



Australian Government
Department of Veterans' Affairs

transforming
DVA

Veteran community

Policy for Mutually Respectful Behaviour

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Context

DVA supports those who serve or have served in the defence of our nation, and commemorates their service and sacrifice on behalf of the nation. We recognise the unique nature of service in the Australian Defence Force, and the impact that it can have to the health of individuals, both physically and mentally.

DVA supports the wellbeing of over 300,000 veterans, the vast majority of whom engage with DVA in a productive and mutually respectful manner. However, there are a very small number of cases where the behaviour of some members of the veteran community may pose a risk to staff safety and/or impede Department's capacity to support them.

DVA is committed to being accessible and responsive to all Appointed Third Party Persons (ATPP) who approach our department regardless of ethnic identity, national origin, religion, linguistic background, sex, gender expression, sexual orientation, physical ability or other cultural or personal factors. When interacting with ATPP, the department considers the following:

- Our ability to do our work in the most effective and efficient ways possible
- The health, safety, and security of our staff
- Our ability to allocate our resources fairly across all the enquiries and/or complaints we receive.

When an ATPP behaves unreasonably, their conduct can significantly affect the successful conduct of our work. DVA will act proactively and decisively to manage any ATPP conduct that is not mutually respectful and we will support our staff to do the same in accordance with this policy.

For the purposes of this policy an ATPP is a veteran's advocate or veteran representative. This policy will also apply to individuals of ex-service/defence organisations, a legal firm, or business, however, will only be applicable to the person/s who engage in unreasonable conduct not the organisation as an entity.

This policy, known as *DVA's Mutually Respectful Behaviour Policy*, replaces the Unreasonable Complainant Conduct Framework and represents a shift in the Department's approach to managing complex client interactions. This moves from a procedure modelled on that used by the NSW Ombudsman to manage unacceptable behavior of complainants, to a guideline based on a disability, health and trauma-informed approach, anchored in Workplace Health and Safety legislation and obligations.

Purpose

This policy document outlines DVA's procedures for managing behaviour that is not mutually respectful and provides an escalation pathway to enable DVA staff to continue to support our clients and their families, as well as ensuring DVA is promoting a safe and healthy workplace for our employees. It is our aim to establish and maintain respectful and productive relationships with every individual who accesses our programs and services and, as part of this, our staff, our veterans, other clients and appointed third party persons share mutual rights and responsibilities.

This includes augmenting the skills and capabilities of our administrative staff with clinical mental health workers and implementing a standardised approach to assessing and managing factors contributing to vulnerability and complexity. Together, our administrative case managers and our clinical case managers work across the Department to provide wrap around case management for our vulnerable clients and their families, as well as managing escalating risk of harm to self or others for clients experiencing crisis. Under the Client Support Program, we also provide coaching and support to our colleagues to build capability in managing challenging behaviour.

This policy document outlines how key elements of the *Client Support Program* will respond to persistent and unreasonable behaviour and contributes to the DVA journey to implement an evidence-informed model for case management of veterans and their families.

DVA's Approach to Complex and Inappropriate Behaviour

This policy also marks a shift in DVA's response to complex and inappropriate client behaviour, by promoting understanding of disability, health or trauma factors which contribute to behaviour which is not mutually respectful whilst setting clear boundaries about the Department's expectations of reasonable behavior and its obligations to protect staff from abuse.

This policy forms part of a system of policies and procedures which provide our client facing staff with the skills and tools to confidently manage behaviour that is not mutually respectful and to escalate for assistance as required through Triage and Connect as part of the Client Support Program.

Key to this approach is:

- understanding how trauma, health, disability-related factors and individual circumstances contribute to behaviour that is not mutually respectful
- a commitment to supporting the veteran community through additional case management as required
- a commitment from DVA to support staff and to operate from a Trauma Informed Care approach
- establishing supports and procedures to support the needs of the veteran and DVA staff.

