Commonwealth OMBUDSMAN

Department of Human Services, Child Support Agency:

UNREASONABLE CUSTOMER CONDUCT AND 'WRITE ONLY' POLICY

November 2010

Report by the Commonwealth Ombudsman,
Allan Asher, under the *Ombudsman Act 1976*

REPORT NO. 14|2010

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EXECUTIVE SUMMARY

The Child Support Agency (CSA) is part of the Department of Human Services and it has a unique role compared to other government agencies. For each child support case, the CSA has to respond to the needs and enquiries of two customers, whose interests are often diametrically opposed. A customer's involvement with the CSA frequently begins at a time of recent relationship breakdown, when arrangements for children and finances are far from settled.

As a consequence, at the time customers are in contact with the CSA, they may express a range of emotions, from frustration and anger, to resignation or deep sadness. In some cases, a person's behaviour can appear disproportionate to the child support problem they are experiencing and their conduct can become unreasonable.

Like many government agencies, the CSA had a policy of restricting a customer's access to its services if it considered this was necessary to manage the customer's unreasonable conduct. The CSA's most common method of restricting access was to designate customers 'write only' – meaning that the agency would only engage with them in writing, not over the telephone or face-to-face.

This is a departure from its normal service delivery approach as a 'phone first' organisation, meaning that it prefers to deal with its customers by telephone. The 'write only' policy was intended to emphasise the CSA's expectation that customers will treat its staff with appropriate levels of civility; to protect CSA staff members and other customers from possible harm. It also limited the extent to which CSA staff were unnecessarily tied up in unproductive communications.

It was evident from this investigation that CSA customers experience frustrations and problems when they have to deal with the CSA exclusively in writing. While the cases that we examined were ones where the CSA imposed this restriction in response to unreasonable conduct, we note that there are other people who have communication challenges arising from disability, geographical location, language barriers or educational disadvantage. We consider that the CSA also needs to keep these people in mind when it makes decisions about service delivery and resources, including whether to impose 'write only' restrictions.

At the start of this investigation, the CSA told us that it had 133 'write only' customers. The majority (113 customers) had requested that the CSA not telephone them. The remaining 20 'write only' customers included 17 where CSA had made the decision to impose that status and three where it was a 'joint decision'. In those 20 cases, there was frequently no clear trail of documentation to indicate who had made the decision, the reasons for the decision, and when (or if) a review might occur. We have reservations about the completeness of the CSA's records. Three 'write only' customers we identified through our own complaints and these did not appear on the CSA's list. We consider it is likely, that of its 1.5 million customers, the CSA has restricted many more than just 20 to written communication about their child support case.

We found that the CSA did not have standardised procedures for restricting certain customer's access to services. Our investigation also revealed that limiting customers to 'write only' will often inconvenience both CSA staff and customers. Imposing 'write only' status in one notable case, actually increased the CSA's interaction with that

customer. We also found that 'write only' restrictions made it more difficult for customers to communicate their concerns and could obscure a genuine customer grievance.

We consider that a 'write only' restriction can be a significant barrier to the CSA providing good service. Accordingly, it should be used rarely and only for as long as is necessary to manage a customer's unreasonable behaviour, with the eventual aim of reinstating access to the CSA's usual service delivery arrangements. Most importantly, a 'write only' restriction should not be the CSA's first, or only, response to unreasonable customer conduct.

Our investigation showed that the CSA needed a comprehensive response to support its staff in the difficult task of managing unreasonable customer conduct. We recommended that it develop a single written procedure with:

- guidance for staff about the factors relevant to making a decision to restrict customer access
- a range of possible service restrictions, such as refusing to communicate further with a customer about a specific issue but providing 'business as usual' service for other matters; or ongoing management by a specified officer; as well as the option of designating the customer 'write only' for appropriate cases
- clear advice about which officers are authorised to restrict customer access
- procedures for communicating a service restriction decision to the customer, including the use of template letters
- centralised arrangements to record and report details of customers with service restrictions to assist with ongoing management and review of these cases
- a standardised process for reviewing decisions to restrict access, including fixed time periods and criteria for review, and a presumption that any restriction will be lifted unless there is a clear need for it to continue.

In September 2010, the CSA implemented a 'service restriction' procedural instruction. Those new procedures should address many of the problems that we identified in this investigation. This report will assist the CSA to further improve its response to 'unreasonable customer conduct'.

We recommend that the CSA review its letters and other procedures for 'write only' customers to ensure that they receive an appropriate level of service even though they are not permitted to talk to the CSA. We also believe the CSA should review all the existing cases where it has imposed a 'write only' restriction, to determine whether restricted access is still necessary and if so, what form it should take.

We consider that a single, national approach; a commitment to learning from other agencies (such as Centrelink); and considering options other than merely 'write only,' will improve the CSA's response to unreasonable customer conduct.

The CSA has accepted the recommendations in this report and has advised us how it intends to implement them. We intend to conduct a further review in six months time to determine whether the CSA has in place appropriate mechanisms for managing unreasonable conduct, and that any CSA imposed service restrictions are proportionate, and do not unreasonably affect its duty to provide advice and service to the customer.

PART 1 — INTRODUCTION

1.1 This is a report of our investigation into the Child Support Agency's (CSA's) service arrangements for customers who exhibit unreasonable conduct in their dealings with the agency.

1.2 The CSA commenced operations in 1988. Over the last 10 years, the CSA has been one of the top three most complained about agencies within the Commonwealth Ombudsman's jurisdiction.[1] The volume of complaints that we receive about the CSA is not surprising given the number of its customers,[2] the complexity of the child support scheme and the reality that it operates in an environment of family separation. The convergence of these three factors can present a range of intense emotional, financial and legal issues. These factors can, at times, complicate a person's interactions with the bureaucracy and quite simple matters may transform into protracted disputes.

1.3 The CSA reported that it received over 15,000 calls from customers each day in 2008-09.[3] The same year, it reported receiving almost 10,000 complaints to its complaints line.[4] In some instances, CSA customers display anger, aggression or distress when communicating with the CSA. In a small number of cases, the person's behaviour can be unreasonable and become an obstacle to the resolution of the issues to be addressed.

1.4 If a person is threatening, abusive, or aggressive in their dealings with the CSA, it may be appropriate for the Agency to restrict the method by which that person can access its services. Making a decision to restrict a customer's access ensures that resources are not unnecessarily tied up in unproductive communications; emphasises the CSA's expectation that customers will treat its staff with appropriate levels of civility; and protect CSA staff members and other customers from possible harm.[5] However, it is imperative that any restrictions are appropriate to the person's circumstances and that they do not unduly hinder the agency's capacity to deliver its program to that person.

1.5 My office has experience in investigating complaints about the withdrawal or limitation of services by Australian Government agencies, particularly Centrelink.[6] One of our key findings has been, that a lack of formal procedures can lead to a range of administrative problems, including inconsistencies in decision-making, uncertainty regarding the rights and responsibilities of each party and inequity in providing services to customers.

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1 Source: Commonwealth Ombudsman Annual Reports, available at http://www.ombudsman.gov.au/pages/publications-and-media/reports/annual/.

2 Approximately 1.4 million parents. Source Australian Government, Child Support Agency, *Facts and Figures 2008-09* p 23, available at http://www.csa.gov.au/publications/pdf/FactsAndFigures2009.pdf.

3 *Facts and Figures 2008-09*, p 67.

4 In 2008-09, the CSA received 9,536 complaints to its complaint line. Source: *Facts and Figures 2008-09*, p 72.

5 The CSA has occupational health and safety responsibilities to its staff, which require it to have mechanisms in place to systematically deal with workplace risks, including exposure to unreasonable customer conduct.

6 See the August 2008 report of this office's investigation: *Centrelink: Arrangements for the withdrawal of face to face contact with customers*, available at http://www.ombudsman.gov.au/files/investigation_2008_09.pdf.

1.6 We became aware that the CSA did not have a standardised national approach to managing and responding to unreasonable customer conduct. We consider this to be an essential tool to assist CSA staff in dealing with this issue.

What is the CSA's 'Write Only' Policy?

