

**Office of the Ombudsman
of Hong Kong**

Handling of “Difficult” Complainants

Background

There is a certain consensus among complaint-handling agencies, in Hong Kong as elsewhere, that some complainants are “difficult”. Why do we find them “difficult”? What should we do?

“Difficult” complainants are generally picky, demanding, or unreasonably persistent and often aggressive or even hostile. They tend to shift the focus of their complaint from the substantive issue to the processing of their complaint or to the case officer. They may become a barrier to fair investigation. They take up a great deal of staff time and energy and make staff’s life stressful. Most complaint-handling agencies hope not to have “difficult” complainants, but realise they are a fact of life.

Nevertheless, let us not typecast such complainants as they may be differently motivated to persist with (or, crudely put, “pester”) some complaint-handling agency.

The Office of The Ombudsman of Hong Kong, in conjunction with the Equal Opportunities Commission and the Office of the Privacy Commissioner for Personal Data, held a seminar in March 2008 for sharing experience and, *inter alia*, formulating strategies for dealing with “difficult” complainants. Here are some of the issues discussed and strategies distilled from the seminar.

Managing Expectations

“Difficult” complainants often want what a complaint-handling system cannot deliver. They may not be aware of, or just will not accept, the agency’s role in dealing with their complaint. They hold unrealistic expectations for the outcome of their case. They may assume the agency exists to support complainants regardless of reason. They may even believe that they have the right to dictate how the agency is to handle their complaint, how inquiries should proceed and what the conclusion should be. It is, therefore, essential for effective processing of complaints to “manage” the expectations of complainants from the outset.

Management of complainant expectations includes sending an early acknowledgement to set out clearly what the agency can or cannot do and how the

agency processes cases. Simply declining complaints without giving reasons is inviting comeback. Where a complainant expresses dissatisfaction with the agency's decision and asks for a review, he should be informed in on uncertain terms that a case could be reviewed only on substantive new issues or fresh evidence. As a precondition to any review, the complainant should be asked to indicate where the agency's earlier inquiries has erred or has been incomplete. Otherwise, there is no ground for reopening the case and it should remain closed.

At times, a sympathetic agency might well consider it "hard" on the complainant to refuse a review. However, "relenting" without reason can easily mislead the complainant to imagine the agency had been deficient in the earlier inquiries. This is neither fair nor desirable for the agency.

Communicating with "Difficult" Complainants

The key to receiving "difficult" complainants is to not take their unpleasant exchanges as personal attack. More often than not, complainants sound off because they are disappointed with the agency's decision and take it out on the case officer for unsatisfactory processing. If case officers allow their annoyance to take over, they could become overbearing; or if they let themselves be intimidated, they might turn suppliant towards the complainants. Case officers should, therefore, guard against either phenomenon, remembering always they represent the agency and the organizational credibility prevails and must be preserved.

Case officers must avoid confrontation or return rudeness for abusive language when communicating with complainants. "I accept this is your view" or "you are entitled to your opinion" is often enough to avert an attack or rebuttal from a complainant. The fact that case officers have a heavy workload or have been on leave is no excuse and will not be well received by "difficult" complainants. If there has been a delay or a mistake, a forthright apology and an undertaking to remedy should be given.

When faced with angry or aggressive complainants, case officers should remain polite but firm. On no account should they be drawn into a fight with the complainants. Give the complainants some time to let off steam and then try to resume dialogue with them. If they do not cool down or simply ignore the well-intentioned efforts, case officers have no alternative but to ask them to stop or just leave them with the statement that "there is no more to be said and they are welcome to put their case in writing".

When communicating face-to-face or over the telephone with “difficult” complainants, case officers should always be mindful that the exchange may be recorded. If so, advise them that the agency will also do the same. In fact, when complainants become abusive, it is advisable to have the conversation recorded. However, before doing so, they must be duly forewarned.

Complaint-handling agencies must honor their undertaking. Whether it is a promise to call or an estimate of completion of inquiries, the case officer should ensure that complainants are kept well posted. Else, they could turn “difficult” as a result of some unthinking omission to notify them.

In responding to tears or other expressions of emotions, case officers should take care to sympathize or empathize only within reason. Otherwise, complainants may regard such case officers as their mentor or even advocate. In that event, the case officers’ subsequent impartial stance would be mistaken as unhelpful or even hostile.

When delivering a negative final decision in a letter to the complainant, it is crucial to set out all the reasons for that decision. If the case has already been reviewed again and again, the complainant should be forewarned that the agency has nothing further to say or respond in future.

Security Measures

The personal safety of investigation staff is paramount. In case of complainants’ angry aggression or threats of bodily harm, complaint-handling agencies should have in place appropriate security measures and protocols for staff protection. The layout of public areas should be such that staff can quickly and safely remove themselves from a seriously threatening situation. Duress alarm should be available for staff use and appropriate help be on hand to respond to activated alarm. A case officer should not be left alone with a “difficult” complainant.

Supervision and Support

Where a complainant displays unreasonable conduct, the case officer’s supervisor(s) should be consulted. It is important, a management plan on the case be made and be followed closely. The case officer is to be assured of the support of his supervisor(s). Clear organizational support gives the case officer due authority and confidence to act firmly in the face of “difficult” complainants.

However, it is not necessary, or appropriate, to escalate the matter to the supervisor(s) just because the complainant asks for it.

Concluding Observations

Investigators are not psychiatrists. They are not competent to analyse the psychology of complainant. Nor is this their role. Their expertise is in handling complaints and investigating for facts.

Finally, a fact to be born in mind always is that a complainant may be “difficult” but his case can still be valid. Care must be exercised to distill the underlying issues of complaint regardless of the complainants’ attitude or behaviour.

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