Background

In October 2015, to respond to veterans presenting with challenging behaviours, DVA developed a suite of policy and procedures known as the *Unacceptable Complainant Conduct* Framework (UCC). The UCC Framework was based on the NSW Ombudsman's approach and set out a few steps and escalation points for DVA to manage behaviours deemed unreasonable. The UCC Framework aimed to reduce the risk of harm to self, others and DVA's employees, by restricting veterans' access to departmental staff.

In 2019, the Moss Review was undertaken which reviewed the UCC Framework policy and DVA's practice of managing complex and inappropriate client behaviour. The Moss review outlined several recommendations. This policy addresses the following recommendations.

Recommendation 20: That the UCC Framework policy be revised to remove any possible misunderstanding or doubt about the Department's commitment to assisting all its clients and their families.

Recommendation 21: That the Department continue to reduce the number of clients under the UCC Framework.

Recommendation 22: That the Managed Access advisory service be developed further as a resource to assist and support the Department's client-facing staff members.

Recommendation 23: That the UCC Framework be comprehensively revised, including its nomenclature, to reflect current Managed Access practice.

Recommendation 24: That the Department restores the relationship with disaffected clients, both under the UCC Framework and beyond, by establishing a program which is committed to developing understanding of the client's past negative experience, developing trust and providing such a response as brings closure for the client.

Recommendation 25: That the Department provides client-facing staff with the skills and training needed to achieve optimal outcomes for clients.

Recommendation 26: That factors leading to client complexity and vulnerability are identified and incorporated into the design of systems and practices to support veterans and their families.

In July 2019, the DVA Executive Management Board endorsed the transition of clients managed through this UCC framework to a revised framework reflecting a trauma informed, health and disability-awareness based approach to responding to challenging behaviour.

Definitions

1. What is behaviour that is not mutually respectful?

Agencies such as the Office of the Australian Information Commissioner (OAIC) and the NSW Ombudsman have established definitions and guidelines for determining what behavior may be deemed complex and inappropriate. The OAIC describes behaviour, in the context of the applications under the Freedom of Information Act, which is:

- harassing or intimidating an individual or agency staff
- unreasonably interfering with an agency's operations
- using the Freedom of Information Act to circumvent access restrictions imposed by a court.

For DVA purposes, complex and inappropriate behaviour:

- has unacceptable impacts upon the health, safety and security of our staff, other service users, contractors and the veteran community themselves
- impedes the ability of DVA to support veterans and their families
- makes an unreasonable demand upon DVA's resources, often over the same issue impacts upon the equitable distribution of DVA's resources to support all our veteran community and their families.

Further categorisation of the conduct can be helpful to provide a nuanced response to the management of that behaviour. Under the NSW Ombudsman's Practice Manual, unreasonable presentation is characterised as unreasonably persistent; unreasonable demands; unreasonable lack of cooperation; unreasonable arguments; and unreasonable behaviour.

An evidence-based approach to managing complex and inappropriate behaviour features the following aspects:

- labels the behaviour, not the person
- enables service providers to implement strategies in response to distinct types and seriousness of problems
- contains criteria that do not focus on emotive issues, but on things such as the number of phone calls/emails and the conduct of the person in those communications.

2. Types of behaviour that is not mutually respectful

Behaviour that is not mutually respectful that may pose a risk to staff safety and/or impact upon the department's capacity to provide a responsive and comprehensive service to the veteran community includes the following.

What is an unacceptable level of behaviour?

DVA has a zero tolerance policy towards any harm, abuse or threats directed towards staff.

Any behaviors which impede DVA's capacity to undertake its business and/or represents a risk to staff safety should be managed under this approach.