1.7 Over a number of years, the CSA has used the short-hand name 'write only' for the service limitation it imposes upon customers exhibiting particularly challenging behaviour. The CSA has a 'phone first' service culture and aims to do the majority of its business through telephone contact. However if the CSA decides that telephone contact is not productive because of a customer's behaviour, it may impose a 'write only' restriction, limiting the person to contacting the CSA via letter and email. In some cases, the CSA may also suggest that the customer consider appointing a representative who can still contact the CSA on their behalf by telephone.

What is unreasonable conduct?

1.8 The *CSA Customer Commitment* is a public document that outlines what customers can expect from the CSA and the guiding principles it uses to support the delivery of the child support scheme.[7] Along the lines of a service charter, it states that the CSA will treat its customers with courtesy and respect. It includes a reciprocal obligation for customers to be courteous and respectful in their interactions with CSA. Nevertheless, there will be instances where customers will not act in a courteous and respectful manner.

1.9 In 2006, all the Commonwealth and State Ombudsmen began a joint two-year project into unreasonable complainant conduct. The main product of that project was a practice manual, the *Better Practice Guide to Managing Unreasonable Complainant Conduct* (the *Better Practice Guide*), which is available on the Commonwealth Ombudsman's website.[8] The *Better Practice Guide* groups unreasonable conduct into five categories:[9]

- unreasonable persistence
- unreasonable demands
- unreasonable lack of cooperation
- unreasonable arguments
- unreasonable behaviour.

1.10 As stated by the NSW Ombudsman:

> the mere fact that a complainant is persistent, makes demands, or may be angry does not mean that their conduct is unreasonable in most circumstances. Unreasonableness requires the conduct to go beyond the norm of situational stress that many complainants experience.[10]

1.11 People can become distressed or frustrated for very good reasons and their conduct, although challenging, may not be unreasonable in the context of their circumstances. Sometimes unreasonable conduct is associated with mental illness. We recently published a report about the difficulties people with a mental illness can

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7 http://www.csa.gov.au/agency/CustomuerCommitment/pdf/commitment.pdf
8 http://www.ombudsman.gov.au/docs/better-practice-guides/Online_UnreasonableComplainantConductManual_CwthOmb.pdf
9 *Better Practice Guide* at p 12.
10 NSW Ombudsman website at http://www.ombo.nsw.gov.au/dealing_UCC_project.htm.

experience when they interact with our social security system.[11] Whatever the cause of the behaviour, if the customer's conduct is not proportionate to the situation, or continues or escalates despite appropriate efforts to address the underlying problem, it can be considered unreasonable.

1.12 An important point for agencies to consider is that unreasonable conduct does not necessarily preclude the existence of a genuine issue. The unreasonable conduct may be a response to a real problem. Once an agency has identified the issue behind the conduct, it can then determine and direct the appropriate resources to address it. It should not put in place restrictions which hinder its capacity to identify and remedy the underlying problem.

Ombudsman's Better Practice Guide

The Commonwealth Ombudsman's *Better Practice Guide to Managing Unreasonable Complainant Conduct* contains a range of practical suggestions and strategies for managing difficult and challenging behaviours exhibited by people who believe they have been treated unfairly and wish to complain about their treatment.

Although the *Better Practice Guide* was written for specialist complaints handlers, we consider that much of the information is relevant to staff in primary service delivery agencies, who deal with people who exhibit challenging or difficult conduct. Extracted below are the 20 key elements for managing unreasonable conduct.

Objectives[12]

1. *Ensure equity and fairness.*
2. *Improve efficiency in the use of resources.*
3. *Ensure staff safety and comply with OH&S and duty of care obligations.*

Managing unreasonable conduct

4. *Recognise that dealing with unreasonable complainant conduct is part of the agency's core work.*
5. *Exercise ownership and control over the complaint. The agency decides how the complaint will be deal with, by whom, how quickly, with what priority, what resources will be given to it and what will be the outcome – not the complainant.*
6. *Focus on specific, observable conduct – the problem not the person.*
7. *Use clear terminology that focuses on the conduct of the complainant, not the person – 'unreasonable conduct' not 'difficult complainant'.*
8. *Apply the relevant management strategies:*
   - *unreasonable persistence* → *saying 'no'*
   - *unreasonable demands* → *setting limits*
   - *unreasonable lack of cooperation* → *setting conditions*
   - *unreasonable arguments and unreasonable behaviour* → *saying 'no', setting limits/conditions, invoking risk management protocols*
9. *Respond with consistency to individual complainants and across complaints.*
10. *Respond to the complainant with clear, timely and firm communication.*

[11] Report 13|2010 — Falling through the cracks—Centrelink, DEEWR and FaHSCIA: Engaging with customers with a mental illness in the social security system, published September 2010, available online at: http://www.ombudsman.gov.au/files/Falling-through-cracks_customers-with-mental-illness.pdf

[12] *Better Practice Guide*, at p 67.

Preventing unreasonable conduct

11. Manage complainant expectations from the beginning.
12. Insist that the complainant shows respect. Set boundaries by not tolerating rudeness, anger or aggression.

Organisational responsibilities

13. Maintain commitment to this approach for dealing with unreasonable conduct.
14. Provide staff with adequate supervision and support in their dealings with unreasonable conduct.
15. Give staff sufficient time and resources to deal with unreasonable conduct.
16. Provide staff with adequate training and guidance in how to deal with unreasonable conduct.

Staff responsibilities

17. Remain calm in the face of unreasonable conduct.
18. Show respect for all complainants, those acting reasonably and those not.
19. Act impartially in all matters.
20. Demonstrate professionalism in dealing with all complainants, those acting reasonably and those not.

PART 2 — THE CSA'S SERVICE DELIVERY

2.1 The CSA was established to administer the Australian Government's Child Support Scheme, the purpose of which was to ensure that separated parents share in the cost of supporting their children. As at October 2010, the CSA has around 1.5 million customers and transfers child support payments for more than 1.1 million children.[13]

2.2 The child support scheme operates under two Commonwealth Acts of Parliament: the *Child Support (Registration and Collection) Act 1988* and the *Child Support (Assessment) Act 1989*. The Secretary of the Department of Human Services is responsible for the general administration of the legislation.[14] In practice, child support cases are administered by officers in the CSA.

2.3 The CSA describes itself as having a 'phone first' culture, which means that its preferred method of communication with customers is by telephone. Current CSA operational policy directs staff to:

> [D]iscuss issues with customers over the telephone rather than by written correspondence. [The CSA] will use letters as our means of contact only when there is a legislative or strong administrative requirement. The phone is [the CSA's] primary communication tool, unless the customer has indicated an alternative preference for [the CSA] to respond to their enquiry.[15]

2.4 We agree that telephone contact is generally efficient, and that many CSA customers are satisfied with the immediacy and convenience of a telephone response. Given the complexity of the child support scheme, it is also often necessary to discuss a range of options with a customer and this may best be done in person or on the telephone.

2.5 In most cases, the CSA uses pro-forma computer generated correspondence to advise its customers of changes to their child support assessment. Those letters encourage customers to call the CSA if they have any questions about their case. When seeking information from customers, the CSA will usually call, and if unable to contact by phone, will send a letter asking the customer to telephone to speak to a Customer Service Officer (CSO).

2.6 Telephone contact may not be the most effective way for the CSA to communicate with all customers in all situations, and it is possible that the CSA's preference for the phone can actually create an environment where its customers are more likely to become upset or angry. If the CSA calls a customer at an inopportune time, or when they are in a location where they cannot speak privately, this can impede communication. Discussions about money, care arrangements for their children, or disputes about other factual matters can become difficult or even heated.

2.7 Managing difficult conversations with customers is part and parcel of a CSA officer's day to day work. However, the CSA also needs to be conscious that its preferred service delivery mode may not always be best for all its customers.

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13 Source, CSA website http://www.csa.gov.au/agency/index.aspx

14 See s 11 of the *Child Support (Registration and Collection) Act 1988* and s 147 of the *Child Support (Assessment) Act 1989*.

15 CSA Procedural Instruction: *PI - Creating Unique Letters*, at p 1.

PART 3 — BACKGROUND TO THIS INVESTIGATION

3.1 The Ombudsman's office investigated two particular complaints from CSA customers about the CSA's administration of their child support cases; one complaint made by a payee, the other made by a payer. Both complainants raised similar concerns regarding restricted contact arrangements with the CSA. The CSA had decided that it would no longer deal with these customers by telephone and that they could only communicate with the CSA in writing.

