt with professionally, fairly and impartially
- ensuring that staff treat all clients with courtesy and respect
- ensuring that decision making is based on sound reasoning and logically probative information and evidence
- finalising enquiries, complaints and reviews based on outcomes that the organisation, or its responsible staff, consider to be satisfactory in the circumstances
- giving adequate consideration to any confidentiality, secrecy and/or privacy obligations or responsibilities that may arise in the handling of complaints and the conduct of investigations.

If clients consider that the IPC has failed to comply with these responsibilities, they may complain to the Ombudsman NSW: Contact us – NSW Ombudsman or phone 1800 451 524.

Appendix B – Sample warning letter

[To be signed by the CEO and Director]

Our reference: *[reference]*

Contact: *[case officer]*

Telephone: *[number]*

[Date]

[Name of client]

[Address of client]

Dear *[name of client]*

Your contact with the Information and Privacy Commission NSW

You recently had *[state the form of contact – e.g. telephone, written or face-to-face]* with staff at my office on *[date]*. *[During/In that telephone call/appointment/letter,]* I understand that you *[explain the nature of the conduct that has caused the organisation to be concerned].*

We consider this type of behaviour to be inappropriate and it must stop. If you continue to behave in this way or in any other way that my staff consider to be unreasonable, we will impose restrictions on your contact with our office. This may involve restricting your contact to *[apply the relevant option(s)]*:

- 'Writing only' – this means that we will only accept communications from you in writing, delivered by Australia Post *[if online or other written communications are preferred then explain].*
- 'Telephone contact only' – this means that you will only be able to contact us by telephone on a specified time and day of the week.
- 'Face-to-face contact only' – this means that your contact will be limited to scheduled face-to-face meetings with a specified member of our staff.

Or any other restriction that we consider to be appropriate in the circumstances.

I have attached a copy of a document called *Service standards and client responsibilities* for your reference. We expect all clients to meet the responsibilities set out in that document.

If you have any questions about this letter, contact *[provide name and phone number of the nominated Director]*.

Yours sincerely,

[CEO and Director]

Appendix C – Sample letter notifying a client of a decision to change or restrict their access to our services

[To be signed by the CEO and Director]

Our reference: *[reference]*

Contact: *[case officer]*

Telephone:`*[number]*

[Date]

[Name of client]

[Address of client]

Dear *[name of client]*

Decision to restrict your contact with the Information and Privacy Commission

It has come to my attention that you *[describe the nature of the unreasonable conduct and its impact – e.g. if the client has been sending emails to several members of my staff on a daily basis…]*

I understand that my staff have previously told you that we consider this conduct to be unreasonable and unwarranted.

I also wrote to you on *[date]* and asked you to stop this behaviour. In that letter I advised you that if your behaviour continued, we would restrict your contact with my organisation. At the time I also attached a copy of our *Service standards and client responsibilities* which outlines your responsibilities as a client.

Because your behaviour has continued, I now consider it necessary to impose certain restrictions on your future contact with my organisation. I therefore give you notice that from *[date]*, and with the exception(s) detailed below, my organisation will only accept communication from you *[identify permissible form of contact, if any]*.

What this means

This means that you are only to contact our organisation using *[describe the restriction in further details]*. Any communications that do not comply with this restriction will be *[describe what will happen – e.g. phone calls will be terminated immediately or emails/written communications will be read and filed without acknowledgment, emails will be blocked or deleted, no interviews will be granted, etc]*.

[Note: the client should be clearly informed how they can contact the organisation and how the organisation will contact them].

Your existing complaint/application *[if applicable]*

This organisation currently has one file open in your name. This relates to *[state the subject of complaint and describe complaint]*. This file is being handled by *[name of officer and position title]*. While you are able to contact *[name of officer] [state nature of contact – e.g. by email]* about this specific matter, all other contact with my organisation, including any future complaints or applications, must be *[state restriction – e.g. in writing through Australia Post] [provide contact details – e.g. address of organisation where post can be sent]*.

Review of this decision

My decision to restrict your contact with this organisation is effective immediately and will last for *[3 months/6 months/12 months]*. At that time, we will review your restriction and decide if it should be maintained, amended or withdrawn.

I take these steps with the greatest reluctance, but *[state reason for restriction – e.g. the equity of resourcing and safety of other clients and my staff]*, leaves me no alternative.

If you have any questions about this letter, you can contact *[provide name and phone number of the nominated senior manager]*.

Yours sincerely,

[CEO and Director]

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