



Vexatious, frivolous & unreasonable complaints policy

Anyone with a complaint about a serious incident or an incident of workplace conflict that amounts to a work health and safety risk in a Commonwealth Parliamentary Workplace should be able to bring that complaint to the Parliamentary Workplace Support Service (PWSS) feeling confident that it will be dealt with in a trauma-informed, timely and appropriate manner. Individuals bringing a complaint to the PWSS should not be subject to adverse consequences merely because they have made a complaint.

A complaint about an incident is however, a serious matter. This is particularly so for those in public life, including parliamentarians and their staff, whose reputation is critical to their continued ability to operate effectively in their roles. The existence of a complaint, substantiated or not, may result in damage to the standing of the individual or the house or party to which they belong.

This policy sets out the way the PWSS will manage complaints that involve unreasonable conduct by the complainant including frivolous or vexatious complaints.

Unreasonable complainant conduct

It is possible that in the course of making a complaint to the PWSS a client may demonstrate 'unreasonable conduct'. Conduct might be considered unreasonable because of the nature or frequency of communication, or because it raises substantial health, safety, resource or equity issues for the PWSS (for example where the frequent contact takes away resourcing opportunities from other PWSS clients).

Unreasonable conduct may include:

- Unreasonably high levels of contact with the PWSS, including calling or emailing various members of the PWSS staff multiple times, particularly outside of normal operating hours.
- Inappropriate use of language, swearing, raised voice or any other threatening or aggressive conduct directed towards staff of the PWSS.
- Unreasonable expectations or demands about timeframes, or outcomes beyond the remit of the PWSS.
- Behaviour which indicates a lack of good faith engagement with PWSS.

Amended service offering

The PWSS understands that just because a client demonstrates unreasonable conduct, it does not mean the complaint or issue does not warrant further review. The PWSS is committed to working with all clients requiring assistance, and in circumstances where unreasonable conduct is present, may amend our service offering to ensure the safety of PWSS Case Coordinators, resourcing of the PWSS and fairness are balanced.

An amended service offering will only be implemented following consultation with the Head of the PWSS, and may include:

- only interacting with a client in writing, and not accepting telephone communication with the client
- only interacting with the client at prescribed times (for example, during a designated telephone call once per week)
- referring the client to access alternate support services.

An amended service offering will be reviewed by the Head of the PWSS on a regular basis and at a minimum, every 30 days.

If the PWSS intends to provide a client with an amended service offering, the client will be provided with a preliminary notice in writing and an opportunity to respond. The preliminary notice will set out the reasons for the amended service offering, the terms of the amended service offering and the timeframe for the amended service offering to be reviewed. The client will be given a reasonable time in which to respond to the preliminary notice and any information will be taken into account and they will be advised of the final decision in writing.

Frivolous complaint

A frivolous complaint is one without substance, or where the complaint does not relate to bullying, harassment, sexual harassment, sexual assault, or workplace conflict. The PWSS sets the bar high around labelling a complaint as frivolous, and will not determine that a complaint is frivolous merely because it relates to minor issue, there is limited evidence, or it is ultimately not found to be substantiated.

Finalisation of a frivolous complaint

If a member of the PWSS staff forms the view that a complaint to the PWSS is frivolous, the following steps will be taken:

1. Refer the complaint to the Case Coordination Director for review.
2. In the event the Case Coordination Director agrees that the complaint is frivolous, refer the complaint to the Head of the PWSS for review.
3. In the event the Head of the PWSS agrees that the complaint is frivolous, the Head of the PWSS will notify the client of the concerns about the complaint, and invite them to provide further information.

In the event the Head of the PWSS forms the view that a complaint to the PWSS is frivolous, the Head of the PWSS will consult with the Case Coordination Director, notify the client of the concerns about the complaint and invite them to provide further information.

Following review of any further information provided, the Head of the PWSS may decide to finalise the complaint with no further action. In these circumstances, the Head of the PWSS will advise the client of the decision to finalise the complaint in writing and the reasons for reaching that decision.

Vexatious complaint

A vexatious complaint is a groundless complaint made with the primary intention of causing distress, detriment or harassment to the subject of the complaint.

For a complaint to be labelled as vexatious, there needs to be evidence of ill intention and that the complaint has been brought for an improper purpose.

The PWSS acknowledges that a vexatious complaint is highly unlikely, and that declaring a complaint to be vexatious is a serious matter.

Finalisation of a vexatious complaint

If a member of the PWSS staff forms the view that a complaint to the PWSS is vexatious, the following steps will be taken:

1. Refer the complaint to the Case Coordination Director for review.
2. In the event the Case Coordination Director agrees that the complaint is vexatious, refer the complaint to the Head of the PWSS for review.
3. In the event the Head of the PWSS agrees that the complaint is vexatious, the Head of the PWSS will notify the client of the concerns about the complaint, and invite them to provide further information.

In the event the Head of the PWSS forms the view that a complaint to the PWSS is vexatious, the Head of the PWSS will consult with the Case Coordination Director, notify the client of the concerns about the complaint and invite them to provide further information.

Following review of any further information provided, the Head of the PWSS may decide to finalise the complaint with no further action. In these circumstances, the Head of the PWSS will advise the client of the decision to finalise the complaint in writing and the reasons for reaching that decision.

Where the vexatious complaint is made by a MOP(S) Act employee or parliamentarian, the Head of the PWSS will also consider whether a workplace review should be commissioned into the conduct in making the complaint.