

Managing unreasonable complaints and behaviour by members of the public

At Port Authority, we treat everyone with respect. Port Authority is committed to being accessible and responsive to all complainants who approach us about an issue. At the same time, the success of our business depends on:

- our ability to do our work in the most effective and efficient ways possible.
- the health, safety and security of our staff, and
- our ability to allocate resources fairly across all complaints we may receive.

People who interact with Port Authority, including when attending our premises or who approach Port Authority to make a comment or complaint, can be distressed, angry or upset. This may be due to the problem they are complaining about, or it may be related to other issues such as their health, family or financial circumstances. Dealing with distressed, angry and upset people is a normal part of interacting with people and complaint handling, and staff should deal fairly, objectively and empathetically with all complainants. In some cases, however a person's conduct can go beyond what is acceptable and they may behave unreasonably. Their conduct can significantly affect the safe and successful conduct of our work, including the health, safety and security of our staff.

Purpose

This policy was developed to:

- set out Port Authority's expectations of the conduct of persons other than Port Authority employees (referred to in this Policy as 'complainants') when accessing Port Authority services, including when making complaints.
- reinforce our commitment to a healthy and safe working environment, free from discrimination, harassment and bullying.
- assist all staff members to better manage unreasonable conduct, and
- ensure complainants are aware of the processes that will be followed in response to unreasonable conduct.

Scope and Application

This policy applies to complaints made to Port Authority by external complainants, including members of the public.

The term **complainant** means the person or organisation that is accessing facilities or services of Port Authority or has raised concerns about part of its operations or its actions. This could be customers, clients, community members, consumers and users of Port Authority services or their advocates. For avoidance of doubt, this term does not refer to:

- directors, employees and contractors of Port Authority (see the Code of Conduct); or

- third party suppliers, consultants, business partners and contractors engaged to supply goods or services to or on behalf of Port Authority (see the Supplier Code of Conduct).

This policy sits alongside our Code of Conduct and reinforces our Customer Service Charter. An extract from our Customer Service Charter is set out below:

WHAT YOU CAN EXPECT

In every contact you have with Port Authority you can expect us to:

- Treat you fairly, with respect and courtesy
- Provide you with accurate and consistent information and options
- Provide a timely and reliable service that meets our service standards
- Make it easy to access our services
- Provide you with the facts and reasons for our decisions and respond to your requests
- Treat your information lawfully

Our expectations

Port Authority expects complainants to behave respectfully and responsibly when engaging with Port Authority. *Appendix A – Individual Rights and Mutual responsibilities of the Parties to a Complaint* sets out these expectations in more detail. If complainants do not meet their responsibilities, Port Authority may consider placing limitations or conditions on their ability to communicate with staff or access certain services or Port Authority sites.

In a small number of cases, complainants may behave in ways that are unreasonable and difficult to manage, despite our best efforts to assist them or respond to their complaint. Port Authority has no tolerance for behaviour or events that may impact the safety and wellbeing of, or cause injury to, our staff. This includes psychological injuries to staff that may arise from dealing with challenging or unreasonable behaviour by complainants.

What is unreasonable behaviour?

The NSW Ombudsman sets out five basic characteristics of behaviour that can be defined as ‘unreasonable’:

- **Unreasonable persistence** is where excessive or unwarranted demands are made by a complainant for the same outcome or about the same issue, including:
 - refusing to accept that we cannot or will not take further action on a complaint, or
 - repeatedly writing to Port Authority with the same or similar complaint despite already being provided with a response.
- **Unreasonable demands** are requests made by a complainant that are outside the responsibility and/or ability of staff to action, including:

- insisting on talking to senior management personally when it is not warranted or appropriate, and the reason why has been communicated to the complainant, or
- insisting on outcomes that are not possible or appropriate in the circumstances.
- **Unreasonable lack of cooperation**, where clear direction has been provided by staff, but the complainant refuses to accept this and continues to engage with staff.
- **Unreasonable arguments** include arguments made by a complainant that may be incomprehensible, false, inflammatory, trivial or that disproportionately and unreasonably impact upon our organisation, staff, time and resources.
- **Unreasonable behaviour** is conduct that is unreasonable in all circumstances (regardless of how stressed, angry or frustrated a complainant is) and includes harassment, intimidation, verbal abuse, defamatory remarks, rude or threatening correspondence, emotional manipulation, aggression, threats and violence.

Complainants whose behaviour is unreasonable may display one or more of these characteristics. Our staff response to this behaviour will take into account their safety, the safety of their team and the safety of others, including members of the public. Port Authority will not tolerate any harm, abuse or threats directed towards its staff or other persons on Port Authority sites. Any conduct of this kind may result in a refusal to take any further action on a complaint, or to have further dealings with the complainant discontinued. Any conduct of a criminal nature will be reported to police, and in certain cases legal action may also be considered.

Our approach

We act in accordance with the NSW Ombudsman's guidelines on *Managing unreasonable conduct by a complainant*.

