

**Dealing with Unreasonable Complainant Behaviour:
Guidance for Staff**

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Introduction

This document gives guidance on when complainant behaviour can be classed as unreasonable and outlines options to manage such situations. It should be read in conjunction with policies on **the Management of Work-Related Aggression and Violence** and on **Lone Working**.

Tusla – Child and Family Agency believes that complainants have a right to be heard, understood and respected. Sometimes people that contact Tusla with a grievance behave in a manner that creates difficulty for staff in dealing with the grievance/complaint matter. In a very small number of cases, the behaviour becomes unacceptable because it involves abuse of staff or processes.

Unreasonable complainant behaviour has been estimated as comprising of between 3% and 5% of cases.¹ When this happens action has to be taken to protect staff. Consideration is given to the impact of the behaviour on staff capacity to do their work and provide a service to others.

Classifying complainant behaviour as unreasonable is a serious matter and deciding whether to do so should be carefully considered.

The guidance applies to all Tusla employees. It also applies to agency and temporary staff and those on work placement.

1.0 What is Unreasonable Complainant Behaviour?

While in the majority of cases complainants engage with the Agency in a reasonable manner, on occasion, people may be unreasonable in their behaviour. Tusla does not view behaviour as unacceptable just because a complainant is assertive or determined. However, when complainants are aggressive, threatening, make excessive or inappropriate demands on Tusla staff or engage in unacceptable behaviour towards Tusla staff, this is viewed as unreasonable complainant behaviour.

In the context of this guidance, unreasonable complainant behaviour may be categorised² as:

- **Unreasonable persistence:** Tusla accepts that being persistent can be advantageous when pursuing a complaint. However, persistence with a complaint that has already exhausted the complaints process is unreasonable. The persistence may manifest in different ways, for example:
 - asking that the complaint be looked at again by another officer; reframing the complaint to present it as a fresh complaint; or persevering with an argument that has already been addressed.

¹ Office of the Ombudsman of Ireland, 2015 and New South Wales Office of the Ombudsman 2012

² These categories are based upon the Office of the Ombudsman, Ireland, Policy for Dealing with Unreasonable Complainant Conduct, www.ombudsman.gov.ie

- **Unreasonable demands:** A demand becomes unreasonable when:
 - It starts to impact substantially on the work of staff investigating the complaint, or
 - Complying with the demand would impact substantially on the work of staff investigating the complaint.

Examples of behaviour under this heading include:

- Repeatedly demanding responses within an unreasonable timeframe;
 - Insisting on seeing or speaking to a particular member of staff when that is not possible or necessary;
 - Repeatedly changing the substance of a complaint or raising unrelated concerns.
- **Unreasonable lack of cooperation:** Persistent presentation of a complaint in a disorganised manner. Examples include not identifying the complaint clearly, presentation of often unnecessary voluminous material whilst often expecting instantaneous responses, transforming the complaint mid-way through the process and occasional dishonesty in the statement of facts.
- **Unreasonable arguments:** Examples include exaggerating issues, presenting irrelevant arguments, placing too much emphasis on trivial matters, insisting that the complainants version of events be accepted as fact where there is no objective evidence to support this view, obstinately refusing to consider counter arguments, being guided by unfounded conspiracy theories and / or by desire for revenge or retribution against another person or public body.
- **Threats, intimidation, and/or abuse:** Includes threats of violence, actual violence, abuse of Agency staff, rude or aggressive conduct, or threats of self-harm. Violence is not restricted to acts of aggression that may result in physical harm³. It also includes behaviour or language whether verbal or written that may cause staff to feel afraid, threatened or abused and may include threats, derogatory personal remarks, inflammatory statements or rudeness.

³ EU definition of work-related aggression and violence is: “Any incident where staff are abused, threatened or assaulted in circumstances related to their work, involving an explicit or implicit challenge to their safety, well being or health”.

