



Difficult Clients & Complaints Handling

Practical Guide to Positive Client Relationships

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- The following presentation is an aide memoire to practitioners who attended the Law Mutual Risk Management Seminar – Difficult Clients & Complaints Handling and is not intended as a stand alone resource.

Why are we here?

Risks:

- Difficult client engaged without being recognised or without adequate safeguards being put in place.
- Signs of client dissatisfaction are not recognised or when recognised are not addressed effectively.

Causes:

- Failure to identify difficult clients.
- Failure to manage the difficult client behaviours.
- Failure to identify, control and meet client expectations.

Why are we here?

Consequences:

- Financial loss – repayment of fees; loss of billable hours; payment of insurance excess; possible claims loading; payment of claims over \$2m (if no top-up insurance)
- Reputational damage

Likelihood:

High without adequate controls

Ronwyn North

- Ronwyn North is a lawyer turned practice management consultant who specialises in risk management, ethics and everything law school never taught you about being a good lawyer. She has been involved in the Law Mutual Risk Management program since it started in 1995 and likes to help lawyers find ways to make legal practice more profitable, more satisfying and less risky

Things you need to be able to say to a client with confidence ...

- I'd like to talk about your matter
- I'd like to talk about my fees
- I'd like to talk about our relationship
- I'd like us to agree you will find another lawyer
- I'd like to apologise

Structure of Session

1. Positive lawyer client relationships
2. Difficult clients – lawyer negative about client
3. Complaints handling – client negative about lawyer

1. Positive lawyer client relationships

What do they look like and are they same or different today compared with yesterday?

Positive lawyer client relationship (Modern) characteristics

- Shared understanding of each other's
 - Roles and responsibilities
 - Needs and expectations
- Work together constructively
 - Trust
 - Mutual respect
 - Collaboration
 - Conflict resolution (“disagree well”)
- Mutual benefit and satisfaction with
 - Interactions/communications/processes
 - Outcomes/results/fees