Case study – Ms A

Ms A, a payee, originally complained to us that the CSA had given her conflicting information. She could not reconcile the CSA's advice about her entitlement with the payments she actually received. During our investigation, the CSA wrote to Ms A, advising her 'that all future correspondence … must be in writing.' Mrs A then wrote to the CSA. She complained to us again because the CSA had not replied to her letter and she was not permitted to telephone the CSA's Complaints service.

The CSA had not clearly explained to Ms A why it had restricted her access to 'write only'. The CSA told us that Mrs A's interactions with CSA staff were 'not conducive in creating an environment where [the CSA] can provide [her] with options to manage her child support.' We recommended that the CSA write again to Ms A, clarifying why it made this decision and offering an apology for the confusion.

3.2 As the term suggests, 'write only' means that the customer is permitted to access the CSA's services by means of written communication only – that is by letter, email or using *CSAonline* (the CSA's internet facility for registered customers). The CSA will not accept any telephone calls from a 'write only' customer. This is a serious limitation of service delivery, especially in the context of the CSA's emphasis on the telephone as its primary and preferred means of communication.

3.3 Any restriction of a customer's access should not go beyond what is necessary to manage their unreasonable conduct. In the following case study the CSA decided to limit service to a customer who had not exhibited conduct that was threatening or abusive, but who was simply persistent in inquiring about his child support case which was complex, and which he found genuinely confusing.

Case study – Mr B (Part 1)

Mr B pays child support through CSA. He complained to us that the CSA had not properly answered his correspondence.

The CSA advised us that Mr B was a 'write only' customer and sent us copies of three letters to Mr B explaining his restricted communication status. The letters did not explain why the restrictions were imposed. The CSA had no contemporaneous record of the reasons for its decision to restrict Mr B's access. It said 'there were no Cuba[16] documents or emails documenting the decision but it was made 'due to the nature and frequency of [Mr B's] communication with the CSA'.

Our investigation found that Mr B had sent the CSA numerous letters and emails about his child support case, requesting clarification of various decisions and requesting access to documents under the Freedom of Information Act 1982. Mr B found the CSA's written replies confusing and incomplete, so he sent more letters and emails to the CSA to clarify what it told him. Unable to satisfy his requests, the CSA

[16] *Cuba* is the CSA's computer system which holds its customer database. *Cuba* documents are electronic file notes. They are written by CSA officers in a variety of situations, including summarising action taken on a particular case, recording a decision, or to make a written record of conversations with the customer.

concluded that Mr B was being unreasonable. It decided to make Mr B a 'write only' customer. The CSA also told Mr B that he could only communicate via a letter (not email) and that it would not correspond with him about anything it considered it had already explained. As a result Mr B complained to us.

The CSA accepted our view that it had not given Mr B clear advice about his contact protocol and that it had not answered many of his questions. The CSA also conceded that it could not legally refuse to accept certain communications from Mr B by email. However, it was not prepared to change Mr B's 'write-only' status.

3.4 It appears that in Mr B's case, the CSA was unable to separate its response to Mr B's behaviour from the issues that he was attempting to raise. Furthermore, although the CSA did attempt to address Mr B's concerns, it did not examine whether and to what extent its actions or processes may have contributed to Mr B's conduct.

3.5 In investigating Mr B's complaint, we asked the CSA to provide us with information regarding its 'write only' policy. We found the CSA did not have a systematic approach to managing the difficult or unreasonable behaviour of its customers. The CSA advised that there were 'no specific procedural instructions, no internal policy documents and no formal processes' regarding decisions which limit the CSA's interactions with its customers.

3.6 We drew the CSA's attention to the *Better Practice Guide* and our earlier 'own motion' investigation into Centrelink's administration of withdrawing face-to-face contact with its customers.[17] In response the CSA advised that it intended to draft national guidelines for managing unreasonable conduct, in conjunction with its legal advisors in the Department of Human Services, and after seeking advice from Centrelink.

[17] *Report 09|2008 Centrelink: Arrangements for the withdrawal of face-to-face contact with customers*, available online at: http://www.ombudsman.gov.au/files/investigation_2008_09.pdf

PART 4 — OMBUDSMAN'S 'OWN MOTION' INVESTIGATION

4.1 Although we noted the CSA's intention to develop national guidelines for the administration of its 'write only' practice, we were interested in exploring the question of what service restrictions might be appropriate for an agency which rarely communicates with its customers face to face, and where written communication receives considerably less priority than telephone calls. We decided to examine a larger sample of 'write only' cases to find out how and when the CSA is using this practice, and to assess the adequacy of the CSA's advice to customers about the contact arrangements that apply in their case, as well as any review options for the customer.

4.2 The case studies of Ms A and Mr B suggest that the CSA used 'write-only' as a means of restricting challenging customers from accessing its services. They were customers who had repeatedly raised the same issue and either did not receive a satisfactory response or had received a response but did not agree with it. We consider the CSA's action in those cases was disproportionate. It is one thing for an agency to tell a person that it will not continue to debate an issue that it has exhaustively considered. It is quite another to tell that person that because they have been unreasonably persistent about one issue, that they may not contact the agency in person or by telephone about any other issues that may arise in the future. This seems to have been the result in Ms A and Mr B's cases.

4.3 As part of the investigation for this report, we asked the CSA for:

- information on how 'write only' cases are identified within *Cuba*
- details of the officers who are authorised to restrict a customer's access to CSA services and
- a list identifying each current 'write only' customer.

4.4 The CSA was able to identify a total of 133 'write only' customers from its records. The CSA had restricted service to only 17 of those 'write only' customers, to manage what it had perceived as their unreasonable conduct. In a further three cases, the CSA described the customer's 'write only' status as a 'joint decision'. These 20 cases constituted our sample. The remainder had asked the CSA not to communicate with them by telephone, and were thus outside the parameters of this investigation. [18]

4.5 The CSA's list of 'write only' customers did not include Ms A and Mr B, the two people whose complaints are featured on pages 9 and 10 of this report. Nor did the list include a third complainant to this office. We assume that this is a deficiency in the CSA's record keeping, and that the actual number of 'write only' customers is probably higher.

4.6 The CSA provided all its records regarding the internal decision making process which led to contact limitations for each customer in our sample group. The records included documents that related to the reasons why the CSA decided to limit the customer's communication with it; how the information was presented to the decision maker; how the decision maker recorded his or her decision, and copies of

[18] A customer may request that the CSA make them 'write only' because they do not wish to receive phone calls from the CSA. Sometimes, CSA customers are made 'write only' because their personal or business circumstances make it difficult for them to deal with the CSA by telephone.

the relevant letters that the CSA sent to each customer, which advised them of the new communication protocols.

The CSA's Personalised Services approach

4.7 In 2009, when we were investigating Mr B's complaint, the CSA told us that all of its 'write only' customers were managed by its Personalised Services unit. The aim of the CSA's Personalised Services unit is to intensively manage a case to resolve and address significant and repeated problems. Around 3,400 CSA customers have their case managed by Personalised Services. However, only a very small proportion are subject to 'write only' restrictions.

4.8 Each Personalised Services customer is assigned a case manager (or Personalised Services Officer – PSO) who is their single point of contact in the CSA. The PSO works with the customer to identify and resolve any outstanding problems, and then the case is returned to the CSA's usual service arrangements.

4.9 Mr B's case above is an example of a dissatisfied customer being referred to a PSO for intensive management. The CSA decided to restrict him to 'write only' status when the intensive management of Personalised Services did not reduce the volume of his correspondence and the CSA believed it could not resolve his issues.

4.10 The CSA advised us that the decision to restrict a customer's interactions to written communication only is a significant step. Although there were no written guidelines for when 'write only' restrictions should be imposed, it would consider a range of issues including:

- the volume and nature of the customer communication
- the impact of the interactions on staff
- whether the interactions are vexatious or repeatedly about previously addressed issues
- whether the interactions are threatening or harassing
- if it is deemed that ongoing phone contact will not assist in resolving the issues.

