



POLICY

Managing Unreasonable Conduct by Complainants Policy

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AUTHORITY	Council
CONTACT OFFICER	Director Corporate Services

1 PURPOSE

- 1.1 The purpose of this policy is to provide a framework for the management of unreasonable conduct by a complainant (UCC).
- 1.2 This policy aims to help Council Officials:
- i. feel confident and supported in acting to manage a UCC;
 - ii. act fairly, consistently, honestly and appropriately when responding to UCC;
 - iii. understand their roles and responsibilities in relation to the management of UCC and how this policy will be used;
 - iv. understand the types of circumstances when it may be appropriate to manage UCC;
 - v. understand the criteria Council will consider before it decides to change or restrict a complainant's access to its services;
 - vi. be aware of the processes that will be followed to record and report UCC incidents, and the procedures for consulting and notifying complainants about any proposed action or decision to change or restrict their access to Council's services; and
 - vii. understand the procedures for reviewing decisions made under this policy, including specific timeframes for review.

2 SCOPE

- 2.1 This policy applies to all Council Officials.

3 DEFINITIONS

- 3.1 For the purposes of this policy, the following definitions apply:

Term	Definition
Complaint	Expression of dissatisfaction made to or about Council, its services, officers or the handling of a complaint where a response or resolution is explicitly or implicitly expected or legally required. A complaint covered by this policy does not include: <ul style="list-style-type: none"> • Officers grievances • Public interest disclosures made by Council officers • Code of conduct complaints • Responses to requests for feedback about the standard of Council's service provision • reports of problems or wrongdoing merely intended to bring a problem to Council's notice with no expectation of a response (see definition of 'feedback') • service requests (see definition of 'service request' below), and • requests for information (see Council's access to information policy)
Complaint management system	All policies, procedures, practices, officers, hardware and software used by Council in the management of complaints.
Complainant	The party making a complaint.
Council Official	Includes Councillors, Council Officers, administrators, Council Committee members, delegates of Council and contractors of Council.

Unreasonable Conduct Defined in cl. 4.2

4 POLICY STATEMENT

4.1 Statement of Support

4.1.1 Council is committed to being accessible and responsive to all complainants who approach Council regardless of ethnic identity, national origin, religion, linguistic background, sex, gender expression, sexual orientation, physical ability or other cultural or personal factors. At the same time, the success of Council depends on:

- i. its ability to do our work in the most effective and efficient ways possible;
- ii. the health, safety, and security of Council Officials;
- iii. Council's ability to allocate its resources fairly across all the complaints we receive.

4.1.2 When complainants behave unreasonably, their conduct can significantly affect the successful conduct of Council's work. Council will act proactively and decisively to manage any complainant conduct that negatively and unreasonably affects it and will support its officers to do the same in accordance with this policy.

4.2 Defining unreasonable conduct by a complainant

4.2.1 Most complainants 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 complainants display inappropriate and unacceptable behaviour. They can be aggressive and verbally abusive towards Council Officials, threaten harm and violence or bombard Council's offices with unnecessary and excessive phone calls, emails or correspondence.

4.2.2 They may make inappropriate demands on Council's time and resources or refuse to accept its decisions and recommendations in relation to their complaints. When complainants behave in these ways (and where there are no mitigating factors that could reasonably explain their behaviour) Council considers their conduct to be 'unreasonable'.

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

UCC can be divided into 5 categories of conduct:

- i. unreasonable persistence;
- ii. unreasonable demands;
- iii. unreasonable lack of cooperation;
- iv. unreasonable arguments; and
- v. unreasonable behaviours.

4.3 Categories of unreasonable conduct

4.3.1 Unreasonable persistence

4.3.1.1 Unreasonable persistence is continued, incessant and unrelenting conduct by a complainant that has a disproportionate and unreasonable impact on Council, its officers, services, time or resources. Some examples of unreasonably persistent behaviour include:

- i. 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 complainant does understand the information provided).
- ii. Persistently demanding a review simply because it is available and without arguing or presenting a case for one.
- iii. 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.
- iv. Reframing a complaint in an effort to get it taken up again.
- v. Multiple and repeated phone calls, visits, letters, emails (including cc'd correspondence) after repeatedly being asked not to.
- vi. Contacting different people within or outside Council to get a different outcome or a more sympathetic response to their complaint - this is known as internal and external 'forum shopping'.

