



**DEALING WITH
UNREASONABLE
CUSTOMER CONDUCT
POLICY
P3.0106.2**

TABLE OF CONTENTS

PART 1 - INTRODUCTION	3
1. BACKGROUND	3
2. OBJECTIVE	3
3. SCOPE	4
4. DEFINITIONS	4
5. ROLES AND RESPONSIBILITIES	7
Council Officials	7
The General Manager and Executive Leadership Group	8
Complaints Coordinator	8
Supervisors, Senior Managers and Directors	9
PART 2 - POLICY STATEMENT	10
6. RESPONDING TO AND MANAGING UNREASONABLE CUSTOMER CONDUCT	10
Who – Limiting the Customer to a Sole Contact Point	10
What – Restricting the Subject Matter of Communications Council Will Consider	11
When and How – Limiting When and How a Complainant Can Contact Council	11
‘Writing Only’ Restrictions	12
Where – Limiting Face-to-Face Interviews to Secure Areas	13
Contact Through a Representative Only	13
Completely Terminating a Customer’s Access to Council Services	13
7. ALTERNATIVE DISPUTE RESOLUTION	14
8. PROCEDURE TO BE FOLLOWED WHEN CHANGING OR RESTRICTING A CUSTOMER’S ACCESS TO COUNCIL SERVICES	14
Consulting with Relevant Staff	14
Criteria to be Considered	15
Providing a Warning Letter	16
Providing a Notification Letter	17
Notifying Relevant Council Officials About Access Changes/Restrictions	17
Continued Monitoring/Oversight Responsibilities	17
9. APPEALING A DECISION TO CHANGE OR RESTRICT ACCESS TO COUNCIL SERVICES	18
10. NON-COMPLIANCE WITH A CHANGE OR RESTRICTION ON ACCESS TO COUNCIL SERVICES	18
11. PERIODIC REVIEW OF ALL CASES WHERE THIS POLICY IS APPLIED	18
12. MANAGING STAFF STRESS	20
13. CONFIDENTIALITY	20
14. TRAINING AND AWARENESS	20

DEALING WITH UNREASONABLE CUSTOMER CONDUCT

DIVISION: Customer and Corporate Strategy

BRANCH: Legal and Governance

CATEGORY: 2

PART 1 - INTRODUCTION

1. BACKGROUND

- 1.1 Council is committed to being accessible and responsive to all customers regardless of ethnic identity, national origin, religion, linguistic background, sex, gender expression, sexual orientation, physical ability or other cultural or personal factors.
- 1.2 At the same time, Council's success depends on:
 - Council's ability to do its work in the most effective and efficient ways possible;
 - The health, safety and security of Council Officials; and
 - Council's ability to allocate its resources fairly across all the customer enquiries and requests it receives.
- 1.3 When customers behave unreasonably, their conduct can significantly affect the successful conduct of Council's work. Council will act proactively and decisively to manage any customer conduct that negatively and unreasonably affects Council and will support Council Officials to do the same in accordance with this Policy.
- 1.4 This Policy should be read in conjunction with Council's Feedback Policy and is based on the NSW Ombudsman's Managing Unreasonable Conduct by Complainants Model Policy (July 2022).

2. OBJECTIVE

- 2.1 This Policy was developed to assist all Council Officials to better manage unreasonable conduct by customers. It aims to help Council Officials:
 - Feel confident and supported in taking action to manage unreasonable customer conduct;
 - Act fairly, consistently, honestly, and appropriately when responding to unreasonable customer conduct;
 - Understand their roles and responsibilities in relation to the management of unreasonable customer conduct, and how this Policy will be used;
 - Understand the types of circumstances when it may be appropriate to manage unreasonable customer conduct using one or more of the following mechanisms:

- The strategies provided in the NSW Ombudsman's Managing Unreasonable Conduct by a Complainant Manual (3rd edition) including the strategies to change or restrict a customer's access to Council services
- Alternative dispute resolution strategies to deal with conflicts involving customers and Council Officials
- Legal instruments such as trespass laws or other legislation to prevent a customer from coming onto Council premises, and orders to protect specific Council Officials from any actual or apprehended personal violence, intimidation, or stalking;
- Understand the criteria Council will consider before Council decides to change or restrict a customer's access to Council services;
- Be aware of the processes that will be followed to record and report unreasonable customer conduct incidents, and the procedures for consulting and notifying customers about any proposed action or decision to change or restrict their access to Council services;
- Understand the procedures for reviewing decisions made under this Policy, including specific timeframes for review.

3. SCOPE

- 3.1 This policy applies to all Council Officials and other persons, including members of the public.

