



Unreasonable Stakeholder Conduct Policy

June 2021

Date	Issue/Summary of Amendments	Approved by
<i>June 2021</i>	<i>First edition</i>	<i>N Sathianathan</i>

UNREASONABLE STAKEHOLDER CONDUCT POLICY

1. PURPOSE

1.1 The purpose of this policy is to:

- assist staff to identify when a stakeholder is engaging in ‘unreasonable conduct’; and
- outline the actions that staff can take in response to the ‘unreasonable conduct’.

This policy recognises Screen Queensland’s duty of care to its staff to ensure a safe workplace free from harassment, its obligation to use resources effectively and efficiently to administer programs and the requirements of Screen Queensland’s *Terms of Trade*.

2. DEFINING UNREASONABLE CONDUCT

2.1 Unreasonable conduct

‘Unreasonable conduct’ is behaviour which, because of its nature or frequency, is *‘unreasonable in all the circumstances’*.

‘Unreasonable conduct’ may be one-off unreasonable behaviour (for example, an assault or a threat to safety or life) or a series of behaviour the cumulative effect of which is unreasonable (for example, persistently requesting that a decision be reviewed).

In determining whether the behaviour is *‘unreasonable in all the circumstances’* consider if it:

- presents a health and safety concern for Screen Queensland or its stakeholders;
- places a disproportionate and unreasonable burden on Screen Queensland’s resources when compared to the merit of the inquiry; or
- unduly and unreasonably impacts Screen Queensland or its stakeholders.

The circumstances that may affect whether the stakeholder’s conduct is unreasonable may include the stakeholder’s known personal (including health) or business circumstances, the importance of the matter to the stakeholder personally and the impact an adverse Screen Queensland decision may have on the stakeholder or their business¹.

Determining if conduct is *‘unreasonable in all the circumstances’* is a judgement call. If you are unsure, seek advice from your manager or a legal adviser.

2.2 Examples of unreasonable conduct

Examples of ‘unreasonable conduct’ include:

- **overly aggressive, discourteous or disrespectful behaviour;**

¹ For example, if the person is known to Screen Queensland to have a psychiatric illness or a medical condition (eg Asperger’s syndrome), this would be a relevant circumstance in determining whether words used (eg uncontrollable profanity which is common for Asperger’s syndrome), behaviour or conduct experienced is ‘unreasonable in all the circumstances’.

Similarly, a Screen Queensland employee may give a stakeholder a little more leeway in deciding whether certain behaviour or conduct (eg use of profanity, demonstrable displays of anger etc) is ‘reasonable in the circumstances’ if there is a high gravity of impact of a Screen Queensland decision (eg cutting the stakeholder off from SQ programs).

There would be very few personal circumstances where extreme conduct (eg threats of violence) would not be ‘unreasonable conduct’.

- **verbal or physical abuse (including threats)²**;
- **unreasonable persistence** - examples include: persistently demanding review of a comprehensively considered decision; refusing reasonable explanations given; repeatedly reframing the same complaint; bombarding staff with emails/calls/visits/letters etc; or contacting different people within the organisation to get a different outcome/response;
- **unreasonable demands** - examples include: demanding priority is given to them/their projects; insisting on speaking with Senior Executives when it is not appropriate or warranted; insisting on unreasonable/impossible outcomes; or demanding services that cannot be provided; and
- **unreasonably argumentative behaviour** – examples include: arguments that are not based on reason or logic, that are incomprehensible, false, inflammatory or trivial.

3. HANDLING UNREASONABLE CONDUCT

3.1 Procedure for handling unreasonable conduct

Where unreasonable conduct is identified, the staff member should make reasonable efforts to:

- **communicate** to the stakeholder that the conduct is unreasonable including, where possible, explaining why it is unreasonable; and
- **advise** the stakeholder **of the consequences** if the unreasonable conduct continues including that communication may be terminated.

If the unreasonable conduct continues, Screen Queensland staff are empowered to '*take appropriate action in the circumstances*'. This may include:

- immediately terminating contact with the stakeholder;
- advising the stakeholder that all further contact with Screen Queensland will be via written correspondence;
- advising that Screen Queensland will not engage further with the stakeholder on the matter; and/or
- modifying/restricting the stakeholder's access to Screen Queensland's personnel, premises and/or programs³.

Where appropriate (including in all circumstances where Screen Queensland will not further engage with the stakeholder on a matter), **written notice** detailing the decision and the reasons for the course of action, should be provided.

3.2 Not further engaging with the stakeholder on a matter

Not further engaging with the stakeholder on a matter should only be considered if:

- the stakeholder's conduct is grossly unreasonable and there are no other appropriate avenues to engage with the stakeholder (eg via written correspondence); OR

² **Note:** In the event of threats of harm to person/property, immediately alert a Senior Executive, suspend all contact, request the complainant to leave/not attend the premises and, if necessary, contact the Queensland Police Service.

³ **Note:** You must obtain legal advice prior to restricting, suspending or terminating an applicant's access to Screen Queensland's programs.

- there would be little utility in continuing to engage with the stakeholder on the matter⁴.

Screen Queensland should satisfy itself of the following requirements:

- the stakeholder has been treated fairly, reasonably and ethically in the circumstances;
- the matter has been appropriately considered or investigated (including, where appropriate, no consideration or investigation at all⁵).

If the above elements cannot be satisfied, Screen Queensland may consider alternative dispute resolution strategies such as mediation or conciliation to resolve the matter.

In all instances where Screen Queensland determines that it will not further engage with a stakeholder on a substantive issue, **written notice** should be provided to the stakeholder advising that Screen Queensland will not engage with the stakeholder further on the matter and the reasons for that decision.

3.3 Restricting access to Screen Queensland programs

Where Screen Queensland seeks to restrict or terminate a stakeholder's access to Screen Queensland's programs due to unreasonable conduct, please seek legal advice.

Screen Queensland will need to ensure that:

- it has appropriate legal rights under the contract, program guidelines or Terms of Trade;
- the stakeholder has been treated fairly, reasonably and ethically in the circumstances; and
- the stakeholder has been afforded procedural fairness.

⁴ Screen Queensland has an obligation to discharge its functions 'efficiently and effectively'. Where a matter has already been thoroughly investigated, a tenderer has already been fully debriefed or a decision has already been appropriately reviewed, there may be little utility in continuing to engage with the stakeholder on the matter.

⁵ In deciding whether to consider/investigate a matter we should balance the discharge of our public administration duties (investigate reasonable complaints, provide a right of review of decisions, debrief unsuccessful tenders etc) with our obligation under financial management and accountability legislation to discharge our duties 'efficiently and effectively'. Circumstances where there would be no utility in considering/investigating a matter may include where the claim is frivolous, the matter has no significance, or the matter has already been thoroughly investigated and no new circumstances or information are present.