4.3.2 Unreasonable demands

4.3.2.1 Unreasonable demands are any demands expressly made by a complainant that have a disproportionate and unreasonable impact on Council, its officers, services, time or resources. Some examples of unreasonable demands include:

- i. Issuing instructions and making demands about how to handle their complaint, the priority it should be given or the outcome to be achieved.
- ii. Insisting on talking to a senior manager or the General Manager personally when the reasons that this is not appropriate or warranted have been carefully explained to the complainant.
- iii. Emotional blackmail and manipulation resulting in intimidation, harassment, shaming, seduction or portraying themselves as being victimised when this is not the case.
- iv. 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.
- v. Demanding services of a nature or scale that Council cannot provide, even after Council has explained this to them repeatedly.

4.3.3 Unreasonable lack of cooperation

4.3.3.1 Unreasonable lack of cooperation is when a complainant is unwilling or unable to cooperate with Council, its officers or its complaints process, resulting in a disproportionate and unreasonable use of Council services, time or resources. Some examples of unreasonable lack of cooperation include:

- i. Sending Council a constant stream of complex or disorganised information without clearly defining the issue at hand or explaining how the material provided relates to their complaint (where the complainant is clearly capable of doing this).

- ii. Providing little or no detail around their complaint or providing information in 'drips and drabs'.
- iii. Refusing to follow or accept Council's instructions, suggestions or advice without a clear or justifiable reason for doing so.
- iv. Arguing that a particular solution is the correct one in the face of valid contrary arguments and explanations.
- v. Unhelpful behaviour such as withholding information, acting dishonestly and misquoting others.

4.3.4 Unreasonable arguments

4.3.4.1 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, its officers, services, time or resources. Arguments are unreasonable when they:

- i. fail to follow a logical sequence that the complainant is able to explain to officers;
- ii. are not supported by any evidence or are based on conspiracy theories;
- iii. lead a complainant to reject all other valid and contrary arguments;
- iv. are trivial when compared to the amount of time, resources and attention that the complainant demands; and
- v. are false, inflammatory or defamatory.

4.3.5 Unreasonable behaviour

4.3.5.1 Unreasonable behaviour is conduct that is unreasonable in all circumstances (regardless of how stressed, angry or frustrated a complainant is) because it unreasonably compromises the health, safety and security of Council officers, other service users or the complainant themselves. Some examples of unreasonable behaviours include:

- i. acts of aggression, verbal abuse, derogatory, racist or grossly defamatory remarks;
- ii. harassment, intimidation or physical violence;
- iii. rude, confronting or threatening correspondence;
- iv. threats of harm to self or third parties, threats with a weapon or threats to damage property, including bomb threats;
- v. stalking in person or online; and
- vi. emotional manipulation.

4.3.5.2 All Council Officials should note that Council has a zero-tolerance policy towards any harm, abuse or threats directed towards them. 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.

4.4 **Roles and Responsibilities**

4.4.1 All Council Officials

4.4.1.1 All Council Officials are responsible for familiarising themselves with this policy as well as the Individual Rights and Mutual Responsibilities of the Parties to a Complaint document included in the procedures supporting this policy.

- 4.4.1.2 Officials are also encouraged to explain the contents of this document to all complainants, particularly those who engage in UCC or exhibit the early warning signs of UCC.
- 4.4.1.3 Council Officials are authorised to use the strategies and scripts available within the supporting procedures:
- i. Strategies and scripts for managing unreasonable persistence;
 - ii. Strategies and scripts for managing unreasonable demands;
 - iii. Strategies and scripts for managing unreasonable lack of cooperation;
 - iv. Strategies and scripts for managing unreasonable arguments; and
 - v. Strategies and scripts for managing unreasonable behaviours.
- 4.4.1.4 Any strategies that change or restrict a complainant's access to Council's services must be considered at the Director level or higher as provided in this policy.
- 4.4.1.5 Council Officials are also responsible for recording and reporting all UCC incidents they experience or witness (as appropriate) to the General Manager within 24 hours of the incident occurring, using the approved incident form.
- 4.4.2 The General Manager
- 4.4.2.1 The General Manager, in consultation with relevant Council Officers, has the responsibility and authority to change or restrict a complainant's access to Council services in the circumstances identified in this policy. When doing so they will consider the criteria in the supporting procedures and will aim to impose any service changes or restrictions in the least restrictive ways possible. The aim when taking such actions will not be to punish the complainant, but rather to manage the impacts of their conduct.
- 4.4.2.2 When applying this policy, the General Manager will also aim to keep at least one open line of communication with a complainant. However, Council does recognise that in extreme situations all forms of contact may need to be restricted for some time to ensure the health, safety and security of its officers or third parties.
- 4.4.2.3 The General Manager is also responsible for recording, monitoring, and reviewing all cases where this policy is applied to ensure consistency, transparency and accountability for the application of this policy. The General Manager will manage and keep a file record of all cases where this policy is applied.
- 4.4.3 Senior Managers
- 4.4.3.1 All senior managers are responsible for supporting officers to apply the strategies in this policy, as well as those in procedural manuals. Senior managers are also responsible for ensuring compliance with the procedures outlined in this policy, and that all Council officers are trained to deal with UCC - including on induction.
- 4.4.3.2 After a stressful interaction with a complainant, senior managers should provide affected Council officers with the opportunity to debrief their concerns either formally or informally. Senior managers will also ensure that Council officers are provided with proper support and assistance including medical or police assistance, and if necessary, support through programs like the Employee Assistance Program.
- 4.4.3.3 Senior managers may also be responsible for arranging other forms of support for Council officers, such as appropriate communication or intercultural training.

