

Unreasonable client conduct policy

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Policy overview

Scope and purpose of this policy

This unreasonable client conduct policy is intended to provide guidance to staff who support clients who access the services of Legal Aid NSW and display behaviours that are unreasonable. Unreasonable client conduct procedures are documented separately.

Applicability and target groups

All staff must comply with this policy. Managers should ensure that all relevant staff members know about this policy and how to apply it.

If anything in this policy is unclear, or you are unsure about how to apply the policy, contact the person listed on the cover page of this policy.

Legislative environment

[Legal Aid Commission Act 1979](#)

[Privacy and Personal Information Protection Act 1998 \(NSW\) \(PPIP Act\)](#)

Definitions and abbreviations

UCC – unreasonable client conduct

LARC – Legal Aid Review Committee

Monitoring, evaluation and review

This document is to be reviewed every 3 years. The policy was developed in July 2020. See cover page of this policy for more information about changes to the policy since its release.

Further information, additional resources & associated documents

NSW Ombudsman's [Effective Complaint Handling Guidelines](#) 3rd Edition Feb 2017

[Managing Unreasonable Complainant Conduct Practice Manual](#) 2nd Edition May 2012

1. Introduction

The information in this policy is based on the *Managing unreasonable conduct by a complainant* manual produced by the Ombudsman NSW. It has been adapted to suit our organisation, Legal Aid NSW.

1.1 Purpose

Legal Aid NSW is committed to being accessible and responsive to clients who approach us for assistance, or with a complaint. The success of our service depends on:

- our ability to do our work and perform our functions in the most effective and efficient way possible,
- the health, safety and security of our staff and clients, and
- our ability to allocate our resources fairly and equitably, especially to those most in need.

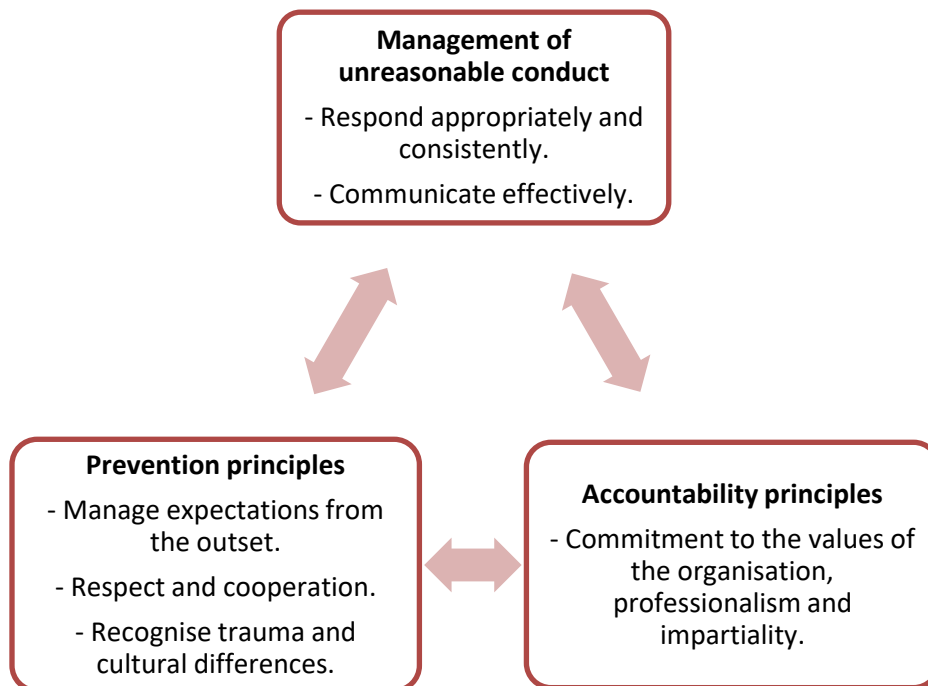
When clients behave unreasonably in their communications and interactions with us, their conduct can significantly affect our success. As a result, Legal Aid NSW is taking proactive action to manage any client conduct that negatively and unreasonably affects our organisation. We also support our staff to do the same in accordance with this policy.

1.2 Scope

This policy relates to clients who access the services of Legal Aid NSW and display behaviours that are unreasonable, as defined in *part 3 - Defining Unreasonable Client Conduct*. According to this policy, a client is defined as a person who uses the services of Legal Aid NSW or another party in a matter (e.g. a parent in a family law matter who does not have a grant of legal aid).

1.3 Guiding principles

To achieve the objectives of this policy, Legal Aid NSW will be guided by three underlying principles – prevention, management and accountability.



2. Objectives

Legal Aid NSW is guided by the following principles when managing unreasonable client conduct (UCC):

- *Ensure equity and fairness* to all clients regardless of their ethnicity, national origin, gender, gender expression, religion, linguistic background, physical ability or other cultural or personal factors.
- *Improve effectiveness and efficiency* by allocating enough time and resources to managing unreasonable conduct which, if left unmanaged, could negatively impact resources of the organisation.
- *Protect staff health and safety* when interacting with clients whose conduct is unreasonable. This includes complying with work health and safety and duty of care obligations by identifying potential risks posed by unreasonable conduct to staff health and safety and implementing measures to control or eliminate the risks.

