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## Our approach to unreasonable or abusive correspondence

### This policy’s purpose

When we carry out our functions, we often receive communication or complaints (correspondence) from people with a legitimate interest in what we do and the decisions we’ve made as a regulator. Occasionally, this correspondence is unreasonable or abusive.

This policy sets out how we balance our responsibility to respond to correspondence with what we do when that correspondence is unreasonable or abusive.

### Scope

This policy applies to:

- all correspondence we receive including complaints, Privacy Act 2020 requests, and Official Information Act 1982 requests
- complaints that are deemed to be frivolous, vexatious or malicious under the Health and Safety at Work (Hazardous Substances) Regulations 2017 regulations 6.15(2)(a) and 6.29(2)(a).

### What we mean by ‘unreasonable’ or ‘abusive’

We set a high threshold for correspondence that we deem to be ‘unreasonable’ or ‘abusive’. We understand that occasionally how we’ve engaged with people, or the decisions we’ve made, can cause distress, particularly when a notifiable incident or injury has occurred. Because of this we don’t automatically classify communication that’s persistent or angry as unreasonable or abusive.

### Unreasonable correspondence

We group unreasonable correspondence into the following categories. We use these categories to determine whether something is unreasonable. For one of the following behaviours to be deemed unreasonable it must lead to a substantial and unreasonable impact on our kaimahi or our work.

CATEGORY	EXAMPLES INCLUDE
<b>Unreasonable persistence</b>	This includes: <ul style="list-style-type: none"> <li>- continued, incessant and unrelenting correspondence</li> <li>- an unwillingness to accept our response</li> <li>- multiple repeated emails, phone calls or other correspondence after we’ve asked them to stop, or</li> <li>- contacting multiple kaimahi across the business in an attempt to achieve a different response.</li> </ul>
<b>Unreasonable demands</b>	This includes: <ul style="list-style-type: none"> <li>- issuing instructions</li> <li>- demanding outcomes that are not possible</li> <li>- demanding that we change our decision on a matter, or</li> <li>- changing their query after we respond (for example, moving the ‘goalposts’).</li> </ul>
<b>Unreasonable lack of cooperation</b>	This includes: <ul style="list-style-type: none"> <li>- an unwillingness or inability to cooperate with our kaimahi or processes</li> <li>- dishonesty</li> <li>- providing false information</li> <li>- when the correspondence is disorganised, excessive or contains significant irrelevant information, or</li> <li>- a failure to provide additional information or clarify a request.</li> </ul>

CATEGORY	EXAMPLES INCLUDE
<b>Unreasonable arguments</b>	This includes: <ul style="list-style-type: none"> <li>- arguments that are not based on fact, reason or logic</li> <li>- claims unsupported by evidence</li> <li>- irrational interpretation of fact or law</li> <li>- inflammatory content, or</li> <li>- refusal to accept reasonable arguments.</li> </ul>
<b>Unreasonable behaviour</b>	This includes: <ul style="list-style-type: none"> <li>- use of abusive or derogatory language, including swearing and offensive analogies</li> <li>- attempting to emotionally manipulate our kaimahi, or</li> <li>- use of our complaints processes in an attempt to harass, intimidate or undermine other people or organisations.</li> </ul>

## Abusive correspondence

When correspondence contains abusive content, we have a duty of care under the Health and Safety at Work Act 2015 to our kaimahi. We have processes in place to support them if abusive correspondence causes distress, safety concerns, or psychological harm. Abusive correspondence may be reported to the New Zealand Police.

Abusive correspondence unreasonably compromises the health and safety of our kaimahi and may include:

- threatening harm to our kaimahi, themselves or others
- intimidation or harassment of kaimahi
- contacting our kaimahi informally, through social media or personal email, persistently or using abusive language
- inappropriate questions or use of kaimahi personal information in correspondence, or
- threats to defame, harass, intimidate or publish personal information online about our kaimahi.

If abusive correspondence escalates, we may stop further communication, and we'll follow our *Managing workplace violence and threatening behaviour policy and procedure*.

## What this means in practice

When we receive correspondence that could be unreasonable or abusive we first assess whether it meets any of the above definitions.

We then assess:

- the merits of the issue that's been raised
- the correspondent's circumstances, including:
  - past interactions with us
  - disability
  - bereavement
  - trauma, or
  - culture or language differences

- whether their behaviour is proportionate to their circumstances, and
- how they've responded to our engagement.

## How we manage unreasonable or abusive correspondence

We respond in a way that aligns with the Office of the Ombudsman's *Managing unreasonable complainant conduct* practice manual. This means if we decide correspondence is unreasonable or abusive, we:

- always act in good faith which means:
  - we're committed to manaakitanga and culturally safe practices
  - we focus on the merits of the issue raised in the correspondence, and
  - we will try to accommodate reasonable requests such as scheduling, interpreters, and plain language communications
- consider our legal obligations in relation to correspondence, including obligations to respond under the Official Information Act 1982 and the Privacy Act 2020
- act proportionately to the conduct of the correspondent including considering previous communication
- impose restrictions and set our expectations for engagement. This may include, but is not limited to:
  - warning that we view the correspondence as unacceptable
  - restricting contact to a nominated senior staff member or by a specified timeframe
  - requesting resubmission of any correspondence without the abusive or derogatory language
  - requiring substantive new information from the correspondent in order to continue engagement, or
  - ceasing further communication on the matter
- provide support and assistance to correspondents regarding expectations or restriction we've placed on further correspondence.

We'll apply any contact restrictions only where it's necessary, proportionate, and the least impairing option to achieve legitimate objectives, such as kaimahi safety, efficient service delivery or fair resource allocation. Restrictions will be time limited, reviewed yearly, and clearly notified with our rationale and their review rights. If correspondents continue to act outside of the imposed restrictions, we reserve the right to refuse further engagement.

We respond clearly and quickly and keep a record of our decisions and actions. Decisions about unreasonable or abusive correspondence are made at an appropriate senior level. If a correspondent has concerns about our approach to managing their correspondence, they may make a complaint to the [Ombudsman](#)