Persistence

Persistence impedes DVA's capacity to undertake its business and may represent a risk to staff safety. Some examples of unreasonably persistent behaviour are:

- an unwillingness or inability to accept reasonable explanations including final decisions that have been comprehensively considered and dealt with
- persistently demanding a review without cause, including demanding a review without meeting the legislative requirements for a review.
- pursuing and exhausting all available review options without cause
- reframing a complaint to get it reviewed again without cause

overloading staff/DVA with phone calls, visits, letters, and emails without new content
 unreasonably contacting different people within DVA and/or externally in pursuit of an outcome.
 contacting different people or DVA staff within or outside of DVA to get a different outcome or a more sympathetic response to their complaint.

Demands

Unreasonable demands impede DVA's capacity to undertake its business and may represent a risk to staff safety. Some examples of unreasonable demands include:

- making demands about how the Department should prioritise and manage a complaint
- persistently requesting escalation to senior management
- communicating with the intention to intimidate, harass, and shame
- insisting on outcomes that are not possible and not supported by legalisation or policy
- demanding services that are outside the scope of DVA
- unreasonable volume and/or length of communication.

Lack of cooperation

Lack of cooperation impedes DVA's capacity to undertake its business and may represent a risk to staff safety. Some examples of unreasonable lack of cooperation are:

- sending persistent and/or voluminous information without reasonable cause
- providing inadequate detail without reasonable cause
- refusing to participate in a reasonable process
- intense or unreasonable arguments.
- refusing to provide information to substantiate a request for a review, such as not setting out the grounds on which the request was made or providing evidence to support the request.

Unreasonable arguments

Unreasonable arguments impede DVA's capacity to undertake its business and may represent a risk to staff safety. Some examples of arguments that are unreasonable are:

- arguments that are not supported by any evidence
- arguments without valid reason
- arguments for outcomes that are not allowable in accordance with the legalisation
- arguments that are false, inflammatory or defamatory.
- false attribution of blame on staff.

Aggressive and threatening behaviour

Aggressive and threatening behaviour is unreasonable in all circumstances and DVA has a zero tolerance to threats toward staff. Some examples of aggressive and threatening behaviors are:

- language or acts that are aggressive, abusive, derogatory, racist, or defamatory
- use of inappropriate language e.g. profanities
- harassment, intimidation or threats of violence
- threats of harm to others
- rude, confronting or threatening correspondence
- stalking (in person or online) including approaching DVA staff outside of DVA business environments such as in their private life or alternate work environments
- sharing of inappropriate graphic content.

Action/Response

1. The approach to managing behaviour that is not mutually respectful

Key to DVA's approach in managing behaviour that is not mutually respectful is:

- understanding how health, trauma and disability-related factors and individual circumstances contribute to challenging behaviours
- a commitment to supporting the veteran community through the addition of case management support as required
- a commitment from DVA to support staff
- establishing supports and procedures to support the needs of the veteran and DVA staff.

A range of supports are available to assist in responding to behaviours that may pose a risk to staff safety and/or impede DVA's capacity to undertake its business. Under the Client Support Program DVA provides support to all DVA staff in responding to veterans who may present with behaviour that is not mutually respectful including:

- consultation services to support DVA staff in understanding and responding to behaviour that is not mutually respectful
- providing education workshops which promote the understanding of behaviour that is not mutually respectful based on health and disability-based approaches
- providing case management support
- developing a support plan aimed to support the veteran or appointed third party and staff.

A staged and tailored approach

This approach, and the related Managed Access Protocol supports the implementation of strategies to restore a positive working relationship between the veteran community and DVA. The principles that underpin all strategies are:

- trauma informed care and strategies which are health and disability aware
- tailored to meet the specific needs of the veteran and DVA staff
- aimed to support the veteran community whilst maintaining the safety of staff
- where possible, behaviours that are not mutually respectful are managed using a staged approach, commencing at early intervention and increasing the level of response in line with the identified risks.

The Managed Access Protocol for both clients and appointed third parties provides further guidance on the application of the management of behaviour that are not mutually respectful. This protocol aims to take a staged, tailored, evidenced based approach in response to behaviours that are not mutually respectful.