4. DEFINITIONS

- 4.1 **Council Official** means an employee of Council or a person carrying out work on behalf of Council, including contractors, consultants and volunteers, and Councillors.
- 4.2 **Senior Manager** means a manager, howsoever named, of a divisional branch of Council.
- 4.3 **Unreasonable Customer Conduct**

Most customers act reasonably and responsibly in their interactions with Council, even when they are experiencing high levels of distress, frustration, and anger about their complaint. However, despite Council's best efforts to help them, in a very small number of cases customers display inappropriate and unacceptable behaviour. They can be aggressive and verbally abusive towards Council Officials, threaten harm and violence or bombard Council with unnecessary and excessive phone calls and emails. They may make inappropriate demands on the time and resources of Council Officials or refuse to accept Council's decisions and recommendations in relation to their complaints. When customers behave in these ways (and where there are no cultural factors that could reasonably explain their behaviour) their conduct is considered to be 'unreasonable'.

In short, unreasonable conduct by a customer is any behaviour by a current or former customer which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for Council Officials, other service users and customers or the customer themselves.

Unreasonable customer conduct can be divided into five categories of conduct:

- Unreasonable persistence;
- Unreasonable demands;
- Unreasonable lack of cooperation;
- Unreasonable arguments; and
- Unreasonable behaviours.

Unreasonable Customer Conduct refers to any behaviour by a customer which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for Council Officials, other service users and customers or the customer themselves.

4.4 Unreasonable persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a customer that has a disproportionate and unreasonable impact on Council Officials, services, time and/or resources.

Some examples of unreasonably persistent behaviour include:

- An unwillingness or inability to accept reasonable and logical explanations, including final decisions that have been comprehensively considered and dealt with (even when it is evident the customer does understand the information provided);
- Persistently demanding a review simply because it is available, and without arguing or presenting a case for one;
- Pursuing and exhausting all available review options, even after Council has explained that a review is not warranted, and refusing to accept that Council cannot or will not take further action on their complaint;
- Reframing a complaint in an effort to get it taken up again;
- Multiple and repeated phone calls, visits, letters or emails (including cc'd correspondence) after repeatedly being asked not to do so; and
- Consistently contacting different people within or outside Council to get a different outcome or more sympathetic response to their complaint (also known as 'forum shopping').

4.5 Unreasonable demands

Unreasonable demands are any demands expressly made by a customer that have a disproportionate and unreasonable impact on Council Officials, services, time and/or resources.

Some examples of unreasonable demands include:

- Issuing instructions and making demands about how to handle their complaint, the priority it should be given, or the outcome to be achieved;

- Insisting on talking to a Manager or the General Manager personally when the reasons that this is not appropriate or warranted have been carefully explained to the customer;
- Emotional blackmail and manipulation resulting in intimidation, harassment, shaming, seduction or portraying themselves as being victimised when this is not the case;
- Insisting on outcomes that are not possible or appropriate in the circumstances, for example, asking for someone to be fired or prosecuted, or for an apology or compensation when there is no reasonable basis for this; and
- Demanding services of a nature or scale that Council cannot provide, even when Council has explained this to them repeatedly.

4.6 Unreasonable lack of cooperation

Unreasonable lack of cooperation is when a customer is unwilling or unable to cooperate with the organisation, Council Officials or Council's feedback system and processes, resulting in a disproportionate and unreasonable use of Council services, time, and/or resources.

Some examples of unreasonable lack of cooperation include:

- Sending Council a constant stream of complex and/or disorganised information without clearly defining the issue at hand or explaining how the material provided relates to their complaint (where the customer is clearly capable of doing this);
- Providing little or no detail around their complaint or providing information in 'drips and drabs';
- Refusing to follow or accept Council's instructions, suggestions or advice without a clear or justifiable reason for doing so;
- Arguing that a particular solution is the correct one in the face of valid contrary arguments and explanations; and
- Unhelpful behaviour, such as withholding information, acting dishonestly and misquoting others.

4.7 Unreasonable arguments

Unreasonable arguments include any arguments that are not based on any reason or logic, that are incomprehensible, false or inflammatory, trivial or delirious, and that disproportionately and unreasonably impact upon Council Officials, services, time, and/or resources.

Arguments are unreasonable where they:

- Fail to follow a logical sequence that the customer is able to explain to Council Officials;
- Are not supported by any evidence and/or are based on conspiracy theories;

- Lead a customer to reject all other valid and contrary arguments;
- Are trivial when compared to the amount of time, resources and attention that the customer demands; and
- Are false, inflammatory or defamatory.

4.8 Unreasonable behaviour

Unreasonable behaviour is conduct that is unreasonable in all circumstances, regardless of how stressed, angry or frustrated that a customer is, because it unreasonably compromises the health, safety and security of Council Officials, other service users or the customer themselves.