4.11 Although the CSA assured us that all 'write only' customers were managed by its Personalised Services unit, this was not borne out by our sample group. Only in South Australia and Western Australia were 'write only' customers exclusively managed by a PSO. In all other states, the CSA records showed that as many as half of all 'write only' customers were managed by other business lines, including Mainstream Services (the general pool of CSA customers) and Non-Compliance (the section in CSA that is responsible for collecting unpaid child support). During our investigation, the CSA sent a message to all staff requesting that any 'write only' customers be referred to its PS unit.

PART 5 — CASE STUDIES AND ANALYSIS

5.1 Part 5 discusses the themes emerging from our examination of the CSA's 'write only' cases. Each theme is illustrated with actual case studies. In our view, the deficiencies in these cases can be attributed to the absence of established policy and procedures to guide the CSA's response to unreasonable complainant conduct.

5.2 The Commonwealth Ombudsman's *Better Practice Guide* discusses when it may be appropriate to limit a person's contact with an agency due to their unreasonable conduct. The following excerpt sets out the public interest considerations governing access restrictions. These considerations underpin our analysis of the CSA's write only cases.

Public interest considerations governing access restrictions[19]

It is important that decisions about limiting access to an agency are made within the wider framework of public access rights and responsibilities.

These decisions must be based on a clear understanding that:

- *In the absence of very good reasons to the contrary, members of the public have a right to access agencies to seek advice, help, or the services that the agency provides.*
- *In a democracy, people have a right to complain. Criticism and complaints are a legitimate and necessary part of the relationship between agencies and their customers or communities, and may be dynamic forces for improvement within agencies.*
- *Nobody, no matter how much time and effort is taken up in responding to their complaints or concerns should be unconditionally deprived of the right to raise those concerns and have them addressed.*

Agencies also have an obligation to use resources efficiently and effectively so, at some point, it may be necessary and reasonable for an agency to decide to limit the nature or scope of their responses to complainants whose conduct is unreasonable. However these situations should be the exception rather than the rule.

Each agency should develop a comprehensive policy on public access which outlines their commitment to:

- *respond to correspondence, answer telephone enquiries and deal with face-to face enquiries from the public at agency offices*
- *provide services to the public, including their guarantee of service and circumstances where the provision of services maybe withheld or withdrawn*
- *provide the public with rights of review or appeal.*

The policy should also outline the circumstances where the agency:

- *will not answer correspondence, such as correspondence that is abusive towards staff and does not raise any substantive issues*
- *may restrict telephone contact, such as ending calls if the caller has become abusive.*

It should be noted that agencies cannot develop policies that attempt to avoid or limit statutory access and service rights.

[19] *Better Practice Guide*, at p 19.

Themes

I. Considering alternatives and giving warnings

5.3 In some instances the CSA's records indicated that it had resorted to implementing the 'write only' practice in circumstances where the customer was uncooperative and challenging, rather than abusive or threatening.

5.4 It was frequently not apparent whether the CSA considered any alternatives to imposing 'write only' restrictions on a customer. For example, in the cases of Mr C and Mr D below, it appeared that the CSA did not warn the customer that it might restrict their access to its services. A warning would give the customer an opportunity to modify their behaviour. Further, there was no evidence that the CSA suggested to the customer that they might consider appointing a representative to act on their behalf. In some cases, a representative can assist a person to communicate with the CSA, and overcome the need for the CSA to consider imposing a 'write only' restriction. Even if the CSA decides to impose a 'write only' restriction on a customer, their representative would still be able to talk to the CSA about their case.

5.5 We consider that the CSA needs a comprehensive procedure for managing the unreasonable conduct of its customers. Managing the customer's conduct should focus primarily on identifying, addressing and resolving any child support issues, and secondarily, on managing any conduct which may be an obstacle to achieving the primary objective. Restricting a customer to written communication might be one aspect of the CSA's response to unreasonable conduct, but it should not be the only response.

II. Proposal to restrict customer access to 'write only'

5.6 In five of the 20 cases sampled we were given access to a written submission prepared by a CSA officer recommending that the customer be made 'write only'. The submission was usually referred to a decision maker (in most cases, the relevant State Manager).

Case study – Mr D

The CSA's records demonstrated that Mr D had a long history of using inappropriate language and making derogatory statements about his ex-partner and CSA staff. A senior CSA officer contacted Mr D to discuss his behaviour; however, Mr D terminated the call. The CSA officer prepared a submission to the State Manager with examples of Mr D's unreasonable behaviour and recommending that Mr D be designated 'write only'. However, the submission failed to address what steps the CSA had taken to answer Mr D's questions and did not consider alternatives for the ongoing management of Mr D. There was no record of the State Manager's reasons for deciding that all Mr D's future communication with the CSA should be in writing.

5.7 The concept of a written submission is a sound approach to making an informed decision about the best way to manage a customer's challenging behaviour. The submission should include information and examples of the customer's unacceptable conduct and set out how the CSA has responded to any issues the customer has raised. Has any CSA action contributed to the unreasonable conduct? How will any service limitations on affect the customer's ability to raise their child support issues with the CSA? What other options are available?

5.8 Most importantly, the submission should include a strategy to manage the customer's future relationship with the CSA. How long for example, should any

alternate arrangements last? The submission would help the decision maker assess whether service limitations are appropriate to help manage interactions with the customer. It would also help provide a written record of the CSA's decision.

III. Inconsistent internal decision making

5.9 The CSA advised us that the decision to limit a customer's access to the CSA should only be made by the relevant State Manager.[20] Despite this, we found that in two instances, the decision was made by a Stream Leader, an officer subordinate to the State Manager. The CSA advised us that in that case, the State Manager 'had authorised Stream Leaders to make such decisions', but could not provide us with any formal record of that delegation or authorisation.

Case study – Mr E

Decision not made by State Manager

Mr E (a payer) was referred to CSA's Personalised Services as he had repeatedly complained about his child support assessment and CSA's collection methods.

Mr E had a face-to-face meeting with a CSA officer who asked Mr E to leave when he became abusive. Despite this, Mr E remained in the vicinity of the building and acted in a manner which intimidated CSA staff.

The CSA immediately decided to classify Mr E 'write only', however this decision was made with no involvement by the State Manager.

On 6 November 2009, the CSA wrote to Mr E. The letter stated:

'Your behaviour indicates that you are unwilling to work with the CSA in an appropriate and conducive manner. On this basis, I have decided that CSA will only accept communication from you in future in writing'.

5.10 The decision to restrict a person's access to government services is an extremely important one that must be considered within the wider framework of a person's lawful right to access those services. It is important that these decisions are made consistently after careful consideration of the circumstances and therefore should only be done at a senior level.

IV. Communicating the decision to customers

5.11 In each case where the CSA made a 'write only' decision, it prepared a unique letter to the customer advising them of the decision. We noticed significant variation in the content of the letters we examined.

Case study – Mr F

Unclear letter to customer

The CSA sent a letter to Mr F stating:

'Despite our best efforts to do so, we have been unable to communicate information to you over the telephone. In order to continue to provide you with the best level of service possible, I have decided that all future correspondence will be in writing...

[20] In February 2010 the CSA abolished all State Manager positions. Under the CSA's new structure, the National Manager, Customer Review and Quality Improvement is authorised to restrict a customer's access to CSA services.

You may contact us by writing to [GPO Box 9815 Sydney NSW 2001]. Alternatively you may contact us by email via the website [www.csa.gov.au]'.

5.12 We have several concerns with this letter. Firstly, it does not explain the basis for the CSA's decision: the letter merely states 'we have been unable to communicate information to you over the telephone'.

5.13 Secondly, it states that 'all *correspondence* will be in writing', a tautology used in other 'write only' advices. We suggest using the word 'communication' instead of 'correspondence'.

5.14 Thirdly, although it mentions that the customer can communicate with the CSA by email, it does not mention whether the customer can use other forms of written communication, such as *CSAonline*, and facsimile, for example, or how they can make a complaint. Overall, we believe the letter would be improved by explicit advice about phone calls and a statement of the CSA's intention not to accept any phone calls from the customer.

5.15 The case of Mr B, first discussed at paragraph 3.3 of this report, is another example of confusing advice about the CSA's decision to restrict a customer's access to 'write only'. We also noted that in Mr B's case, the CSA compounded the confusion by sending him more than one letter with conflicting advice about his special contact arrangements.

