

Good Practice Guide

Dealing with Harassment and Stalking

This guide helps government organisations and government workers understand legal remedies for dealing with customers engaging in unacceptable behaviour such as harassment and stalking.

Overview

It is unacceptable for customers of government services to harass, stalk, threaten, or otherwise try to intimidate government workers. There are legal remedies available to deal with this kind of threat. This guide discusses how government workers can use restraining orders to deal with customers who engage in harassment and stalking type behaviour.

The government's [protective security expectations](#) also require agencies to have policies and procedures in place to address these types of risks/threats. For example the PSR requires agencies to:

- identify, protect and support workers under threat of violence, based on a threat and risk assessment of specific situations
- in certain cases, to have the capability to extend protection and support to other affected individuals such as family members
- report incidents to management, human resources, security and law enforcement agencies and/or WorkSafe New Zealand (as appropriate)
- provide information, training, and counselling to workers
- maintain thorough records and statements about reported incidents.

Government organisations should have policies on harassment

It is good practice for government organisations to have policies that deal with unacceptable customer behaviour such as harassment and stalking. These should form part of a suite of policies and procedures.

See also WorkSafe New Zealand's [Violence at Work: Customer Service Areas](#), which explains how a person conducting a business or undertaking (PCBU) that is office-based can prevent or deal with violence at work.

Control Measures

Once you have assessed risk you can identify control measures to eliminate and/or mitigate risk. Possible control measures are split into five types (it is likely you will need control measures from all five types):

- 1 Architectural/layout
- 2 Policies and procedures
- 3 Training
- 4 Emergency
- 5 Other security measures

Such a policy should cover how your organisation intends to apply the harassment law including such things as:

- the basics of the harassment law and its application by government workers
- the behaviours and thresholds which may result in government workers seeking restraining orders
- the review processes available to individuals to whom a restraining order has been applied
- the options available for providing alternative services to customers subject to restraining orders
- the preferred mechanisms for workers to obtain restraining orders against customers
- how information about customers who have restraining orders against them may be relevant to an assessment of risk of harm to individuals, including staff of other government organisations, and when and how to share that information with other organisations
- details about forms, procedures, registers, and notifications supporting your organisation's harassment policy.

Balancing service and safety

Government workers sometimes deal with people in difficult circumstances. This can lead to heightened emotions and antagonism.

In general, government workers understand and accept this as a fact of life (some organisations have formal training in de-escalation, for example, to help workers deal with difficult customers).

Government organisations also support their workers through these difficult interactions by training them to deal with difficult people and supporting them with appropriate tools and systems.

However, this does not mean government workers have to tolerate unacceptable behaviour - particularly behaviour that is threatening, intimidating, or makes the worker feel unsafe.

Government organisations should provide clear guidance to help their workers navigate the challenge of balancing the Government's core role of providing service with safety and security.

Harassment and stalking

It is unacceptable for someone to try and intimidate a person by harassing or stalking them.

A person may be a harasser if they commit any of the following 'specified acts' on at least two occasions in a period of 12 months. The specified acts include:

- following a victim
- making or sending unwanted and/or threatening phone calls or other unwanted communications to a victim
- providing a victim with offensive material
- doing something that makes a victim fear for their safety.

Any person, including a government worker, who believes they are being harassed or stalked by another person with whom they do not have a personal relationship, such as a disgruntled or fixated customer, can ask a District Court Judge to issue a restraining order.

! If a customer represents a serious, immediate, and credible threat to the safety of the worker then the victim, supported by their employer, should contact the Police immediately.

Restraining orders

A restraining order legally prevents a harasser from making contact with a victim. If the harasser breaches the order they can face a fine of up to \$5,000 and /or imprisonment up to 6 months.

If the same restraining order is breached three times in a three-year period, then the maximum sentence increases up to two years in prison.

Restraining orders have standard conditions. These are:

- the harasser must not do or threaten to do any of the specified acts to a victim
- the harasser must not encourage any other person to do any of the specified acts to a victim.

Victims can also ask the court for other conditions such as preventing a person from coming within a certain distance of the victim or staying away from a certain area.