This policy has been developed to assist all staff to better manage UCC. Its aim is 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.
- Understand the principles that will be considered before a decision is made 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 Client Conduct

3.1 Unreasonable client conduct (UCC) at Legal Aid NSW

Most clients who access our services act reasonably and responsibly in their interactions with us, even when they are experiencing high levels of distress, frustration or anger. However, in a small number of cases some clients behave in ways that are inappropriate and unacceptable – despite our best efforts to assist them. Clients can be aggressive and verbally abusive towards our staff, can threaten harm and violence, display behaviours that creates a perception of discrimination based on factors such as gender, race or disability, bombard our offices with unnecessary and excessive phone calls and emails, make inappropriate demands on our time and our resources and refuse to accept our decisions in relation to their legal issue or complaint. When clients behave in these ways, we consider their conduct to be 'unreasonable'.

Under this policy, Legal Aid NSW defines UCC as:

Client conduct becomes 'unreasonable' when the conduct raises health, safety, resource** or equity issues for the organisation, staff and other clients who use our services.*

* According to this policy, a client is defined as a person who uses the services of Legal Aid NSW or another party in a matter (e.g. a parent in a family law matter who does not have a grant of legal aid).

**Legal Aid NSW has limited resources and must allocate these to the most disadvantaged and vulnerable clients as per the *Legal Aid Commission Act 1979 (NSW)*. Resources will be distributed based on the merit of the issue, rather than a client's demands or conduct.

** Legal Aid NSW has a zero-tolerance policy towards any harm, abuse or threats directed towards staff.

4. Responding to and Managing UCC

4.1 When Legal Aid NSW is CC'd into emails

If a client CC's Legal Aid NSW into emails to other parties, such as the Ombudsman, Ministers or other third parties, we do not have to reply if the email does not raise concerns related to our organisation.

4.2 Changing or restricting a client's access to services

For Legal Aid NSW to perform its functions in the most effective and efficient way and to protect the health, safety and security of our staff and clients, we may decide to change or restrict a client's access to our services.

Prior to changing or restricting a client's access to Legal Aid NSW services (apart from exceptional circumstances), a client should be provided with a warning. This warning can be provided in writing or verbally in person or over the telephone. By providing a warning this provides the client with an opportunity to change their behaviour and/or act in a more appropriate way.

UCC incidents can be managed by limiting or adapting the ways that we interact with and/or deliver services to clients by implementing restrictions on our services. Discretion will be used to adapt the restrictions to suit a client's personal circumstances, level of competency, literacy skills, etc. As a result, we may restrict:

- who a client can contact
- what a client can raise and the subject matter we will consider
- when and how a client can contact us
- where a client can make contact

Contact through a representative - in cases where we cannot completely restrict our contact with a client, we may also restrict their contact to contact through a support person or representative. The support person should be nominated by the client and could be a relative, friend or caseworker.

4.3. Appealing a decision to change or restrict access to our services

The Deputy CEO is authorised to make operational decisions about restricting client's access to our services and will do this where a person is impacting on our ability to provide services or if there is any detriment to staff wellbeing. The decision is final and there is no internal appeal process for these types of decisions.

If a client continues to be dissatisfied, they may seek an external review from an oversight agency such as the 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.

4.4 Non-compliance with a change or restriction on access to Legal Aid NSW services

As a result of further non-compliance of a restriction, we may reassess the need to change or restrict a client's access to service. Discretion will be used to adapt the restrictions to suit a client's personal circumstances, level of competency, literacy skills, etc.

5. Reviews of cases where this policy is applied

5.1 Period for review

All UCC cases where this policy is applied will be reviewed every 3 months or 6 months (depending on the nature of the service provided) and not more than 12 months after the service change or restriction was initially imposed or continued/upheld.

5.2 Notifying the client of an upcoming review

If appropriate, a senior manager can invite a client to participate in the review process unless they determine that this invitation will provoke a negative response from the client (e.g. further unreasonable conduct). The invitation and review should be conducted in accordance with the client's access restrictions (e.g. if contact has been restricted to writing only then the invitation to participate will be done in writing).

5.3 Criteria to be considered during a review

When conducting a review, the nominated senior manager 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 information/arguments put forward by the client for review, and
- any other information that may be relevant in the circumstances.

The nominated senior manager 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 will be taken into consideration, in relevant situations.

5.4 Notifying a client of the outcome of a review

The Deputy CEO will notify the client of the outcome of their review using the appropriate/relevant method of communication as well as a written letter explaining the outcome, as applicable.

6. Staff health and safety

6.1 Staff reactions to stressful situations

Assisting clients who are demanding, abusive, aggressive or violent can be extremely stressful and at times distressing or even frightening for all our staff – both experienced and inexperienced. It is perfectly normal to get upset or experience stress when dealing with difficult situations.

At Legal Aid NSW, we have a commitment and responsibility to support staff members who experience stress as a result 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 Legal Aid NSW staff to identify stressful incidents and situations. As a result, all staff have a responsibility to notify relevant supervisors/senior managers of UCC incidents and any stressful incidents that they believe require management involvement.