Case study – Mr B (Part 2)

Advice to customer confusing and contradictory

The CSA sent two letters to Mr B about his restricted contact arrangements. The letters contained subtly different restrictions and read together, were confusing. The letters did not make it clear that one set of restrictions superseded the other.

The CSA told us that 'the second letter was a new communication to Mr B which outlined what the communication protocol was to be from that point forward' and that its purpose was to 'reiterate and extend the communication restrictions, given that the previous protocol was not being complied with'. However the CSA did acknowledge that its advice 'may have been confusing and contradictory'.

5.16 A further complication with Mr B was that the CSA sent him other letters inviting him to telephone, despite the fact that he was a 'write only' customer. The case study below illustrates this problem.

Case study – Mr B (Part 3)

CSA letters that directly contradict a 'write only' decision

The CSA sent Mr B computer generated correspondence. The letters included CSA telephone numbers and a standard paragraph about calling CSA if he had any questions. This information was contrary to his status as a 'write only' customer. Mr B said that when he called the CSA about the letters, staff spoke to him for a couple of minutes, but then hung up on him.

The CSA's records revealed that it was not immediately apparent to a CSA officer accessing Mr B's records that he was a 'write only' customer. Once the officer discovered this, they would terminate the call.

We advised the CSA of the problem with the letter and it suggested that Mr B should be able to tell the difference between an 'automatic' and 'manual' letter. It stated that it could not write a unique letter to him

for every single change to his case. The CSA attempted to address this problem by sending Mr B the following information:

"…the CSA sends automatically generated letters which contain an invitation to contact us by phone. I apologise if in the past this has caused any confusion or concern for you. Please note that we are unable to make individual changes to automatic letters. In future, please ignore this general invitation, unless you are specifically notified in writing that the communication protocol has been changed to include phone contact."

5.17 The problem in Mr B's case arose because the CSA uses a standard letter format for all automatically generated correspondence which contains an invitation for the customer to call the CSA if they have any questions. The CSA advised us it was unable to alter its letters to Mr B to avoid giving him (or any other 'write only' customer) the false impression that the 'write only' status had changed. The CSA did however, acknowledge that this could be confusing for him.

5.18 In our opinion it is unreasonable for the CSA to ask its customers to ignore the contact information embedded in automatically generated letters.

V. Improperly limiting statutory service and access rights

5.19 Another aspect to Mr B's case emerged after he had sent multiple emails to the CSA, one of which contained an objection to a decision the CSA had made on his child support case. Our investigation found that the CSA had erroneously denied him the right to lodge an objection by email.

Case study - Mr B (Part 4)

Mr B sent emails to the CSA objecting to a CSA decision. The CSA officer considering Mr B's objections made the following note:

> Mr [B] is not able to communicate with CSA via email. He must lodge a formal letter for any action to occur. As the email also does not contain any grounds for objection and considering he is not able to lodge emails to CSA, I will make this objection invalid.

When the CSA receives an objection which is unclear, it generally telephones the customer for information about why they believe the decision is wrong. We consider it unreasonable for the CSA to allow Mr B's 'write only' status to stand in the way of following the usual procedure for objections. Further, we doubt that the CSA can lawfully prevent a customer sending emails to it or reasonably refuse to deal with any emails that a customer may send.[21]. The CSA now accepts our view.

5.20 The CSA must educate its staff how to manage 'write only' cases. In Mr B's case, the CSA denied Mr B his right to challenge its decisions because staff did not understand the law about electronic communications.

VI. Periodic review of restrictions

Case study – Mr G

Lack of review process

Mr G had a lengthy history of upsetting interactions with the CSA and appeared to believe the CSA was persecuting him. His conversations with the CSA could be as long as two hours, during which he raised

[21] Section 8(1) of the *Electronic Transactions Act 1999* appears to operate to allow a person to lodge an objection via email. There are certain exceptions to this that may be are covered by an exclusion in schedule 1 of the *Electronic Transactions Regulations 2000*.

issues which had been extensively discussed. He cried, made threats of self harm and used inappropriate language. The CSA was told that Mr G was undergoing treatment for an undisclosed mental health condition. It suggested that he nominate a representative to act on his behalf; however, he declined that invitation.

A CSA officer recommended that Mr G be managed by establishing clear parameters for phone contact designed to limit distress to him. Less than a month later the CSA prepared a submission to restrict Mr G's access to 'write only' for 3 months. This submission was approved by the State Manager. The CSA had no records to show that it had reviewed Mr G's service restriction after the three month period ended.

5.21 In four cases the CSA provided us with a document entitled *Case Review for Ongoing Management in Personalised Services.* These reviews were essentially histories of the customers' challenging behaviour, how these issues might affect their child support cases, and information on the CSA's attempts to address the problems. These case reviews also included recommendations on how each customer should be managed in the future, including recommendations for continuing the 'write only' protocol.

5.22 The four cases appeared to be the only instances where the CSA had conducted any review of 'write only' restrictions. However, the CSA did not contact the customer in any of these reviews to invite them to provide information or comment on the existing arrangements.

Case study - Mr H

Mr H contacted the CSA and complained that it had failed to respond to over 60 pieces of correspondence. Mr H made at least 6 separate calls to the CSA complaints line in a single day. He also phoned and emailed his local MP, the Minister and the Ombudsman. In his calls to the CSA he used abusive language, demanded his concerns be escalated to senior staff and refused to accept any explanation that was offered to him.

The CSA sent Mr H a letter which advised him to 'put any further questions or concerns to us in writing only'. The CSA supplied an address and stated it would review Mr H's 'write only' status in 12 months.

Eight months later a CSA officer recorded in the Cuba database that Mr H's status was to 'remain write only with no contact via phone'. However, the records do not contain any reasons for that decision. Five months later, a CSA officer recorded that Mr H 'has been write only contact for some time, this has been working well, therefore I will leave in place for a further 6 months'.

The next review was 18 months later. A CSA officer made a note on Mr H's file:

> 'At this time it is not deemed suitable to end write only status for Mr [H]. Write only contact with Mr [H] is to remain in place. Previous behaviour by Mr [H] makes phone or face to face contact unsuitable. If Mr [H] requests review of write only status he should put this request in writing'.

In February 2010, Mr H sent an email to the CSA requesting a call 'from a senior manager' regarding three specific issues. In reply, the CSA sent Mr H a letter, providing responses to his questions and refusing his request that the CSA phone him. The letter also stated that 'if [he] would like the CSA to review this decision, [he] can send a request in writing…[and] include any information [he] would like [it] to consider when reviewing [its] decision'.

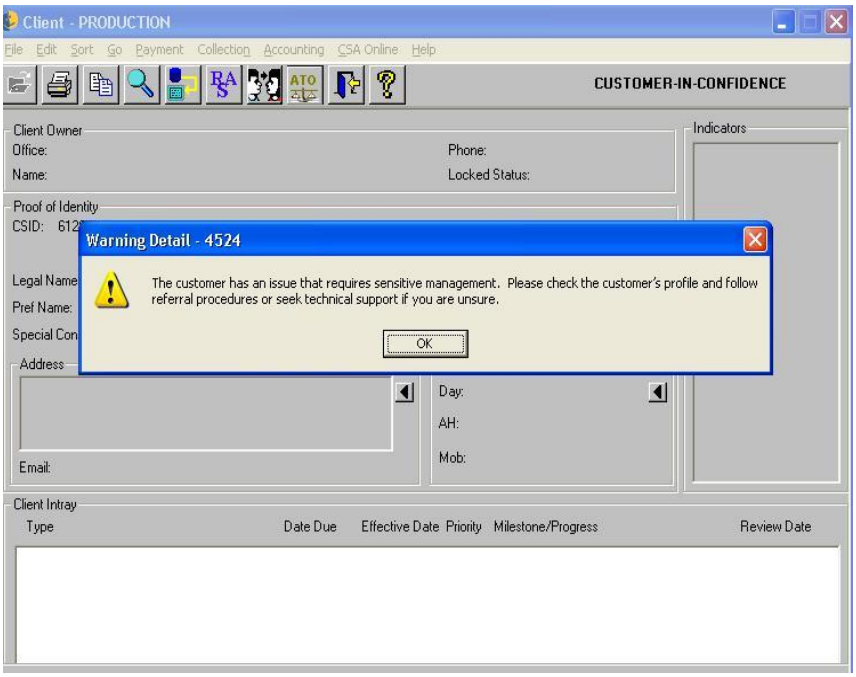
The CSA did not receive further correspondence from Mr H.