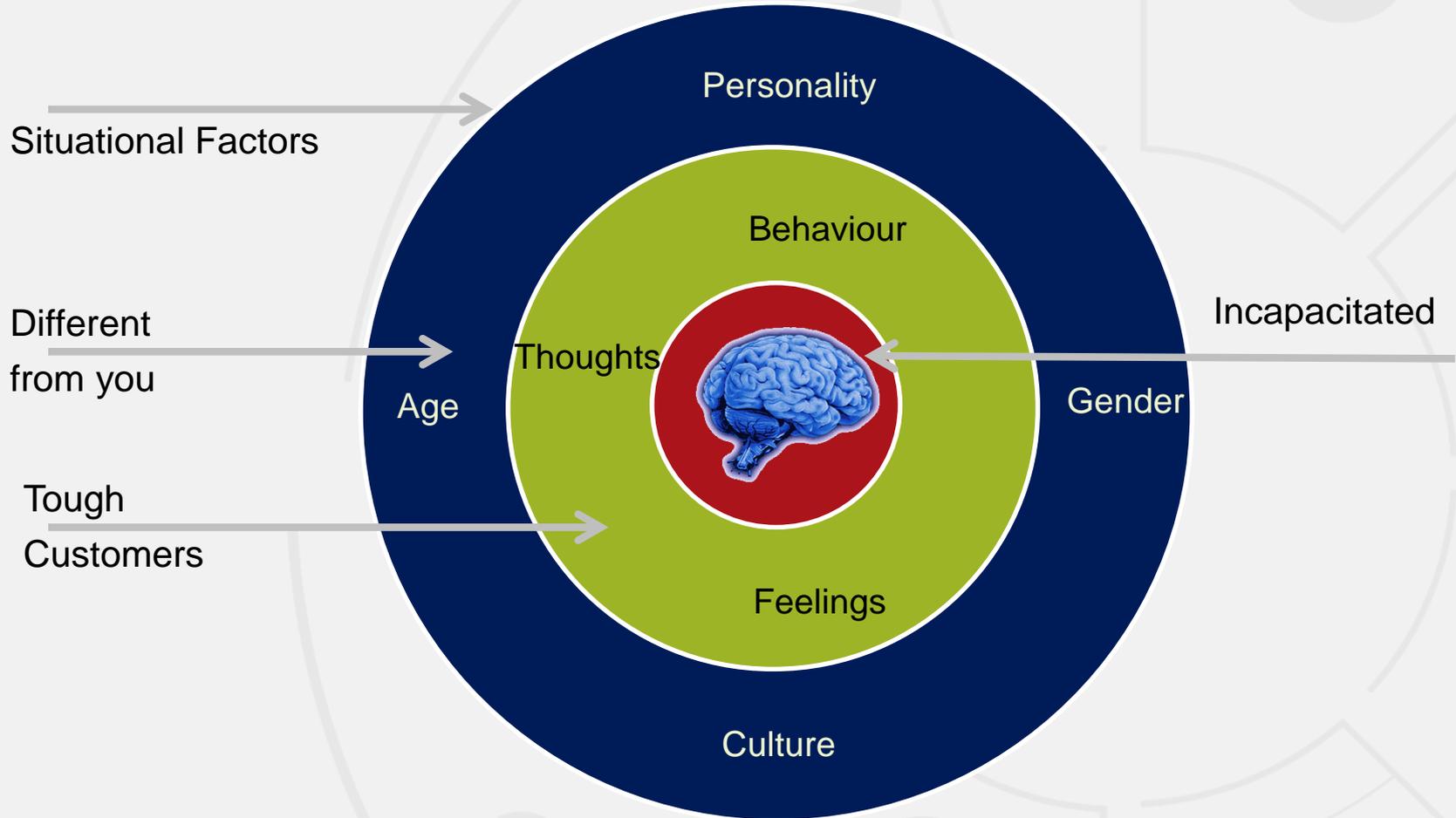
2. Difficult Clients

How to have more positive
lawyer-client relationships

What is a 'difficult' client?

- Hard to help, like, do your best for
- Think, react, behave counterproductively to their
 - own interests
 - relationship with you
- Power struggle between your way and their way
- Relationship unrewarding for you
 - Professionally, financially, personally

Four Degrees of Difficulty



1. Situational Factors

Familiar Red Flags

- ‘Difficult’ in past matters
- Changing firms
- Sued previous advisers
- Price driven
- Financial difficulty
- Difficult to contact (eg overseas, no fixed address)
- Special needs (eg language, undue influence risk)
- Stressed by legal or life situation
- “I knew this client was trouble from the beginning”

Familiar safeguards

Extra care is good for you and client

- Who is/not client?
- Detailed instructions
- Scope of work
- Exclusions from scope
- Fee estimates
- Costs agreement
- Engagement letter
- Informed consent
- Language/assistance
- Money on account
- Supervision/'4 eyes'
- Second opinion
- Independent advice
- Explaining more than once
- Keeping client updated
- Putting it in writing
- Getting it in writing
- Interim bills

2. Incapacitated

Most difficult of the difficult

- Acquired brain injury
- Addiction
- Depression
- Dementia
- Querulous paranoia
- 200+ classified mental illnesses and personality disorders

Not your job to be therapist but to:

- Consider the possibility
- Check for guidelines
- Develop your skills
- Involve other professionals
- Accept the extra effort and exposure or refer client elsewhere

3. Different from you

- Personal differences can get in the way of a constructive working relationship
 - “Gender wars”
 - “Generation gap”
 - Culture clash
 - Personality clash
 - Ideology
- Increased potential for misunderstandings and conflict means situations are more claims prone

4. “Tough customers” Most difficult for you?

- How do they behave?
 - Pattern or one off
 - Active or passive
 - Shaped by thoughts, feelings, experiences
- Unhelpful/harmful to
 - Relationship with you
 - Own interests
 - Without (much) insight
- Behaviour eg:
 - Needy
 - Emotional
 - Demanding
 - Undemanding
 - Uncooperative
 - High conflict
 - Other
- What can you do?
 - Mindset
 - Skills (Dos and Don'ts)
 - Processes

Clients you have most difficulty with?