Some examples of unreasonable behaviours include:

- Acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks;
- Harassment, intimidation or physical violence;
- Rude, confronting or threatening correspondence;
- Threats of harm to self, Council Officials or third parties, threats with a weapon or threats to damage property, including bomb threats;
- Stalking (in person or online); and
- Emotional manipulation.

Council has a zero-tolerance policy towards any harm, abuse or threats directed towards Council Officials. Any conduct of this kind will be dealt with under this Policy and in accordance with Council's duty of care and work health and safety responsibilities.

It should be noted that where threats of harm to self, Council Officials or third parties are made, threats with a weapon or threats to damage property, including bomb threats, are made, immediate action will be taken in accordance with Council's Emergency Response Policy and Emergency Response Plans. This may see Council contact emergency services immediately to advise of the threat.

5. ROLES AND RESPONSIBILITIES

Council Officials

- 5.1 All Council Officials are responsible for familiarising themselves with this Policy and any related guidelines or procedures, including the 'Individual Rights and Mutual Responsibilities of the Parties to a Complaint' document at Appendix A. Council Officials are also encouraged to explain the contents of this document to all customers, particularly those who engage in unreasonable customer conduct or exhibit the early warning signs of unreasonable customer conduct.
- 5.2 Council Officials are also encouraged and authorised to use the strategies and scripts provided at the NSW Ombudsman's website – see Part 2 of the Managing Unreasonable Conduct by a Complainant Manual (3rd edition):

- Strategies and scripts for managing unreasonable persistence;
- Strategies and scripts for managing unreasonable demands;
- Strategies and scripts for managing unreasonable lack of cooperation;
- Strategies and scripts for managing unreasonable arguments;
- Strategies and scripts for managing unreasonable behaviours.

5.3 Any strategies that change or restrict a customer's access to Council services must be considered by the General Manager, as provided in this Policy, with the exception of any strategies immediately applied by supervisors, Senior Managers or Directors on an interim basis to address unreasonable customer conduct as provided for under clause 5.12 of this Policy.

Incidents of unreasonable customer conduct must be recorded and reported within one day of the incident occurring to the relevant supervisor and/or Complaints Coordinator.

5.4 All Council Officials are responsible for recording and reporting all incidents of unreasonable customer conduct they experience or witness within one business day of the incident occurring, using the Unreasonable Customer Conduct Incident Form in Appendix B.

5.5 Incidents should be reported to the relevant supervisor.

The General Manager and Executive Leadership Group

5.6 The General Manager, in consultation with the relevant staff member, supervisor, Director and the Complaints Coordinator, has the responsibility and authority to change or restrict a customer's access to Council services in the circumstances identified in this Policy. When doing so they will consider the criteria in clause 8.4 (adapted into a checklist in Appendix C) and will aim to impose any service changes or restrictions in the least restrictive ways possible. Their aim when taking such actions will not be to punish the customer, but rather to manage the impacts of their conduct.

5.7 When applying this Policy, the General Manager will also aim to keep at least one open line of communication with a customer. However, Council recognises that in extreme situations all forms of contact may need to be restricted for some time to ensure the health, safety and security of Council Officials or third parties.

5.8 It is recognised that there may be instances where the matter needs to be referred to Council's Executive Leadership Group for consideration and decision making. This is at the discretion of the General Manager to determine.

5.9 The General Manager may delegate administrative aspects of dealing with unreasonable customer conduct under this policy to the Complaints Coordinator.

Complaints Coordinator

5.10 The Complaints Coordinator is responsible for recording, monitoring, reporting and reviewing all cases where this Policy is applied to ensure consistency, transparency and accountability for the application of this Policy. The Complaints Coordinator may also, with the concurrence of the relevant Director:

- Determine that the customer conduct is not unreasonable and no further action is warranted
- Issue warning letters to customers.

These responsibilities include managing and keeping a file record of all cases where this Policy is applied and an Unreasonable Customer Conduct Register in Council's Electronic Document Management System (EDMS).

Supervisors, Senior Managers and Directors

- 5.11 Supervisors, Senior Managers and Directors are responsible for supporting Council Officials to apply the strategies in this Policy and any related guidelines or procedures, including the NSW Ombudsman's Managing Unreasonable Conduct by a Complainant Manual (3rd edition). They are also responsible for ensuring compliance with the procedures outlined in this Policy, and that all Council Officials are trained to deal with unreasonable customer conduct, including on induction.
- 5.12 In accordance with Council's Work Health and Safety Policy, Supervisors, Senior Managers and Directors are responsible for ensuring the appropriate health and safety risk management processes to eliminate risk and reduce hazards are in place. This includes the authority to immediately apply interim measures to address unreasonable customer conduct, consistent with the strategies outlined in this Policy and/or related guidelines and procedures, including the NSW Ombudsman's Managing Unreasonable Conduct by a Complainant Manual (3rd edition). Where any interim measures are applied in accordance with this provision, the Complaints Coordinator is to be notified within one business day so that relevant feedback and guidance can be provided.
- 5.13 After a stressful interaction with a customer, Supervisors, Senior Managers and Directors should provide affected Council Officials with the opportunity to debrief their concerns either formally or informally. Supervisors, Senior Managers and Directors will also ensure that Council Officials are provided with proper support and assistance including medical or police assistance, and if necessary, support through programs like the Employee Assistance Program (EAP).
- 5.14 Supervisors, Senior Managers and Directors may also be responsible for arranging other forms of support for Council Officials, such as appropriate communication or intercultural training.