5.23 We have some concerns about the basis of the CSA's decision to retain Mr H's 'write only' status. The assumption underlying the CSA's decision appears to be that a restriction should be retained if no problems have arisen during the period it has been in place. Arguably, the fact that things have gone smoothly would suggest that it might

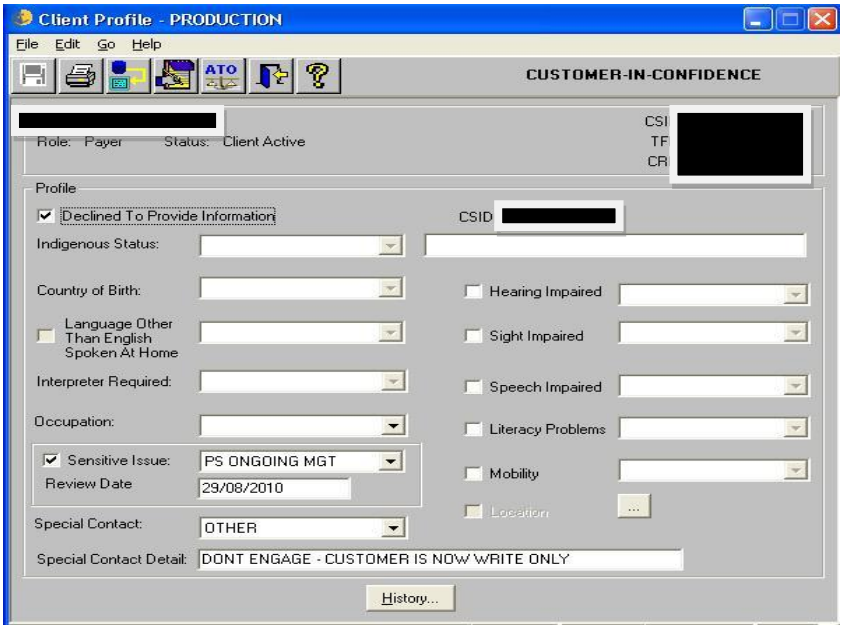
now be appropriate to lift the restriction. In our view, service limitations should be proportionate to the behaviour sought to be controlled, and used only for as long as is necessary.

VII. Inadequacy of existing IT systems to support the 'write only' practice

5.24 The CSA has acknowledged that its ability to identify and manage 'write only' cases within its customer database (Cuba) is limited. In October 2009, the CSA introduced the Sensitive Issues Indicator (SII) to help address this problem. The SII is a 'pop up' message that appears on the customer's record when it is accessed by a CSA officer. The pop up message is reproduced below.



5.25 Once the CSA staff member has acknowledged this pop up, they can access the details of the 'sensitive issue' in the Special Contact Detail section of the Client Profile window. An example is provided below.



5.26 We acknowledge that the SII may assist CSA staff in identifying customers whose case requires sensitive management, including those who are 'write only'. However, the case study below demonstrates the limitations of the SII and the consequences of not having clear procedures for 'write only' customers.

Case study – Mr B (Part 5)

In 2008 the CSA sent a letter to Mr B advising him he was a 'write only' customer. A month later, Mr B called the CSA in response to a further letter he had received. The CSA officer's computer records note the following: 'was unable to determine from special contact if [this customer] was CSA imposed write only or self imposed write only so I took the call.'

5.27 The CSA's current IT system does not support the consistent administration of service restrictions. This is a real problem when combined with the CSA's automatically generated letters that invite the customer to telephone despite their write only status.

5.28 At paragraph 4.5, we noted our concern that the CSA was unable to provide us with a complete list of all its 'write only' customers. As 'write only' cases are not well documented or identifiable in *Cuba* and appear to be managed by different service delivery areas, it is difficult for the CSA to systematically review the service restrictions. The CSA therefore misses out on the opportunity to consolidate and learn from these types of cases and to make improvements in service delivery.

5.29 We consider that it is important that the CSA's records for each 'write only' customer should clearly distinguish between those whose 'write only' status is a decision made by the CSA as a means of managing their difficult behaviour and those with whom the CSA has agreed to communicate in writing as a courtesy.

5.30 It is also important that the CSA's records clearly show whether the restriction to written communication is 'reciprocal' for that particular customer. In other words, where the CSA has agreed that its officers will not telephone the customer (at the customer's request), but that the customer can call the CSA. This needs to be prominently noted in computer record. Without such a record, a CSA officer might refuse to talk to the customer in the mistaken belief that the person has been restricted to written communication for all purposes. An independent review of the CSA's service delivery conducted in 2009 recommended that the CSA develop a new initial customer account screen in *Cuba* to better support staff at their initial interaction with customers.[22] We consider that any special contact arrangements should be considered as part of this development.

VIII. Failure to keep adequate records

5.31 When the CSA makes a decision to limit a customer's access to its service it is making an administrative decision that directly affects a person's right to access government services. The records that relate to any such decision must be accurate, comprehensive and accessible. The following case studies highlight weaknesses in CSA's record keeping practices.

[22] *Delivering Quality Outcomes*, David Richmond AO, Report of the Review of Decision Making and Quality Assurance Processes of the Child Support Program, at p 85. Available online at: http://www.csa.gov.au/publications/index.aspx#Corporate .

Case study – Mr J

Mr J had a history of using offensive language and made inappropriate and threatening written comments to the CSA. In early 2003, the CSA decided to restrict Mr J 'write only' contact.

The CSA could not locate the submission in this regard, nor could it find reasons for the decision or a copy of the letter to the customer advising him of the decision. The only record of the decision the CSA could produce was a computer notation stating that the CSA's General Manager had signed a letter advising Mr J that he was 'write only' customer.

This appeared to be the second time that the CSA had made Mr J a 'write only' customer. However, the CSA could not locate any records about its earlier decision to remove the 'write only' status or the decision to reinstate it. Sketchy computer notes made afterwards suggested that the CSA reinstated Mr J's 'write only' status when it was unable to reach an agreement with him about the content and desired outcomes of a proposed meeting. This tends to suggest that the CSA imposed the restriction when it reached the point of exasperation with Mr J.

In 2006, Mr J requested that he be allowed to contact the CSA via telephone. The CSA did not consider his request and made a note on his record that he was 'unable to change his status as a write only client'.

In 2008,the CSA advised Mr J that he would not be offered the opportunity to contact it via telephone 'unless he puts in writing the reasons why it would assist him and he commits to stop verbally abusing CSA staff'.

Case study – Mr K

Failure to keep records

In February 2004, the CSA wrote to Mr K advising him that 'all future dealings ... with the CSA shall only be conducted via mail or an authorised representative of [his] choice.'

The CSA advised us that it made this decision because Mr K 'had a history of very high volumes' of contact, including instances of abuse and aggression towards staff. We asked for copies of the CSA's records relating to the decision to limit Mr K's access. However, the CSA told us that it did not have records or any internal communications relating to this decision. The CSA's 2004 letter to Mr K is the only record of a service restriction that has been in place since that time.

IX. Appropriateness of 'write only' restrictions to certain customers

5.32 When we examined the 20 cases in our sample one of the strongest themes that emerged was how 'write only' was applied to every future communication or transaction that the customer may have with the CSA, regardless of the nature of their unreasonable conduct. In the case studies we examined, the customer's conduct generally fell into three categories:

- constant or repeated communication which raises multiple issues, some of which are legitimate complaints, some of which are trivial in nature
- constant or repeated communication regarding a single issue, which has been comprehensively addressed, either through the formal complaint process or the objection process
- threatening or abusive conduct.

5.33 In each instance, the CSA's response was the same – to designate the customer 'write only'. However, if the customer's conduct falls into either of the first two categories, this response may not have been appropriate as the following case study illustrates.

Case study – Mr L

Mr L's child support case ended but he still owed a significant amount in child support and Late Payment Penalties. The CSA refused his offer to pay $20 per fortnight, as it would take Mr L more than 20 years to clear his debt. The CSA requested Mr L complete a form with details of his fortnightly household income and expenditure and his current assets and liabilities. Mr L completed four separate forms with inconsistent information and the CSA was not able to establish a clear picture of Mr L's financial position.