Any strategies, including their timing, should reflect the severity of the risks posed to all stakeholders because of the challenging behaviour. As such, the protocol is a guide on the routine stages in responding to behaviour that is not mutually respectful. The Department, however, can apply appropriate strategies to mitigate the risks associated with behaviour that is not mutually respectful at any time.

Education for DVA staff

DVA is committed to supporting all staff in developing skills to support veterans and respond to behaviour that is not mutually respectful. DVA offers a one hour live workshop on understanding and managing behaviour that is not mutually respectful that all staff are mandated to attend.

The purpose of the workshops are to:

- promote the policy's intent, approach and support pathways
- promote understanding of behaviour that is not mutually respectful based on evidence-based approaches
- provide training on practical skills DVA staff can employ in defusing and managing behaviour that is not mutually respectful

provide an opportunity to explore case examples to further the participant's skill development

2. Referral to Triage and Connect

Where initial strategies have not led to a positive change in behaviour, or where DVA staff require additional support, consideration can be given to making a referral to Triage and Connect which provides a range of services to support the veteran community and the business area including:

- a consultation service to the business area, including the development of a plan to support the veteran and the business area
- providing the veteran with a case manager within the Client Support Program (CSP)
- completing a veteran needs assessment including risk assessment
- providing the veteran or appointed third party with a primary or single point of contact within the CSP

3. A consultative and tailored approach in developing a plan

If comprehensive efforts to manage the behaviour is unsuccessful, the Client Support Program will coordinate a case conference.

The purpose of the case conference is to develop a Client Management Plan to inform how best to support the veteran and their family, or appointed third party whilst supporting staff from behaviour that is not mutually respectful.

Key features of the case conference and subsequent Client Management Plan are as follows:

- a consultative approach in developing the plan through the inclusion of representatives from CSP, DVA Medical Advisor, Security and any teams impacted by the behaviour that is not mutually respectful
- a full review of the veteran's or appointed third parties' circumstances including supports in place, current needs and presenting behavior
- strategies applied to date, and an understating of the factors impacting on the behaviour
- ensuring appropriate referrals and supports are in place for the veteran
- strategies to mitigate the risks to staff associated with the behaviour that is not mutually respectful
- consideration of contact restrictions as one of the strategies.

The Client Management Plan will guide the actions of the Complex Case Manager under the Complex and Inappropriate Behaviour Stream within the Client Support Program.

4. Contact Restrictions within a Client Management Plan

Should the case conference members make a recommendation to apply contact restrictions, due consideration must be given to:

- respecting the rights of the veteran and/or appointed third party
- balancing the needs of the veteran whilst ensuring safety of DVA staff.
- the communication strategy for informing the veteran, family member or appointed third party as to reasons for the contact restrictions, supports available and review mechanisms.

Where contact restrictions are recommended, the Client Management Plan must be endorsed by the delegated Senior Executive Service officer dependent on the level of restrictions sought. Contact restrictions are applied for a set period and reviewed at documented intervals. Extensions to contact restrictions must be endorsed by the delegated Senior Executive Officer following a review by the Case Conference members.

The veteran or appointed third party will receive formal communication in writing outlining:

- the nature of the restrictions to be applied

reasons for the restrictions
 duration for which the restrictions will apply
 review mechanisms should the veteran community wish for this to be reconsidered.

Internal communication with all relevant stakeholders in DVA will also occur regarding the nature and duration of the restrictions.

The goal of the Client Management Plan is to reestablish a positive relationship between the veteran or appointed third party and DVA. Returning to routine contact with DVA is a key aim, and therefore the plan is reviewed at planned intervals to assess progress and make any changes that may facilitate a positive outcome.