- A. Needy** Clingy, 'learned helplessness'
- B. Emotional** Intense, unmanaged feelings
- C. Demanding** Requires you to do/feels entitled to get everything their way
- D. Undemanding** Acquiescent, unquestioning, makes you decide
- E. Uncooperative** 'Non-compliant' with (simple) requests and requirements
- F. High conflict** All or nothing thinking, blame others extreme emotions and behaviours
- G. Other**

Adopt a positive mindset

Is this how you think?

- “Dealing with difficult clients is part of job”
- “I can have a positive relationships with difficult clients in difficult situations”
- “I can get better at this with practise”

To deal with 'tough customers' more effectively ...

1. Stay calm, be professional, don't take it personally
2. Connect with the person, be attentive, empathic, respectful
3. Ask questions to better understand the client's behaviour, feelings and thought patterns but remember this is not an interrogation or a therapy session and the client will often lack insight into their own behaviour or its unhelpful impacts
4. Bring difficult behaviour into the open and agree action. Be specific, positive, clear, non-judgmental about what you need the client to do (or stop doing) and the consequences.
5. To help dampen emotional responses, refocus the client's attention on information and tasks that will move the relationship or matter forward
6. To break unhelpful thought patterns, refocus attention on the outcomes and benefits you are working towards and how these can be achieved
7. Set boundaries and be firm about sticking to them.
8. Be safe. Do not accept or tolerate abusive or aggressive behaviour
9. Take a break and reschedule if you are not making progress
10. Shake it off and enjoy the rest of your day

Useful statements – some examples

- “You seem upset. Is it something we should talk about?”
- “Let me stop you there. I know you have more to say but it would help me to check I understand what you have said so far and then hear more about ...”
- “It seems you have a different view of the situation. Let me explain. I can make some suggestions for you ... these are your options ... one option open to you is ...”
- “I am on your side but for me to help you then I need you to ... (do task or stop unacceptable behaviour). If you cannot (do/stop) then the consequences for (your matter/our relationship) will be ...”
- “I’d like to talk about our relationship. I am concerned about ... (situation/specific behaviour) and would like to know how you see things working out”
- “I’d like us to agree you will find another lawyer”

Get organised! Screen and manage clients with risk factors for a negative relationship

1. Analyse the kinds of client situations, incapacities, differences and difficult behaviours that you are likely to attract in your particular practice and specify
 - Red flags
 - Safeguards
 - Decision making authority (accept, withdraw etc)
2. Build capability
 - Invest in yourself, staff training and resources
3. Safety plan and rehearsal
4. Wellbeing/assistance
 - Relaxation, mindfulness, exercise, healthy diet, sleep
 - Stress, compassion fatigue, PTSD are real so seek help

3. Complaints Handling

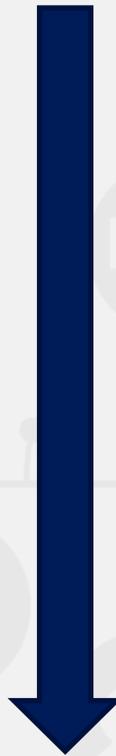
How being complaint ‘friendly’ helps promote and restore positive client relationships

Positive client relationships, satisfaction and loyalty

Satisfied

Preferences not
accommodated

Dissatisfaction or
complaint not
identified or not
addressed



Complete their matter
Bring repeat business
Recommend you

Terminate
Don't come back
Warn others away

Complaint friendly mindset ?

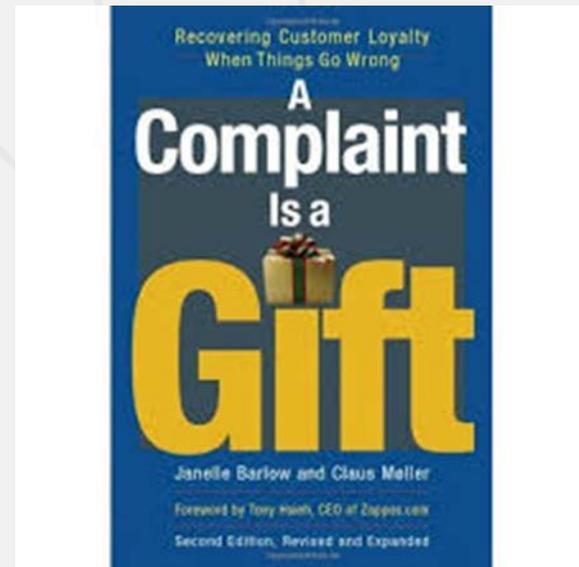
“ Here lies the firm that said ‘*the client is always right*’ and went bankrupt!”