The CSA decided to increase Mr L's deductions from $30 per fortnight to $200 per fortnight. The CSA sent two letters to Mr L explaining why it took this action and the information about Mr L's finances that it relied upon in making its decision (which it had obtained from third parties).

Mr L made numerous calls to the CSA Complaints Service, his local MP, the Minister's office, the Ombudsman and the media about the decision. The CSA made reasonable attempts to engage with Mr L but he refused to cooperate.

On this basis, the CSA wrote to Mr L advising him that he 'will no longer have [his] issues addressed over the telephone' (and that it would not respond to any more of his communications about this particular decision). In our opinion Mr L's 'write only' status could be a barrier to the CSA obtaining information from Mr L in future which could assist it to collect his child support debt.

5.34 If a customer does not accept the CSA's action or decision on a matter, it may be appropriate to set special 'ground rules' for communication. For instance, in our office, once an internal review of an investigation decision has been conducted, we advise complainants (in writing) that we will consider and record any further communication from them; however, we will not reply unless we consider that communication has raised a new issue that warrants our attention. That way, we have imposed a very narrow service limitation that does not preclude further communication on different matters. This type of limitation may have been appropriate in the following case study.

Case study – Mr M

In Mr M's case, the CSA was able to treat certain payments that he had made to third parties as a credit against his child support obligations, but it could not provided him a refund for any amount he believed he had overpaid. As the CSA had not received the original payments, it could not recover them on his behalf: There was simply no legal mechanism to do so. The CSA had explained this to Mr M on several occasions; but he refused to accept it.

On 10 August 2001 the CSA wrote to Mr M and advised him that it was 'no longer appropriate for [his] child support issues to be addressed over the phone.' This was because 'an examination of [his] case indicates that [it] has not been able to address [his] concerns in a satisfactory manner via telephone...in spite of the fact that [he] had spoken to a large number of CSA staff, including officers from [the] Complaints Unit.'

5.35 In a further case, the CSA had imposed a 'write only' restriction upon a customer (Mr G), but was nevertheless in frequent telephone contact with him about his application for a Change of Assessment. (CoA). We would suggest that if the CSA is able to effectively communicate with Mr G by telephone about his CoA application, the 'write only' restriction may no longer be appropriate.

5.36 Some CSA customers are simply unable to effectively communicate with the CSA in writing. For example, a person who is illiterate or has limited capacity to comprehend or express themselves in written English. Unless that person nominates someone else to act for them in their dealings with the CSA, they may be unable to get timely and appropriate advice about their child support obligations. An

inappropriate 'write only' restriction can also cause the person's already challenging behaviour to escalate.

Case study – Mr B (Part 6)

Mr B first complained to us in November 2008, shortly after the CSA restricted him to 'write only' because of 'the nature and frequency of [his] communication'. Since then Mr B has continued to write to the CSA, and the CSA has replied to some of his correspondence. Mr B has made 15 more complaints to this office because he is not satisfied with the CSA's responses to his emails or he does not receive a response and he believes the CSA is ignoring him.

5.37 When we investigated Mr B's complaints, we found it much easier to communicate with him by telephone (and in person) than in writing and our experience was that Mr B was able to reasonably discuss his concerns with our investigation officers.

5.38 Having examined Mr B's emails to the CSA and its replies, it is obvious that neither party understands the other's correspondence. Although Mr B is literate, he is very confused about his child support case, does not understand the CSA's jargon, and frequently fails to express himself coherently in writing. Mr B becomes frustrated and sends even more emails to the CSA, often copying them to many different officers at senior levels. In our view the overall effect of the CSA's 'write only' restriction has been persistent miscommunication.

5.39 The CSA's real challenge with customers like Mr B is to find a way to identify and manage their behaviour, without unnecessarily limiting access to its services. So we suggest that any service restriction should be proportionate and tailored, and only imposed for a limited time.

PART 6 — SPECIAL COMMUNICATIONS FOR 'WRITE ONLY'

6.1 We have previously identified unclear correspondence as a systemic problem in the CSA's administration.[23] The CSA appears to rely upon the fact that its customers can usually contact it by telephone to clarify the meaning of a letter, or to find out the reasons for a decision that was not clearly explained. The sheer volume of calls that the CSA receives each day shows that this is a critical aspect of the CSA's service delivery.[24]

6.2 Calling the CSA however, is not an option for 'write only' customers. Our case studies show that it can be difficult for people to deal with the CSA exclusively in writing. We believe the CSA needs to take special care in communicating with 'write only' customers, and to ensure that despite refusing to deal with them by telephone, it can still provide timely and comprehensive information and advice.

6.3 The CSA is currently undertaking a broader project to review its written correspondence. This is likely to assist in the longer term, but even then, it is not enough for the CSA's letters to clearly advise a person what action or decision the CSA has taken has taken. The CSA should also explain the reasons for any decision or action. It is likely that this would need to be by way of 'manual' or 'unique' letters (to use the CSA's terminology).

6.4 The CSA's letters and notices could be made clearer if they were written in plain English. Plain English is a simple and efficient writing style intended to reach the reader. It encourages the author to:

- use short sentences (each conveying a single idea)
- avoid long words when shorter words will do
- get to the point quickly
- use active voice
- be formal but friendly
- adapt one's writing style to the needs of the reader.

This would improve the CSA's service delivery to 'write only' customers, as well as assisting other customers with communication challenges arising from disability, geographical location, language barrier or educational disadvantage.

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23 Submission by the Commonwealth Ombudsman, *Delivering Quality Outcomes Review: Child Support Program* November 2009, at pp 7-8, available at http://www.ombudsman.gov.au/pages/publications-and-media/submissions/ .

24 In 2009, the CSA received over 15,000 calls from customers each day: *Facts and Figures 2008-09*, p 67.

PART 7 — CONCLUSION

This investigation revealed that the CSA did not have a consistent approach to managing unreasonable customer conduct. Nor did it have clear guidelines about when it might be appropriate to restrict a customer's access to its services. Instead, the CSA applied a 'write only' limitation to some customers, often indefinitely and without an established policy.

In some cases the CSA's 'write only' policy has been an unnecessary obstacle, denying customers an appropriate level of service. A decision to prevent communication in person or by telephone may be warranted if a customer has been violent, threatened violence or been abusive. However, the problems illustrated in this report demonstrate that when such restrictions are applied to customers who are merely annoying or challenging, it can shift them to a sphere of service delivery ill-suited to identifying and addressing any problems they may experience with their child support case.

Over the course of this investigation, the CSA has developed written procedures to address many of the issues we highlight in this report. On 31 May 2010, the CSA provided us with a draft version of its *Procedural Instruction – Restricted Service customer options* for review. We advised the CSA that we considered it was important that it finalise and implement those procedures to support its staff in their dealing with customers with difficult behaviours, rather than wait until we completed our investigation. The CSA implemented the new procedure on 10 September 2010.

We believe this report will assist the CSA to further improve its response to unreasonable customer conduct, and support its staff to implement tailored solutions for customers with complex needs. Other government agencies, most notably Centrelink, have developed policies in relation to unreasonable customer conduct, and we encourage the CSA to take advantage of the existing knowledge within the Department of Human Services.

We intend to conduct a further review in six months time to determine whether the CSA has implemented appropriate mechanisms for managing unreasonable conduct, and that any CSA imposed service restrictions are proportionate and do not unreasonably affect its capacity to provide advice and service to the customer. We also intend to monitor the complaints we receive in future to see how the CSA delivers its services to people with communication challenges arising from disability, geographical location, language barriers, or educational disadvantage.

PART 8 — RECOMMENDATIONS AND THE CSA'S RESPONSE

Set out below are our recommendations and the CSA's response to them.

Recommendation 1

The CSA develop and implement a written national policy for dealing with unreasonable conduct, including information on types of unreasonable conduct (with examples) and a range of alternative service options to effectively manage customers who display them.

The CSA accepted recommendation 1.

On 10 September 2010, it released a procedural Instruction (PI - Restricted Customer Service Options) which addresses the majority of the problems we identified. The PI requires that all customers be managed by Personalised Services before the CSA will consider imposing restricted service options.