In order to ensure that all complaints are dealt with fairly, efficiently, and effectively and that work health and safety standards and duty of care obligations are adhered to, Port Authority will take the following steps when dealing with unreasonable complainants:

1. Staff will attempt to assist a complainant in the first instance.
2. If a staff member feels, at any point, a complainant is behaving unreasonably, they must advise the complainant that their behaviour is unacceptable, and that they will be ending that initial contact.
3. The staff member must escalate the situation to their manager to find a way to continue to assist the complainant while minimising their impact on staff.
4. The manager will, where appropriate, attempt to assist the complainant and provide a response to their complaint.
5. If a complainant continues to behave unreasonably, we may adapt or limit the ways we interact with or deliver services to complainants. The matter will be referred to a nominated senior manager (being the appropriate Senior Leadership Team member or Executive in the Division most relevant to the complaint). The nominated senior manager, in consultation with relevant staff, has the responsibility and authority to change or restrict a complainant's access to our services by restricting:
 - **who** they have contact with – limiting a complainant to a sole contact person within Port Authority

- **what** they can raise with us – restricting the subject matters of communications that we will respond to
 - **when** they can have contact – limiting a complainant’s contact with us to a particular time, day, length of time, or curbing the frequency of their contact with us
 - **where** they can make contact – limiting face to face interviews to secure areas
 - **how** they can make contact – this may include limiting access to our premises, limiting face to face interviews or requiring contact through a representative only
 - **access to services** – terminating or imposing restrictions on provision of services, which may include the right of the complainant to access Port Authority sites (including sites open to the public), altogether.
6. If practicable, the complainant shall be provided with a written warning prior to any restrictions on access to services being imposed. If a complainant’s conduct continues after they have been given a written warning, the nominated senior manager has the discretion to send a notification letter immediately restricting the complainant’s access to our services. If a complainant violates the restriction of services, such as by continuing to access locations which they have been refused entry to, the matter may be reported to the police, and in certain cases legal action may also be considered.
 7. In extreme cases of violent or other unacceptable contact, the complainant’s access to our services may be restricted immediately without notice.
 8. A decision to restrict a complainant’s access to services will be reviewed, if requested by the complainant in writing, by the nominated senior manager every six months from the date the restriction was initially imposed. The outcome of the review will be communicated to the complainant in writing.

If you are not satisfied

If a complainant is unhappy with how they have been treated under this policy, they may contact enquiries@portauthoritynsw.com.au. Alternatively, they may contact the NSW Ombudsman at <https://www.ombo.nsw.gov.au/Making-a-complaint/how-to-make-a-complaint/make-a-complaint-online>.

Appendix A – Individual rights and mutual responsibilities of the parties to a complaint

Individual rights*

**Note: The term 'rights' is used to demonstrate a guarantee of the standard of service and behaviour that all parties should meet. It is not used to depict a legally enforceable entitlement – although some may be.*

Complainants have the right:

- to make a complaint and to express their opinions in ways that are reasonable, lawful, and appropriate, regardless of cultural background, national origin, sex, sexual orientation, gender expression, disability or other cultural or personal characteristics
- to a fair and impartial assessment and, where appropriate, investigation of their complaint based on the merits of the case
- to a timely response
- to be informed in at least general terms about the actions taken and outcome of their complaint
- to be treated with courtesy and respect.

Staff have the right:

- to determine whether, and if so how, a complaint will be dealt with
- to finalise matters on the basis of outcomes they consider to be satisfactory in the circumstances
- to expect honesty, cooperation, and reasonable assistance from complainants
- to be treated with courtesy and respect
- to a safe and healthy working environment
- to modify, curtail or decline service (if appropriate) in response to unacceptable behaviour by a complainant.

Mutual responsibilities

Complainants are responsible for:

- treating staff of Port Authority with dignity and respect
- clearly identifying to the best of their ability the issues of complaint, or asking for help from the staff of Port Authority to assist them in doing so
- providing Port Authority, to the best of their ability, with all the relevant, factual information available to them at the time of making the complaint
- being honest in all communications with Port Authority
- cooperating to the best of their ability with the staff who are assigned to deal with their complaint.

Staff are responsible for:

- providing reasonable assistance, including cultural and linguistic assistance, to complainants who need help to make a complaint and, where appropriate, during the complaint process
- dealing with all complaints, complainants and people or organisations the subject of complaint professionally, fairly, and impartially
- giving complainants or their advocates a reasonable opportunity to explain their complaint, subject to the circumstances of the case and the conduct of the complainant
- keeping complainants informed of the actions taken and the outcome of their complaints

- giving complainants explanations that are clear and appropriate to their circumstances, and adequately explaining in general terms the basis of any decisions that affect them
- treating complainants (and people who are the subject of complaints) with courtesy and respect at all times and in all circumstances.

Port Authority is responsible for:

- maintaining an appropriate and effective complaint handling system in place for receiving, assessing, handling, recording, and reviewing complaints
- making decisions about how all complaints will be dealt with
- ensuring that all complaints are dealt with professionally, fairly, and impartially
- ensuring that staff treat all parties to a complaint with courtesy and respect
- ensuring that the assessment and any inquiry into the investigation of a complaint is based on sound reasoning and logically probative information and evidence
- finalising complaints on the basis of outcomes that the organisation, or its responsible staff, consider to be satisfactory in the circumstances
- adequately considering any confidentiality or privacy obligations or responsibilities that may arise in the handling of complaints.