Restraining orders apply:

- to a single harasser - if more than one person is harassing a victim then the victim will need to obtain harassment orders for each of the harassers
- to harassers who are 17 years or older
- for a period of one year, unless a court orders a different time period.

Harassment is different from family violence and relationship breakdowns

If a matter relates to domestic violence or relationship breakdown such as a spouse or partner, an ex-friend, a family member, a former flatmate, then it is appropriate for the victim to seek a protection order under the family protection laws.

If the matter is urgent, they may seek help through a police safety order. However, these are private matters. While government organisations may be sympathetic and supportive of a worker going through these problems, ultimately, seeking such an order is the business of the worker concerned.

If a victim does not know the harasser

If a victim does not know who is harassing them then the victim should make a complaint to the Police and provide them with any information the victim may have that can help the Police to identify the person.

Supporting workers through the process

Although government workers, like any victim, have the legal right to apply for a restraining order against any person they believe is harassing them, it is important for government organisations to encourage their workers to operate within an organisational approach and, ideally, with the support of their organisation's legal advisers before taking any action.

It is good practice for government workers to rely on their organisation's lawyers to apply for restraining orders on their behalf.

Ensuring continuity of service

When considering restraining orders, a victim and the organisation they work for will need to consider how the harasser will continue to have access to the services.

Sharing information about an individual subject to a restraining order

Government organisations often deal with the same client base. The fact that a customer has been issued with a restraining order may be relevant to an assessment of the risk posed by that individual to your organisation and other government organisations. This should be considered alongside other indicators of risk. If your organisation concludes that the individual concerned poses a serious threat to the life or health of an individual, this information should be shared with other government organisations.

Sharing the existence of a restraining order as part of the range of indicators of risks allows the receiving organisations to make their own assessments about the individual's risk in terms of their operations.

Particular consideration should be given to sharing information with:

- government organisations co-located in the property
- government organisations in the nearby area who may be working with the same customer.

Information sharing must be undertaken in accordance with the Privacy Act and any information sharing agreements your agency may have in place.

Alternative service delivery

If a customer has been ordered to stay away, you may need to consider how your organisation is going to ensure that person can continue to receive services. Unlike private organisations, government organisations do not refuse to provide services to people.

In some contexts, larger offices for example, it may be simple for other workers to deal with a customer subject to a restraining order. However, in some situations, it may be practical for a customer to use alternative service delivery options.

Online or telephone services

Most agencies now have ICT channels for delivering their services such as a telephone service desk and online resources and websites.

Agents

An agent is someone who can act on a customer's behalf. The customer is responsible for choosing your agent and deciding what they can or cannot do. However, as a responsible government organisation, you may want to help the individual to identify potential agents. An agent can be a person or an organisation - but must agree to act on the customer's behalf.

You may want to establish some system (forms and processes) that can help customers to identify and authorise agents formally. These systems can also deal with issues such as the scope of an agent's authority and other important matters such as privacy.

Any agent policy or process you adopt should enable customers to make changes to their agent arrangements.

Advocates

Alternatively, your organisation may want to nominate an advocate to work with the customer directly, on your behalf.

Good practice advocate processes include having people independent of the government organisation with good knowledge of your services, rules, and requirements who can act as customer advocates.

An advocate can act as 'go between' between your organisation and the trespassed customer to ensure that the customer still gets the assistance they require or are entitled to.

Alternative locations

You may direct the person to another (more secure) location. However, given their previous behaviour, you will still need to consider how to manage that individual safely in the alternative place.

Supporting worker wellbeing

If a government worker is a victim of harassment, stalking, or intimidation it is likely they are going to be stressed and anxious. Aside from supporting legal remedies such as restraining orders, as good employers, government organisations will also be concerned about the health and wellbeing of the victim. Accordingly, it is good practice to ensure victims of harassment and stalking are provided with Employee Assistance Programme Services (EAPS) and other services to ensure they are looked after.

Trespass orders

Trespass orders are another way of potentially dealing with customers who seek to threaten or intimidate government workers but who are not stalking or harassing.