PART 2 - POLICY STATEMENT

6. RESPONDING TO AND MANAGING UNREASONABLE CUSTOMER CONDUCT

Changing or Restricting a Customer's Access to Council Services

6.1 Unreasonable customer conduct will generally be managed by limiting or adapting the ways that Council interacts with and/or delivers services to customers by restricting:

Who they have contact with - limiting a customer to a sole contact point/Council Official within the organisation;

What they can raise with Council - restricting the subject matter of communications that will be considered and responded to;

When they can have contact - limiting a customer's contact with Council to a particular time, day, or length of time, or curbing the frequency of their contact with Council;

Where they can make contact - limiting the locations where face-to-face interviews are conducted to secured facilities or areas of the office; and

How they can make contact - limiting or modifying the forms of contact that the customer can have with Council. This can include modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to Council premises, contact through a representative only, taking no further action or terminating provision of services altogether.

6.2 When applying restrictions to a customer's access to Council services, Council recognises that discretion will need to be used to adapt them to suit a customer's personal circumstances such as level of competency, literacy skills, and cultural background. In this regard, Council also recognises that more than one strategy may be needed in individual cases to ensure their appropriateness and efficacy.

Who – Limiting the Customer to a Sole Contact Point

6.3 Where a customer tries to forum shop internally within Council, changes their issues of complaint repeatedly, constantly reframes their complaint, or raises an excessive number of complaints, it may be appropriate to restrict their access to a single Council official (a sole contact point) who will manage their complaint/s and interactions with Council. This may help ensure they are dealt with consistently and may minimise the incidence of misunderstandings, contradictions and manipulation.

Unreasonable customer conduct will be managed by limiting or adapting the ways that Council interacts with and/or delivers services to customers by restricting:

- Who the customer has contact with
- What they can contact Council about
- When, where and how they can contact Council

Alternatively, a customer's access to Council services may be terminated.

- 6.4 To avoid 'burnout', the sole contact officer's supervisor will provide them with regular support and guidance as needed. The Complaints Coordinator will also review the arrangement every six months to ensure that the officer is managing/coping with the arrangement.
- 6.5 Customers who are restricted to a sole contact person will also be given the contact details of one additional staff member who they can contact if their primary contact is unavailable, for example, if they go on leave or are otherwise unavailable for an extended period of time.

What – Restricting the Subject Matter of Communications Council Will Consider

6.6 Where customers repeatedly send letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content, or relate to a matter that has already been comprehensively considered and/or reviewed (at least once) by Council, Council may restrict the issues the customer can raise with Council.

6.7 For example, Council may:

- Refuse to respond to correspondence that raises an issue that has already been dealt with, that raises a trivial issue, or is not supported by evidence. The customer will be advised that future correspondence of this kind will be read and filed without acknowledgement unless Council decides that it needs to pursue it further, in which case Council may do so on its 'own motion'
- Restrict the customer to one complaint or issue per month. Any attempts to circumvent this restriction, for example by raising multiple complaints or issues in the one letter, may result in modifications or further restrictions being placed on their access and/or
- Return correspondence to the customer and require them to remove any inappropriate content before Council will agree to consider its contents. Council will also keep a copy of the inappropriate correspondence for its records to identify repeat unreasonable customer conduct incidents.

When and How – Limiting When and How a Complainant Can Contact Council

6.8 If a customer's contact with Council places an unreasonable demand on Council's time or resources or affects the health, safety and security of Council Officials because it involves behaviour that is persistently rude, threatening, abusive or aggressive, Council may limit when and/or how the customer can interact with Council.

6.9 This may include:

- Limiting their telephone calls or face-to-face interviews to a particular time of the day or days of the week.
- Limiting the length or duration of telephone calls, written correspondence or face-to-face interviews, for example:
 - Telephone calls may be limited to 10 minutes at a time and will be politely terminated at the end of that time period

- Lengthy written communications may be restricted to a maximum of 15 typed or written pages, single sided, font size 12 or it will be sent back to the customer to be organised and summarised – This option is only appropriate in cases where the customer is capable of summarising the information and refuses to do so
- Limiting face-to-face interviews to a maximum of 45 minutes and/or
- Limiting the frequency of their telephone calls, written correspondence or face-to-face interviews and, depending on the natures of the service(s) provided Council may limit:
 - Telephone calls to one every two weeks/month
 - Written communications to one every two weeks/month, and/or
 - Face-to-face interviews to one every two weeks/month.

