

Ngā Tautuhi | Definitions

Tirohanga Whānui | Overview

Te Kāhui Tātari Ture | Criminal Cases Review Commission (Te Kāhui) recognises that this list is not definitive nor exhaustive and therefore will exercise its discretion and judgement.

Correspondent conduct can be classified as unreasonable for many reasons, for example: persistent, vexatious, frivolous, lacking cooperation, unreasonable arguments, and unreasonable behaviours. The definitions below act as a guide to any correspondent that contacts Te Kāhui.

Tāngata Whakapā | Correspondent

The term correspondent includes anyone who corresponds with Te Kāhui, either directly to a staff member and/or Commissioner or through the general Te Kāhui communication channels whether it is in person, by phone, text message, letter, email and/or any other way through electronic means i.e., social media for any case related or non-case related matters.

Mahi Whakapā | Unreasonable Correspondent Conduct

Most correspondents who contact Te Kāhui act reasonably and responsibly, even if they are experiencing distress, frustration or anger about their conviction, application, issue, or complaint.

However, in a very small number of cases some correspondents behave in ways that are inappropriate and unacceptable. Correspondents can bombard Te Kāhui with unnecessary and excessive contact, make inappropriate demands on our time and resources or refuse to accept our decisions and recommendations in relation to the outcome of an application.

On some occasions, they can be aggressive and verbally abusive towards our Commissioners and/or staff and in some instances, may threaten harm or violence. When correspondents behave in these ways, we may consider their conduct to be unreasonable.

Unreasonable correspondent conduct is any behaviour by a correspondent which, because of its nature or frequency, raises substantial health, safety and wellbeing, resource or equity issues for our organisation, staff and Commissioners, other service users and stakeholders, or for the correspondent themselves.

Unreasonable correspondent conduct can generally be divided into the following categories of conduct:

- » unreasonable persistence
- » vexatious
- » frivolous
- » unreasonable lack of cooperation
- » unreasonable arguments
- » otherwise, unreasonable behaviour.

Tāngata Taikaha | Persistent

Persistent contact is defined as consistent, systematic, frequent contact and/or continuing a course of action, contact or opinion that has a disproportionate and unreasonable impact on our organisation, staff and Commissioners, services, time or resources.

Some examples of unreasonably persistent behaviour include:

- » an unwillingness or inability to accept that no further assistance or level of service can be provided
- » an unwillingness or inability to accept the decisions or actions taken by Te Kāhui
- » refusal to accept explanations relating to what Te Kāhui can or cannot do and continuously pursuing matters without presenting any new information
- » persistently demanding a review of a decision simply because a right of review is available and without presenting reasons for review
- » pursuing and exhausting all available review options and refusing to accept further action cannot or will not be taken regarding an application, complaint or issue
- » reframing an application, complaint or issue in an effort to get it taken up again
- » bombarding staff with phone calls, visits, letters, emails (including being copied in on correspondence) after repeatedly being asked not to do so
- » contacting different people within our organisation or externally in an attempt to get a different outcome or more sympathetic response to an application, complaint or issue.

Tāngata Whakararu | Vexatious

Causing or tending to cause annoyance, frustration or worry that no reasonable person could properly treat as having been made in good faith.

Where the correspondent makes what are considered to be unreasonable demands (express or implied) that start to impact adversely on the work of Te Kāhui to the disadvantage of other correspondents or functions.

Some examples of vexatious behaviour include:

- » demanding responses within unreasonable timescales
- » demanding services that are of a nature or scale that we cannot provide when this has been explained to them repeatedly
- » insisting on seeing/speaking to a particular commissioner, the chief executive, a senior manager or a member of staff personally when it is neither appropriate nor warranted
- » issuing instructions and making demands about how Te Kāhui have handled or should handle an application, complaint or issue and the priority it was given or should be given, or the outcome that was or should be achieved
- » continuous telephone calls, letters, or emails, repeatedly changing the substance of correspondence or raising unrelated concerns
- » insisting on outcomes that are not possible or appropriate in the circumstances, such as calling for someone to be fired or prosecuted, an apology or compensation when there is no reasonable basis for expecting this
- » emotional blackmail and manipulation with the intent to intimidate, harass or shame a commissioner or staff member, or to portray themselves as being victimised, when this is not the case.