2.0 Principles to apply in responding to Unreasonable Complainant Behaviour

The principles underpinning the approach to be taken in responding to unreasonable complainant behaviour are as follows:

- The substance of the complaint determines how Tusla responds to the complaint (not the complainant's demands or behaviour);
- Tusla will act respectfully toward the complainant and impartially with regard to the complaint, regardless of the complainant's behaviour;
- Tusla will ensure that the Agency's complaints procedure has been correctly followed and no material element of a complaint has been overlooked or inadequately addressed;
- Tusla will explain to the complainant when and why it is considered the complainant's behaviour is unreasonable and afford the complainant the opportunity to change their behaviour;
- Any member of staff who directly experiences aggressive or abusive behaviour from a complainant has the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this policy - guidelines in this regard are set out in Appendix I;
- Tusla will provide support to all staff that may experience unreasonable complainant behaviour;
- Any measure taken in relation to unreasonable complainant behaviour must be proportionate and appropriate to the circumstances, fair to the complainant and fair to the staff involved.

The 'Tell Us' policy does not relieve duly authorised staff of their obligations under Section 8 of the 'Child and Family Agency Act 2013' or entitle them to derogate from those obligations.

3.0 Process for responding to Unreasonable Complainant Behaviour

3.1 Identifying and confirming Unreasonable Complainant Behaviour

The procedure outlined below should be followed where Tusla is considering categorising a complainant's behaviour as unreasonable:

- Where a Tusla staff member considers a complainant's behaviour to be unreasonable in line with this policy guidance, the staff member will review the matter with their line manager who will consider the matter in line with the procedure outlined in Appendix 2 of this document.
- Where an individual's behaviour has been deemed as unreasonable complainant behaviour in the context of Section 1 of this policy, a head of service or manager at grade 8 or above will determine what measures must be taken (see Section 3.2).

- Following this determination, the manager will notify the complainant of these measures in writing and of the reasons why their behaviour has been deemed unreasonable.
- This notification will be copied for the information of all relevant staff involved.
- A reference will be kept on the client file and a separate complaint file will be set up for future reference regarding the reasons why an individual's behaviour is deemed as unreasonable and actions taken relating to same.

3.2 Appropriate Measures

Measures taken must be appropriate and proportionate. Options for consideration include:

- Ask the complainant to enter into an agreement about their future conduct;
- Confirm to the complainant that all avenues with regard to the complaints process have been exhausted in line with Tusla's complaints policy;
- Restrict or curtail access to staff as appropriate and in the following manner:
 - Only take telephone calls from the complainant at set times on set days;
 - Request contact in a particular form only (e.g. by letter);
 - Limit the email addresses that can be contacted by the complainant;
 - Require that contact take place with a named person only;
 - Restrict the number of issues that will be dealt with in a given period;
 - Limit the locations where personal contact will occur.

At all times, Tusla will try to maintain at least one form of contact with the complainant.

In extreme situations, the Agency will tell the complainant in writing that contact will be restricted to either written communication, or through a third party, and in very rare cases a decision will be made to have no further contact with a complainant regarding their complaint.

Where the behaviour of a complainant is so extreme that it threatens the safety and welfare of Tusla staff or others, the Agency will consider options such as notifying An Garda Síochána or instigating legal action. In such circumstances, Tusla may not give the complainant prior warning.

The staff member who is dealing with a complainant in these circumstances will be supported by their manager and offered advice in relation to Tusla's 'Employee Assistance Programme'.

3.3 Appeals and Reviews

Tusla will record all incidents of unreasonable complainant behaviour in line with this policy. Where it is decided to restrict complainant contact, a note will be added to all relevant records.

Appeals

A complainant can appeal a decision to restrict contact. In such cases, Tusla will only consider arguments that relate to the restriction and not to either the complaint made or to Tusla's decision to close a complaint.

An appeal could include for example a complainant saying that:

- Their actions were wrongly identified as unreasonable;
- The restrictions were disproportionate;
- That the restrictions will adversely impact on the individual because of personal circumstances.