6.10 For irrelevant, overly lengthy, disorganised or very frequent written correspondence Council may also:

- Require the customer to clearly identify how the information or supporting materials they have sent to Council relate to the central issues that Council has identified in their complaint
- Restrict the frequency with which customers can send emails or other written communications to Council, and/or
- Restrict a customer to sending emails to a particular email account (e.g., Council's main email account) or block their email access altogether and require that any further correspondence be sent through Australia Post only.

'Writing Only' Restrictions

6.11 When a complainant is restricted to 'writing only' they may be restricted to written communications through:

- Australia Post only
- Email only to a specific Council official email or Council's general office email account
- Fax only to a specific fax number, and/or
- Some other relevant form of written contact, where applicable.

6.12 If a customer's contact is restricted to writing only, the General Manager will clearly identify the specific means that the customer can use to contact Council (e.g., Australia Post only). If it is not appropriate for a customer to enter Council premises to hand deliver their written communication this must be communicated to them as well.

6.13 Any communications received by Council in a manner that contravenes a 'writing only' restriction will either be returned to the customer or read and filed without acknowledgement.

Where – Limiting Face-to-Face Interviews to Secure Areas

6.14 If a customer is violent or overtly aggressive, unreasonably disruptive, threatening or demanding or makes frequent unannounced visits to Council premises, Council may consider restricting face-to-face contact with them.

6.15 These restrictions can include:

- Restricting access to particular secured premises or areas of the office such as the reception area or a secured room or facility;
- Restricting their ability to attend Council premises to specified times of the day and/or days of the week only – for example, when additional security is available or to times/days that are less busy
- Allowing them to attend Council’s office on an ‘appointment only’ basis and only with specified staff. (Note: during these meetings staff should always seek support and assistance of a colleague for added safety and security), and/or
- Banning the customer from attending Council premises altogether and allowing some other form of contact – e.g., ‘writing only’ or ‘telephone only’ contact.

Contact Through a Representative Only

6.16 In cases where Council cannot completely restrict its contact with a customer and their conduct is particularly difficult to manage, Council may require them to contact Council through a support person or representative only. The support person may be nominated by the customer but must be approved by the General Manager.

6.17 When assessing a representative or support person’s suitability, the General Manager should consider factors such as their level of competency and literacy skills, demeanour and behaviour, and relationship with the customer. If the General Manager determines that the representative or support person may exacerbate the situation with the customer, the customer will be asked to nominate another person and Council may assist them in this regard.

Completely Terminating a Customer’s Access to Council Services

6.18 In rare cases, and as a last resort when all other strategies have been considered, the General Manager (or the Executive Leadership Group in instances referred to them for consideration) may decide that it is necessary for Council to completely restrict a customer’s contact and/or access to Council services.

6.19 A decision to have no further contact with a customer will only be made if it appears that the customer is unlikely to modify their conduct and/or their conduct poses a significant risk for Council Officials or other parties because it involves one or more of the following:

- Acts of aggression, verbal and/or physical abuse, threats of harm, harassment, intimidation, stalking, assault;
- Damage to property while on Council premises;

- Threats with a weapon or common office items that can be used to harm another person or themselves;
- Physically preventing a staff member from moving around freely either within their office or during an off-site visit – e.g., entrapping them in their home; or
- Conduct that is otherwise unlawful.

6.20 In these cases, the customer will be sent a letter notifying them that their access has been restricted as outlined in clauses 8.10-8.11 below.

6.21 A customer's access to Council services and Council premises may also be restricted (directly or indirectly) using legal mechanisms such as trespass laws and other legislation or legal orders to protect Council Officials from personal violence, intimidation or stalking by a customer.

7. ALTERNATIVE DISPUTE RESOLUTION

7.1 If the General Manager (or the Executive Leadership Group in instances referred to them for consideration) determines that Council cannot terminate its services to a customer in a particular case or that Council or its Officials bear some responsibility for causing or exacerbating their conduct, they may consider using alternative dispute resolution strategies such as mediation and conciliation to resolve the conflict with the customer and attempt to rebuild the relationship with them.

7.2 If using alternative dispute resolution is considered to be an appropriate option in a particular case, it will be conducted by a suitably qualified independent third party to ensure transparency and impartiality.