“A complaint is the raw material from which better business is built”

“Your most unhappy customer is your greatest source of learning” (Bill Gates)

“Complaint is a gift*” Mindset

- Better to know client is dissatisfied than not
- ‘Gift’ because client
 - Still engaged with you
 - Giving you opportunity to return them state of satisfaction and loyalty
 - Giving their views free



*Barlow & Moller

How do you know when a client has a complaint?

- You ask them
 - “How are we doing?”
- They tell you directly
 - In person/telephone
 - Letter/email
- Someone else tells you
 - “Friend or foe”
 - Online

Complaints handling essentials

Receive/Understand

1. Stay cool, calm and collected
2. Thank client for bringing concern to your attention
3. Let client 'vent'/state view (Refrain from giving yours!)
4. Acknowledge/thank for opportunity to resolve
5. Summarise your present understanding of complaint

Resolve

6. What does client want?
7. Agree next steps
8. Apologise if appropriate
9. Keep the client informed of progress
10. Follow up to check satisfaction

Learn

11. What lessons? Patterns? Action?

Helpful statements

- “Thank you for bringing this to my attention”
- “Tell me what’s happened then I will ask some questions”
- “I’m sorry this has happened. I can see you are upset ...angry ...feel we have dropped the ball...not lived up to your expectations ...”
- “We appreciate the opportunity to work together a resolution”
- “How would you like this resolved?”
- “I’d like to apologise”
- “My evidence does not support your allegations, but I respect your point of view and understand this is very important to you”
- “I can’t resolve this now but here is what I propose if you agree”
- “I’m calling to tell you our progress in resolving your concerns”
- “I’m following up to check we’ve resolved your concerns”

Complaints in person

Dealing with anger and verbal insults

To dampen your own and complainant's emotional responses:

1. **Listen:** Hear the complainant out without interrupting. Let the anger run out of steam before trying to problem solve.
2. **Don't argue:** Don't take the bait. Hold off putting your point of view or defending yourself. There will be time later.
3. **Acknowledge:** Thank the complainant for raising the issue or express regret the distress caused. Unexpected response will help calm things down.
4. **Ask three questions:** Seek to clarify or understand more about the complaint and how the complainant wishes it to be resolved. Ask your next question even if the complainant has not responded to the previous one. Questions help reengage the rational brain.
5. **Control your body language:** Relaxed jaw/shoulders, open arms/hands, neutral facial expression and even breathing

Complaints in writing

1. Beware hasty (emotional) response
2. Acknowledge receipt promptly and give timeframe for response
3. No inflammatory, defamatory or offensive remarks
4. Offer to visit or telephone client to discuss the matter personally
5. Why didn't client call you?

Online Complaints: Dealing with online reviews in age of empowered client*

1. Stay calm, cool down
2. Decide if it's worth responding and if so respond promptly
3. Read and follow the site rules for businesses
4. Ask for fake or inappropriate reviews to be removed
5. Research the incident
6. Understand the customer's point of view
7. Take it off line, respond privately to resolve the issue
8. Respond publicly to acknowledge concern and action taken
9. Be polite and constructive at all times
10. Learn and move on

* See References and Resources

Regulatory Complaints

Still not too late to recover!

- Rapid resolution of ‘consumer disputes’
- Be responsive, courteous, co-operative
 - Not intimidating, rude, obstructive
 - Seek extension of time if necessary
- Get information, advice and assistance
 - Colleague or counsel
 - Law Society Practice Advice Referral Service
 - Law Mutual (check need to notify)
- Keep perspective, stay connected
 - Trust the resolution process
 - Don’t catastrophise, ruminate or isolate yourself
 - Keep an eye on colleagues

References and Resources

Difficult Clients

<https://www.psychologytoday.com/blog/positively-media/201111/social-networks-what-maslow-misses-0>

<https://www.lawsocietywa.asn.au/wp-content/uploads/2015/10/When-a-clients-capacity-is-in-doubt.pdf>