5. Review of contact restrictions

DVA must review contact restrictions within an identified period. The restrictions will remain in place until the review is finalised. The veteran or appointed third party will be formally notified that their contact restrictions are being reviewed and given the opportunity to provide feedback. The review will consider whether their interactions and communication with DVA during the contact restriction period has been evidenced to be respectful, appropriate and reasonable. Following the review the veteran or appointed third party will receive formal communication in writing of the outcome which may include:

- Continuation of the contact restrictions
- Reduction or increase to the nature of contact restrictions applied
- Removal of contact restrictions

Where a veteran or appointed third party subject to contact restrictions is evidenced to pose a serious and significant long term risk to DVA staff safety and wellbeing the DS COO may endorse contact restrictions for an extended period up to 3 years. Extended contact restrictions could be expected to be applied following a serious incident or an ongoing pattern of incidents.

Some examples of a serious incident could include:

- A physical threat to staff such as attending a DVA office and brandishing a weapon.
- Significant threat to or attempt to, or evidence of actions to, cause harm to staff or property by attending DVA premises.
- Significant threat to cause harm to DVA staff that results in a report to relevant authorities.

Some examples of an ongoing pattern of incidents or behaviours could include:

- Stalking staff (in person or online) including obtaining personal information.
- Ongoing abusive language in written correspondence over a significant period
- Ongoing pattern of inappropriately seeking action on historical matters that have been finalised.
- Persistent ongoing threats of harm to DVA Staff, either individualised or general threats that result in occurrences of security incident reports.
- Persistent ongoing threats to cause damage to DVA property that result in site security protocols to be implemented.

On occasion where DS COO is unavailable or there is an identified conflict of interest, the delegation can be exercised by a Band 3 Senior Executive Service (SES) member.

Where contact restrictions are in place, but there has been limited contact with DVA in the period of contact restrictions (e.g. because they are overseas, other change of life circumstances), it would be reasonable to continue contact restrictions until

there is newly established positive pattern of behavior. This is particularly the case, where contact restrictions were put in place because there was aggressive or threatening behaviour.

A veteran or appointed third party who is on extended contact restrictions (greater than a period of 18 months) is able to request a review of their contact restrictions. This request can be lodged after a period of 18 months and only once during the period of restrictions. The request is to be made in writing to the case manager with appropriate evidence of improved changes in behaviour over a reasonable period. The case manager will consider the request and seek the advice of relevant DVA experts to inform a recommendation. The decision to alter the timing of contact restrictions sits at the SES Band 3 level.

6. Complex and Inappropriate Behaviour Stream (within the Client Support Program)

The Complex and Inappropriate Behaviour Stream refers to veterans or appointed third parties who are subject to contact restrictions in their interactions with DVA staff following comprehensive efforts to manage the behaviour by less restrictive means.

The Veteran or appointed third party is allocated a Complex Case Manager who acts as their single point of contact. The Complex Case Manager ensures that the veteran accesses all their DVA benefits and entitlements and aids with linkages to treatment and/or external supports as required.

The objectives of the Complex and Inappropriate Behaviour Stream are:

- to provide appropriately trained staff, with clinical skills and case management capabilities, to continue to collaborate with veterans or appointed third parties who persist with behaviour that is not mutually respectful
- to provide a central point of contact to ensure the veteran's or appointed third parties' DVA business is coordinated and that updates are provided in a consistent way
- to support DVA employees and fulfil our work health and safety obligations as an employer
- to improve efficiency in the use of departmental resources for dealing with behaviour that is not mutually respectful
- collaborate as required with multiple DVA business areas, as well as external providers, to improve veterans' outcomes and wellbeing.

Conclusion

The vast majority of veterans, families and appointed third parties engage with DVA in a positive and productive way. In response to the very small number of cases where individuals behave in ways that may pose a risk to staff welfare and safety and/or impede on the Department's capacity to undertake its business, DVA has implemented an evidence-based and trauma-informed approach to supporting both the veteran and DVA staff which aims to reestablish a positive working relationship between the veteran and DVA.

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