7.3 However, Council recognises that in unreasonable customer conduct situations alternative dispute resolution may not be an appropriate or effective strategy, particularly if the complainant is uncooperative or resistant to compromise. Therefore, each case will be assessed on its own facts to determine the appropriateness of this approach.

8. PROCEDURE TO BE FOLLOWED WHEN CHANGING OR RESTRICTING A CUSTOMER'S ACCESS TO COUNCIL SERVICES

Consulting with Relevant Staff

8.1 When the Complaints Coordinator receives notification of an unreasonable customer conduct incident, they will contact the Council Official concerned to discuss the incident within ten working days.

8.2 They will discuss:

- The circumstances that gave rise to the unreasonable customer conduct incident, including the customer's situation, personal and cultural background, and perspective;
- The impact of the customer's conduct on Council, relevant Council Officials, time, resources etc.;
- The customer's response to the Council Official's warnings or requests to stop the unreasonable behaviour;

- What the Council Official has done to manage the customer's conduct (if applicable); and
- Any suggestions made by relevant staff (including the Council Official's supervisor) on ways that the situation could be managed.

Criteria to be Considered

8.3 Following consultation with relevant Council Officials, the Complaints Coordinator will search Council's EDMS and Unreasonable Customer Conduct Register for information about the customer's prior conduct and history with Council.

8.4 The Complaints Coordinator will also consider the following criteria:

- Whether the conduct in question involved overt anger, aggression, violence or assault (which is unacceptable in all circumstances);
- Whether the customer's case has merit;
- The likelihood that the customer will modify their unreasonable conduct if they are given a formal warning about their conduct;
- Whether changing or restricting access to Council services will:
 - Be effective in managing the customer's behaviour;
 - Affect the customer's ability to meet their obligations, such as reporting obligations; and
 - Have an undue impact on the customer's welfare, livelihood or dependents etc.;
- Whether the customer's personal circumstances have contributed to the behaviour, for example, the customer's cultural background may mean their communication patterns differ from those of Council's Officials or Council's standards, or the customer is a vulnerable person who is under significant stress as a result of one or more of the following:
 - Homelessness;
 - Physical disability;
 - Illiteracy or other language or communication barrier;
 - Mental or other illness;
 - Personal crises; and
 - Substance or alcohol abuse;
- Whether the customer's response and/or conduct in the circumstances was moderately disproportionate, grossly disproportionate or not at all disproportionate; and
- Whether there are any statutory provisions that would limit the types of limitations that can be applied to the customer's contact with or access to Council services.

- 8.5 Once the Complaints Coordinator has considered these criteria, the Complaints Coordinator may (in consultation with the relevant Director) decide that in the circumstances the customer conduct is not unreasonable or that it is appropriate to issue a warning letter in accordance with this Policy. In that case, the outcome must be notified to the General Manager, Executive Leadership Group and relevant Senior Managers and Supervisors. However, if the Complaints Coordinator determines that the customer conduct is considered unreasonable such as to warrant consideration of a restriction, a report will be prepared and provided to the General Manager to consider, outlining the investigations undertaken, why the customer conduct is considered unreasonable and providing a recommendation on an appropriate course of action. This may include formal or informal options for dealing with the unreasonable customer conduct which may include one or more strategies outlined in this Policy and/or related guidelines and procedures, including the NSW Ombudsman's Managing Unreasonable Conduct by a Complainant Manual (3rd edition).
- 8.6 The General Manager may resolve to refer the matter to Council's Executive Leadership Group for consideration and determination.

Providing a Warning Letter

- 8.7 Unless a customer's conduct poses a substantial risk to the health and safety of Council Officials or other third parties, the General Manager (or the Executive Leadership Group in instances referred to them for consideration) or the Complaints Coordinator (in consultation with the relevant Director), may resolve to, in the first instance, provide a customer with a written warning about their conduct. If the customer is unable to read the letter, it will be followed/accompanied by a telephone call, using an interpreter if necessary.
- 8.8 The warning letter will:
- Specify the date, time, and location of the unreasonable customer conduct incident/s
 - Explain why the customer's conduct/unreasonable customer conduct incident is problematic
 - List the types of access changes and/or restrictions that may be imposed if the behaviour continues (Note: Not every possible restriction should be listed but only those that are most relevant)
 - Provide clear and full reasons for the warning being given
 - Include an attachment of Council's ground rules and/or briefly state the standard of behaviour that is expected of the customer
 - Provide the name and contact details of the Council Official they can contact about the letter, and
 - Be signed by the General Manager, or their delegate, or the Complaints Coordinator.
- 8.9 Regular updates should be provided to the relevant Council official/s throughout the process to advise on progress of the matter.