A senior member of staff (head of service or grade 8 or above) who was not involved in the original decision, considers the appeal and advises the complainant in writing of the outcome.

Reviews

It is important that a decision to categorise a complainant's behaviour as unreasonable can be reconsidered. Managers who have categorised complainant behaviour as unreasonable will review the status of all complainants with restricted contact arrangements, on a quarterly basis

If it is decided that restrictions are to be lifted, the manager will advise staff and the complainant in writing of this decision and the implications.

Appendix 1 - Staff Guidelines for managing Unreasonable Complainant Behaviour

It is understandable that complainants can sometimes be emotional when making a complaint. These emotions may include anger, distress or upset. There may have been upsetting or distressing circumstances leading up to a complaint being made that Tusla staff may need to take into account when liaising with a complainant.

However, any member of staff who directly experiences aggressive or abusive behaviour from a complainant (as described in Section 1 of this policy) has the authority to deal immediately with that behaviour in a manner that is reasonable and proportionate having regard to this guide and policy on **the Management of Work-Related Aggression & Violence** and policy on **Lone Working**.

The following process outlines the steps Tusla staff should adhere to in such circumstances:

1. Make a brief note of the date and time and the language/behaviour of the complainant and your response;
2. Be factual and accurate in your recording;
3. Avoid using emotive language;
4. Record as much detail as possible e.g. each telephone call or personal visit;
5. Keep copies of written materials, letters, emails or other social media messages;
6. Retain a copy for your own records;
7. Complete an incident report form and bring it to the attention of your manager.

This process gathers evidence to assist in assessing whether a complainant's behaviour amounts to unreasonable behaviour having regard to Section 1.0 of this policy.

Staff members should not knowingly put themselves in an unsafe situation when dealing with unreasonable complainant behaviour. When the staff member feels unsafe or at risk of harm they should remove themselves from that situation and seek help if required.

Local offices should have procedures in place for dealing with the Management of Risks relating to Aggression and Violence and these should be followed.

In the event of an incident, the staff member(s) involved must report this in a timely manner to their immediate supervisor/local management. All staff who witness the incident should also report this to their supervisor. **Record the incident on the Tusla Incident Report Form.**

Appendix 1 – continued

Standard process for abusive calls or abusive behaviour experienced face to face

1. At all times be polite;
2. Do not use emotive language;
3. Do not show anger;
4. When a person first uses unacceptable or threatening behaviour (including inappropriate language), inform them that this is not acceptable and ask them to stop;
5. If the person continues with this behaviour, remind them that you have asked them to stop and that you will end the call/meeting if he/she continues with the unacceptable or threatening behaviour;
6. If the person continues, advise them that you intend to end the conversation and that you will not take a call or meet with them again unless they cease using unacceptable/threatening behaviour;
7. If the person continues – end the conversation;
8. If the caller calls back repeat step 5 and inform the person that his/her behaviour could be regarded as abusive/threatening and it is Tusla policy to discontinue telephone calls/meetings that staff deem abusive - repeat step 7;
9. **Record the incident in the Tusla Incident Report Form.**

Standard process for abusive correspondence

1. Consider whether a response is required. This may be done in conjunction with line manager.
2. If a response is required:
 - A. At all times be polite;
 - B. Do not use emotive language;
 - C. Do not show anger;
 - D. Point out why this correspondence is unacceptable;
 - E. Advise that you will not accept further correspondence from the person concerned unless he/she ceases using unacceptable/threatening language.
3. If the person persists in corresponding using unacceptable/threatening language, consult with line manager regarding the appropriate steps to take.