Complaints Handling

<https://www.smallbusiness.wa.gov.au/business-advice/avoiding-and-managing-disputes/handling-customer-complaints>

<https://www.business.qld.gov.au/running-business/consumer-laws/customer-service/complaints>

Online reviews

<https://www.smallbusiness.wa.gov.au/business-advice/avoiding-and-managing-disputes/dealing-with-negative-online-reviews>

<https://www.business.qld.gov.au/running-business/consumer-laws/customer-service/managing-customer-reviews>

<https://www.business.qld.gov.au/running-business/consumer-laws/customer-service/managing-customer-reviews/how-to-start>

<https://www.accc.gov.au/publications/online-reviews-a-guide-for-business-review-platforms>

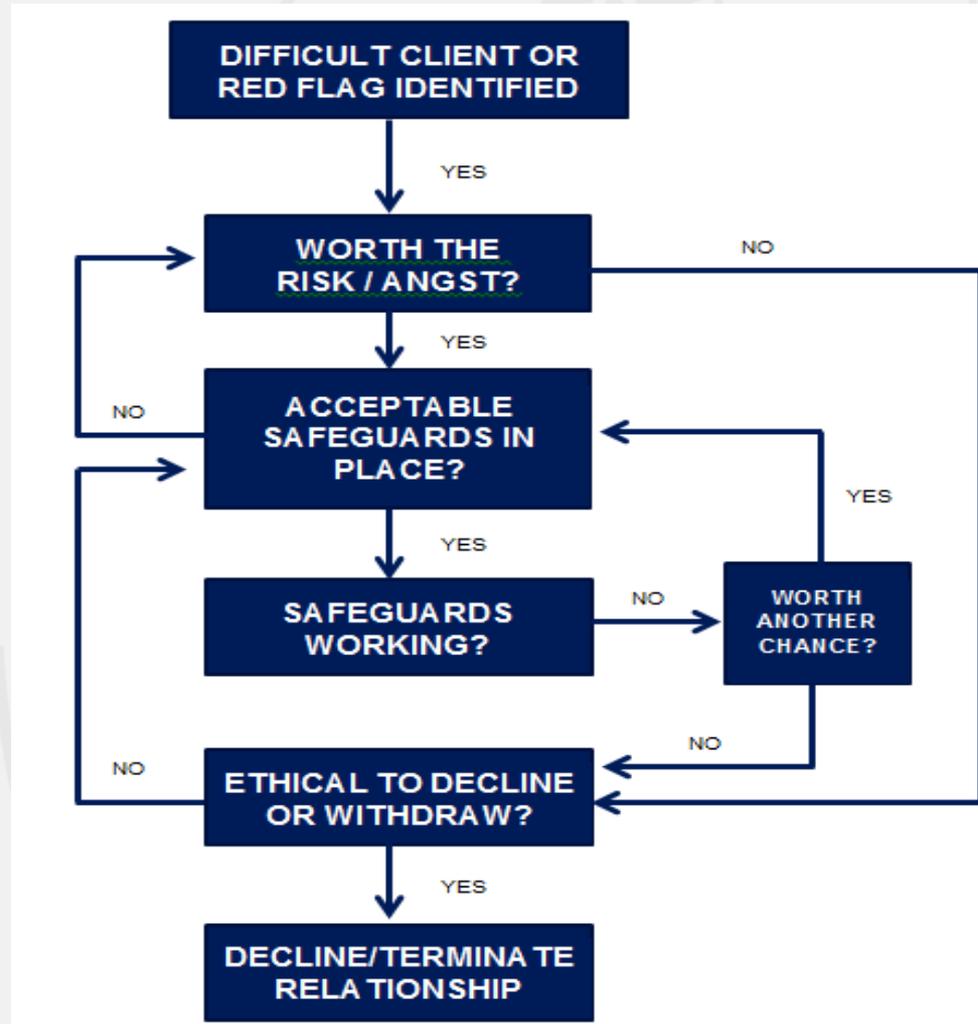
Regulatory Complaints

<https://www.lawsocietywa.asn.au/professional-practice-support/#complaints>

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Difficult Client Decision Tree



Complaints Handling Decision Tree