Providing a Notification Letter

8.10 If a customer's conduct continues after they have been given a written warning, or in extreme cases of overt aggression, violence, assault or other unlawful/unacceptable conduct, the General Manager (or the Executive Leadership Group in instances referred to them for consideration) or the Complaints Coordinator (in consultation with the relevant Director), has the discretion to send a notification letter immediately restricting the customer's access to Council services (without prior written warning). If the customer is unable to read the letter (due to literacy issues, non-English speaking, etc.) the letter will be followed or accompanied by a telephone call, using an interpreter if necessary.

8.11 The notification letter will:

- Specify the date, time, and location of the unreasonable customer conduct incident/s;
- Explain why the customer's conduct is problematic;
- Identify the change and/or restriction that will be imposed and what it means for the customer;
- Provide clear and full reasons for this restriction;
- Specify the duration of the change or restriction imposed, which will not exceed 12 months;
- Indicate a time period for review;
- Provide, unless there are specific safety concerns, the name and contact details of the Council Official (a Senior Manager) they can contact about the letter and/or request a review of the decision; and
- Be signed, unless there are specific safety concerns, by the General Manager, or his/her delegate, or the Complaints Coordinator.

Notifying Relevant Council Officials About Access Changes/Restrictions

8.12 The Complaints Coordinator will notify relevant Council Officials about any decisions to change or restrict a customer's access to Council services. This may include notifying the Customer Relations team and security staff in cases where a customer is prohibited from entering Council premises.

8.13 The Complaints Coordinator will also update the Unreasonable Customer Conduct Register and EDMS with records outlining the nature of the restrictions imposed and their duration.

Continued Monitoring/Oversight Responsibilities

8.14 Once a customer has been issued with a warning letter or notification letter the Complaints Coordinator will review the customer's record/restrictions every 12 months, on request by a Council Official, or following any further incidents of unreasonable customer conduct that involve the particular customer to ensure that they are complying with their restrictions/the arrangement is working.

8.15 If the Complaints Coordinator determines that the restrictions have been ineffective in managing the customer's conduct or are otherwise inappropriate, they should report their findings to the General Manager (or the Executive Leadership Group in instances referred to them for consideration) who may decide to either modify the restrictions, impose further restrictions, or terminate the customer's access to Council services altogether.

9. APPEALING A DECISION TO CHANGE OR RESTRICT ACCESS TO COUNCIL SERVICES

9.1 Customers who have their access changed or restricted are entitled to one appeal of a decision to change and/or restrict their access to Council services. This review will be undertaken by a senior Council Official assigned by the General Manager who was not involved in the original decision to change or restrict the customer's access.

9.2 This Council Official will consider the customer's arguments and personal circumstances, including cultural background, along with all relevant records regarding the customer's past conduct. They will advise the customer of the outcome of their appeal by letter, which must be signed off by the General Manager. The Council Official will then refer any materials/records relating to the appeal to the Complaints Coordinator to be kept in the appropriate file.

9.3 If a customer is still dissatisfied after the appeal process, they may seek an external review from an oversight agency such as the NSW Ombudsman. The Ombudsman may accept the review (in accordance with its administrative jurisdiction) to ensure that Council has acted fairly, reasonably, and consistently and has observed the principles of good administrative practice, including procedural fairness.

10. NON-COMPLIANCE WITH A CHANGE OR RESTRICTION ON ACCESS TO COUNCIL SERVICES

10.1 All Council Officials are responsible for recording and reporting incidents of non-compliance by customers.

10.2 Details of non-compliance by customers should be recorded in a file note in EDMS and a copy forwarded to the Complaints Coordinator to report the matter to the General Manager (or the Executive Leadership Group in instances referred to them for consideration) who will decide whether any action needs to be taken to modify or further restrict the customer's access to Council services.

11. PERIODIC REVIEW OF ALL CASES WHERE THIS POLICY IS APPLIED

11.1 All unreasonable customer conduct incidences where this policy is applied will be reviewed not more than 12 months after the service change or restriction was initially imposed or upheld.

11.2 The Complaints Coordinator will ask customers if they would like to participate in the review process unless they determine that this invitation will provoke a negative response from the customer (i.e., further unreasonable customer conduct). The invitation will be given and the review will be conducted in accordance with the customer's access restrictions.

11.3 When conducting a review, the Complaints Coordinator will consider:

All unreasonable customer conduct incidences where this policy is applied will be reviewed not more than 12 months after the service change or restriction was initially imposed or upheld.

- Whether the customer has had any contact with the organisation during the restriction period;
- The customer's conduct during the restriction period;
- Any information/arguments put forward by the customer for review; and
- Any other information that may be relevant in the circumstances.

11.4 The Complaints Coordinator may also consult any Council Officials who have had contact with the customer during the restriction period.