Mahi Hakirara | Frivolous

Not having any serious purpose or value and must be so clearly frivolous that to put it forward would be an abuse of the process of the Commission.

Some examples of frivolous behaviour include:

- » where the content, attitude, or behaviour of approach by the correspondent to Te Kāhui is not considered to be serious or sensible
- » where the content, attitude, or behaviour of approach by the correspondent to Te Kāhui is unconcerned about or lacking any significant purpose.

Tē Mahi Kotahi | Unreasonable lack of cooperation

Unreasonable lack of cooperation is the lack of willingness or ability of a correspondent to cooperate with our organisation, commissioners, staff or Te Kāhui's systems and processes, resulting in a disproportionate and unreasonable use of our services, time or resources.

Some examples of unreasonable lack of cooperation include:

- » sending a constant stream of incomprehensible or disorganised information without identifying any issues or explaining how the information relates to an application, or the core issues being raised, when the correspondent is clearly capable of doing so
- » providing little or no detail in correspondence or presenting information in a sporadic or disorganised manner
- » refusing to follow or accept our suggestions or advice without a clear or justifiable reason for doing so
- » arguing frequently or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments and explanations
- » displaying unhelpful behaviour, such as withholding information, acting dishonestly or misquoting others.

Tāngata Tohe | Unreasonable arguments

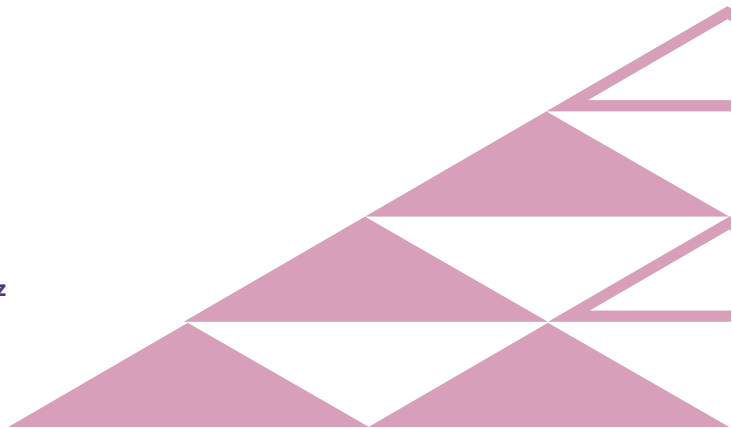
Unreasonable arguments include any arguments that are incomprehensible, false or inflammatory, or that disproportionately and unreasonably impact upon our organisation, commissioners, staff, services, time or resources. Some examples are where arguments:

- » are not supported by sufficient evidence or are based on conspiracy theories
- » lead a correspondent to reject all other valid contrary arguments
- » have an impact that is disproportionate to the amount of time, resources and attention that the correspondent demands are false, inflammatory or defamatory.

Te Hunga Hauā | Intellectual disability & mental health

Broadly speaking there can be a number of disabilities which an applicant may have and or exhibit obvious or non-obvious signs of mental health issues. In particular it is common in this field for a cognitive disability to be an issue which is a variety of medical conditions affecting cognitive ability. This is a broad concept encompassing various intellectual or cognitive deficits, including intellectual disability, deficits too mild to properly qualify as intellectual disability, various specific conditions (such as specific learning disability), and problems acquired later in life through acquired brain injuries or neurodegenerative diseases like dementia. These disabilities may appear at any age and or stage of life.

This may be a factor in determining whether correspondent conduct is unreasonable.



Mahi Hakirara | Otherwise unreasonable behaviour

Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated a correspondent is – because it compromises the health, safety and security of our commissioners, staff, other service users or the correspondent himself or herself.

Some examples of unreasonable behaviour includes:

- » acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks
- » harassment, intimidation or physical violence
- » rude, confronting and threatening correspondence
- » threats of harm to self or third parties - which will be treated according to the Whai Oranga SoP
- » threats with a weapon or threats to damage property, including bomb threats will be aligned with a risk assessment and dealt with in consultation with New Zealand Police and the Security Policy
- » stalking (in person or online)
- » emotional manipulation.

Te Kāhui has a zero-tolerance policy towards any harm, abuse or threats directed at commissioners or staff. Any conduct of this kind will be dealt with under this policy, and in accordance with our duty of care and occupational health and safety responsibilities, and where appropriate with the Police and courts.