The CSA said that it would also develop a detailed written policy to supplement existing guidelines, drawing upon Centrelink's procedures for alternate servicing arrangements and the Commonwealth Ombudsman's Better Practice Guide to Managing Unreasonable Complainant Conduct. The CSA said that expected this supplementary policy to be complete within six months.

Recommendation 2

The CSA should make a written record of every proposal to limit customer service, which includes information about the customer's unreasonable conduct; the CSA's action to address the customer's issues; the nature of any proposed restrictions and the period of time to which those arrangements will apply.

The CSA accepted recommendation 2 and says that it has addressed it.

PI - Restricted Customer Service Options requires that a decision to restrict service must be documented on the customer's record, with details of ongoing contact arrangements and the date for review.

Recommendation 3

Decisions to restrict customer access in response to unreasonable conduct should be made only by authorised senior officers, identified by reference to their position or role within the CSA.

The CSA accepted recommendation 3 and says that it has addressed it.

PI - Restricted Customer Service Options requires a written recommendation to impose service restrictions, prepared by the Operations Manager and to be considered by the National Manager, Customer Review and Quality Improvement, who is authorised to make a decision on future service options for the customer.

Recommendation 4

That the CSA develop a standard template letter to advise people of a decision to restrict their access to the agency. Each letter should be signed by the decision maker, and should explain:

- the nature of the restriction

- the duration of the arrangement
- the reasons for the decision
- how the customer may contact the CSA, including the name and address of a nominated contact officer
- how the customer may make a complaint to the CSA about any future service delivery problems.

The CSA accepted recommendation 4 and says that it has addressed it.

PI - Restricted Customer Service Options requires the use of a standard template letter to advise customers of a decision to restrict their service options. The template guides the writer to include the recommended information.

Recommendation 5

That the CSA revise its standard letter templates to ensure that customers are not invited to contact the CSA in contravention of a decision to restrict their access to CSA services.

The CSA accepted recommendation 5.

It said that it is currently reviewing and simplifying all of its letters and forms in response to recommendations made in the Delivering Quality Outcome review.[25]

It advised us that 'the short term solution will require a manual workaround by staff' and that it 'will also explore the longer term option of an automated ... solution'.

Recommendation 6

That any decision to restrict customer access should either apply for a definite time period, not exceeding three months, or be reviewed at three-monthly intervals to decide whether continued service restrictions are appropriate.

The CSA accepted recommendation 6 'in principle'.

It agreed that service restrictions should apply for a specified time period. However, PI - Restricted Customer Service Options provides that a decision to restrict service can be reviewed at any time, but no later than 6 months from the date of the decision.

Recommendation 7

That the CSA develop criteria against which it will conduct any review, with the presumption being that a service restriction should be lifted or relaxed unless there is evidence that its continuation is clearly necessary.

The CSA accepted recommendation 7 and says that it has addressed it.

PI - Restricted Customer Service Options includes criteria to be considered in the review of a decision to restrict a customer's service options. The CSA advised us that '[i]n general, a service restriction would only be continued where there are clearly documented reasons for its continuation, including any Occupational Health and Safety considerations'.

[25] See footnote 21 on page 21 of this report.

Recommendation 8

That the CSA advise customers of the period of restricted access (and when it will review those arrangements) so they may participate in the review process.

The CSA accepted recommendation 8 and says that it has addressed it.

The new standard template letter (see Recommendation 5) will guide the writer to advise the customer of the duration of a service restriction and the process for applying for a review of it. PI - Restricted Customer Service Options requires that the customer be advised when the CSA is reviewing the service restriction and be 'given the opportunity of an appointment to discuss the suitability of removing' it.

Recommendation 9

That the CSA review its computer system to ensure that it appropriately supports its policy for dealing with unreasonable customer conduct. The computer records should clearly identify to staff:

- the nature of, and reasons for, the service restriction
- the period to which it applies
- when a review is due.

The CSA accepted recommendation 9 and says that it has addressed it.

The new Customer Summary window introduced in June 2010 has improved the visibility of alerts, including special contact information for a customer. PI - Restricted Customer Service Options, sets out a protocol for recording alerts and special contact information.

Recommendation 10

That the CSA identify all customers upon whom it has imposed a 'write only' status and review whether there is a continuing need for them to be subject to a service restriction (see recommendations 7 and 8).

The CSA accepted recommendation 10.

The CSA said that it had audited its records and identified 24 customers upon whom it had imposed service restrictions. It said that it expected to complete a review of all those restrictions by the end of October 2010, applying the relevant guidelines in PI - Restricted Customer Service Options.

Recommendation 11

That the CSA's letters and notices to its 'write only' customers are prepared using clear and simple English, tailored to the person's individual circumstances, to reduce the need for further clarification.

The CSA accepted recommendation 11.

It said that it 'will consider how best to ensure that letters and notices [to] all customers , not just those subject to service restrictions, are prepared using clear and simple English, to reduce the need for further clarification'.

APPENDIX 1 — THE CSA'S RESPONSE

On 21 September 2010, the Ombudsman sent a draft report of this investigation to the Department of Human Services, and invited comments. The Deputy Secretary, Child Support Program, Ms Philippa Godwin, wrote to the Ombudsman on 19 October. We have included the text of the letter below. The CSA also provided a detailed response to each of the 11 recommendations. We have summarised those responses in part 8 of this report.

> I welcome the opportunity to review and comment on the findings outlined in your report, on behalf of the Child Support Agency (CSA). The CSA agrees with all 11 recommendations outlined in your report and has already taken a range of steps to improve processes for managing customers who exhibit unreasonable conduct.
>
> ...
>
> The CSA recognises family separation, custody and child support issues can be highly complex and emotionally challenging for our customers and, for this reason, does not make the decision to impose service restrictions lightly. The CSA uses the Personalised Services (PS) Approach to assist the CSA's customers with the most complex needs to resolve their issues through a single point of contact, limiting the need for service restrictions to rare cases.
>
> However, it is reasonable that the CSA has a process which supports staff to deal with unreasonable customer conduct, including unrelenting and excessive volumes of phone calls and correspondence, unreasonable demands, and consistent and ongoing lack of cooperation with the CSA's efforts to resolve the issues of a small number of customers. Further, where the unreasonable behaviour extends to abusive language or conduct, the CSA has an Occupational Health and Safety obligation to protect staff.
>
> I am aware that your office, in discussions with the CSA, has acknowledged how unreasonable the behaviour of a small group of customers can be in some circumstances and the associated demands this places on our staff and provision of services.
>
> I acknowledge the CSA did not have a consistent approach to the management of the small group of CSA imposed 'write only' customers prior to the commencement of the Own Motion Investigation. However, as noted in your draft report, the CSA has developed a Procedural Instruction (PI) – Restricted Service customer options – which was released on 10 September 2010. I appreciate your Office's contribution to the development of the PI.
>
> The PI supports PS staff in managing customers who demonstrate continued unreasonable conduct in their interactions with the CSA. I am pleased the report acknowledges that the new PI addresses many of the problems identified in your investigation.
>
> I note your concern about the impact of service restrictions on people who have communication challenges arising from disability, geographical location, language barriers or educational disadvantage. The new PI also emphasises that restricting a customer to written contact is not appropriate for the vision impaired, or those unable to prepare and/or send written material, including customers with literacy issues.
>
> The CSA has also renewed its focus on complaint handling to resolve issues earlier and to reduce the risk of potential triggers for unreasonable behaviour, by ensuring more effective management and resolution of Step 1 and 2 complaints, and emphasising that all staff need

to take individual responsibility and ownership of complaints. As part of this process, 2190 Customer Service Officers and 513 Team Leaders participated in Effective Complaints Resolution workshops in 2010. A number of Customer Review and Complaints staff have also attended training from the NSW Ombudsman's office on managing unreasonable complainant conduct.

The CSA welcomes the opportunity to contuinue to work with your office on the issues raised in the report and to further improve our services to our customers. In this context, I welcome the proposal to review the CSA's progress in responding to the recommendations of your draft report. I believe the review could also provide a valuable opportunity for your office to provide input into the CSA's development of a broader policy for managing customers who display unreasonable behaviour, to supplement the existing guidelines for managing customers with complex issues.