Appendix 1 – continued

Standard process for persistent telephone calls

1. Advise the caller that you are aware that he/she has made previous calls about the same issue;
2. At all times be polite;
3. Do not use emotive language;
4. Do not show anger;
5. Advise the caller that you have answered to the best of your ability and that nothing further can be done or that the matter is being addressed and that they can expect contact from the Agency by a certain date and that you will not be in a position to update them until then;
6. Advise the caller that you are unable to spend any further time discussing the matter and that you therefore intend to end the call;
7. Advise the caller that you are now ending the call and that he/she should not call again unless there is something new to discuss;
8. End the call;
9. If the caller calls back repeat step 6 and advise the caller that his/her behaviour could be regarded as unreasonable behaviour - repeat steps 7 and 8;
10. If the caller calls back again advise the caller that you intend to report the matter to an appropriate manager and repeat step 7 and end the call.

Standard process for persistent correspondence

1. Advise the correspondent that you are aware that he/she has made previous contact about the same issue;
2. At all times be polite;
3. Do not use emotive language;
4. Do not show anger;
5. Advise the person that you have answered to the best of your ability and that nothing further can be done or that the matter is being addressed and that he/she can expect contact from the Agency by a certain date and that you will not be corresponding with him/her until then.

Standard process for calls/correspondence or visits from individuals categorised as unreasonable complainants

1. Follow the relevant agreed process in relation to communications with this individual;
2. Advise the individual that you are aware that there are restrictions in place with regard to how the Agency engages with him/her;
3. At all times be polite;
4. Do not use emotive language;
5. Do not show anger.

Appendix 1 – continued

Standard process for calls or visits involving threats of self harm

1. Try to stay confident and be calm. Speak in a reassuring and calm manner.
While crises are often characterised by panic and confusion, acting confidently and calmly will help ease the situation. When someone is distressed, it may help him or her to feel stability and reassurance from people in authority. Therefore, speak clearly and be aware of your tone of voice.
2. Ask for the person's first name; if their contact is by phone, ask where they are calling from and for a contact number.
Specify that this is not a crisis service but that you can give them some phone numbers and direct them to support services that may be able to help. Ask them if they would need to get a pen to take down numbers.
3. Keep a note of the conversation.
4. Advise the person if he/she are in danger of causing him/herself harm, that they should seek help and talk to someone appropriate about how they are feeling; suggest the following contacts:
 - Family, GP, out of hours GP, local accident and emergency department;
 - HSE Helpline: 1850 241 850;
 - A local health services provider; or
 - Samaritans on 116123 or email jo@samaritans.org;
 - Pieta House (a specialist centre for people experiencing suicidal behaviour) at 01 6010000. Pieta House have a number of centres in Dublin along with one in Limerick and have plans for additional centres. Anybody can make a referral, they have 2 emergency slots every day, and the therapeutic support is free of charge.
5. Ask the person to repeat back to you what contact details they have written down.
 - When you feel that you have listened and offered as much support as you can and have given the signposting information and phone numbers, reiterate that you are not working in a crisis service but that the information you have given are the services that can help. If you feel a resistance on the part of the caller to end the telephone call and/or to accept the advice you have offered, recap what you have said and point out the options the caller has, based on the information you have given.
 - State that you hope that they will choose to follow up on these options.
 - Remember, by the time it is appropriate to end the call, you will already have listened calmly to the person and you will have given them contact information for support services that can provide more appropriate help than you can provide.
6. Advise your line manager of the contact.
7. If you fear that the person will attempt self-harm contact the local Gardaí for assistance.
8. **Record the incident in the Tusla Incident Report Form.**

Appendix 2 - Sample Checklist for Line Managers to use in deciding whether to categorise a Complainant's Behaviour as Unreasonable

I have received a signed and completed incident form.	
I have spoken to staff as necessary.	
I have reviewed the file.	
I have considered the following criteria:	
○ The merits of the complainant's case;	
○ The complainant's circumstances;	
○ Proportionality;	
○ Organisational responsibility;	
○ Responsiveness, including previous conduct;	
○ Behaviour that is unreasonable in all circumstances (assault, threats, etc).	
Has the complainant been afforded the opportunity to address their behaviour?	
I have considered all reasonable options for managing the complainant's behaviour, including those that do not involve restricting their access to services.	

Date:

Signature:

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