11.5 Sometimes a customer may not have a reason to contact Council during their restriction period. As a result, a review decision that is based primarily on the fact that the customer has not contacted Council during their restriction period may not be an accurate representation of their level of compliance/reformed behaviour. This should be taken into consideration, in relevant situations.

11.5 Once the Complaints Coordinator has reviewed the matter, a report will be prepared and provided to the General Manager to consider and for a decision on the review to be made. The General Manager may resolve to refer the matter to Council's Executive Leadership Group for consideration and determination.

11.6 The Complaints Coordinator will notify the customer of the outcome of their review using an appropriate method of communication as well as a written letter explaining the outcome.

11.7 The review letter will:

- Briefly explain the review process;
- Identify the factors that have been considered during the review; and
- Explain the decision/outcome of the review and the reasons for it.

11.8 If the outcome of the review is to maintain or modify the restriction, the review letter will also:

- Indicate the nature of the new or continued restriction;
- State the duration of the new restriction period;
- Provide the name and contact details of the Council Official who the customer can contact to discuss the letter; and
- Be signed by the General Manager.

11.9 The Complaints Coordinator is responsible for keeping a record of the outcome of the review, updating EDMS and Council's Unreasonable Customer Conduct Register and notifying all relevant Council Officials of the outcome of the review including if the restriction has been withdrawn.

12. MANAGING STAFF STRESS

12.1 Dealing with demanding, abusive, aggressive, or violent customers can be extremely stressful, distressing and even frightening for Council Officials. It is perfectly normal to get upset or stressed when dealing with difficult situations.

12.2 Council has a responsibility to support Council officials who experience stress as a result of situations arising at work and will do its best to provide Council Officials with debriefing and counselling opportunities, when needed. However, to do this Council also needs the help of all Council Officials to identify stressful incidents and situations. All Council Officials have a responsibility to tell relevant Supervisors and Senior Managers about unreasonable customer conduct incidents, and any other stressful incidents that they believe require management to be involved.

12.3 Debriefing means talking things through following a difficult or stressful incident. It is an important way of dealing with stress. Many Council Officials do this naturally with colleagues after a difficult telephone call, but Council Officials can also debrief with a Supervisor or Senior Manager (or as a team) following a significant incident. Council encourages all Council Officials to engage in an appropriate level of debriefing, when necessary.

12.4 Council Officials may also access an external professional service if required. The Employee Assistance Program (EAP) is available for this purpose.

13. CONFIDENTIALITY

13.1 Information about unreasonable customer conduct allegations, investigations, findings and management is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under this Policy.

13.2 Any personal information collected and stored by Council will be used and disclosed only in accordance with the *Privacy and Personal Information Protection Act 1998* and Council's Privacy Management Plan.

13.3 Disclosure of customer details is not supported by Council but it is required to deal with any requests for access to such details in accordance with Council's Access to Information Policy, the *Local Government Act 1993* and/or the *Government Information (Public Access) Act 2009* (GIPA), whichever is applicable in the circumstances.

14. TRAINING AND AWARENESS

14.1 Council is committed to ensuring that all Council Officials are aware of and know how to use this Policy. All Council Officials who deal with customers in the course of their work will also receive appropriate training and information on using this Policy and on managing unreasonable customer conduct on a regular basis and, in particular, on induction. This should include training to support culturally appropriate communication.

* * *

RELEVANT LEGISLATIVE INSTRUMENTS:

Government Information (Public Access) Act 2009
Local Government Act 1993
Privacy and Personal Information Protection Act 1998
Work Health and Safety Act 2011

RELATED POLICIES, PLANS AND PROCEDURES:

Agency Information Guide
Code of Conduct
Emergency Response Policy
Feedback Policy
NSW Ombudsman Managing Unreasonable Conduct by a Complainant Manual (3rd edition)
NSW Ombudsman Managing Unreasonable Conduct by Complainants Model Policy (July 2022)
Privacy Management Plan
Work Health and Safety Policy

RESPONSIBLE DIRECTOR:

Customer and Corporate Strategy

APPROVAL:

Council

HISTORY:

Version	Approved by	Changes made	Date	EDMS Number
1	Council	New	23/07/2019	19/219564
2	ELG	Minor Amendment	08/12/2022	19/217564



Unreasonable Customer Conduct Incident Form

Legal and Governance

What action, if any, have you taken to manage the customer's conduct?

For example – warning the customer 'verbally' about their conduct, previous attempts to manage the behaviour etc.

What do you think should be done to effectively manage the customer's conduct?

Note – the final recommendation on the appropriate course of action will be made by the Complaints Coordinator and reported to the General Manager and/or Executive Leadership Group for consideration and decision.

Is there any other information that might be relevant to this case? Please include information on any personal or cultural background issues that may have affected the customer's conduct. If necessary, attached any supporting documentation.