4.5 Methods for responding to and managing UCC

4.5.1 Changing or restricting a complainant's access to Council services

4.5.1.1 UCC incidents will generally be managed by limiting or adapting the ways Council interacts with, or deliver services to, the complainant by restricting:

- i. **Who they have contact with** - limiting a complainant to a sole contact person or Council officer in our organisation.
- ii. **What they can raise with Council** - restricting the subject matter of communications that Council will consider and respond to.
- iii. **When they can have contact** - limiting a complainant's contact with Council to a particular time, day, length of time or curbing the frequency of their contact with Council.
- iv. **Where they can make contact** - limiting the locations where Council will conduct face-to-face interviews to secured facilities or areas of the office.
- v. **How they can make contact** - limiting or modifying the forms of contact that the complainant 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.

4.5.1.2 When using the restrictions provided in this section, Council recognises that discretion will need to be used to adapt the restrictions to suit a complainant'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.

4.6 Responding to and managing UCC

4.6.1 Who: limiting the complainant to a sole contact point

4.6.1.1 Where a complainant tries to forum-shop 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 officer (a sole contact point) who will manage their complaint(s) and interaction with Council. This may help ensure they are dealt with consistently and may minimise the incidence of misunderstandings, contradictions and manipulation.

4.6.1.2 To avoid officer 'burnout', the sole contact officer's supervisor will provide them with regular support and guidance as needed. The General Manager will also review the arrangement periodically to ensure that the officer is managing/coping with the arrangement.

4.6.1.3 Complainants who are restricted to a sole contact person will, however, be given the contact details of one additional Council officer 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.

4.6.2 What: restricting the subject matter of communication that Council will consider

4.6.2.1 Where complainants repeatedly send letters, emails or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content, or relate to an issue that has already been comprehensively considered or reviewed (at least once) by Council, Council may restrict the issues the complainant can raise with it. For example, Council may:

- i. 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 complainant 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'.
- ii. Restrict the complainant 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.
- iii. Return the correspondence to the complainant and require them to remove any inappropriate content before Council agrees to consider its contents. Council will also keep a copy of the inappropriate correspondence for its records to help identify repeat UCC incidents.

4.6.3 When and how: limiting when and how a complainant can contact Council

4.6.3.1 If a complainant's contact with Council places an unreasonable demand on its time or resources, or affects the health, safety and security of its officers because it involves behaviour that is persistently rude, threatening, abusive or aggressive, Council may limit when or how the complainant can interact with it. This may include:

- i. Limiting their telephone calls or face-to-face interviews to a particular time of the day or days of the week.
- ii. Limiting the length or duration of telephone calls, written correspondence or face-to-face interviews. For example: -
 - a. Telephone calls may be limited to 5 minutes at a time and will be politely terminated at the end of that time period.
 - b. Lengthy written communications may be restricted to a maximum of 5 typed or written pages, single sided, font size 12 or it will be sent back to the complainant to be organised and summarised. This option is only appropriate in cases where the complainant is capable of summarising the information and refuses to do so.
 - c. Limiting face-to-face interviews to a maximum of 15 minutes.
- iii. Limiting the frequency of their telephone calls, written correspondence or face-to-face interviews. Depending on the natures of the service(s) provided Council may limit:
 - a. Telephone calls to 1 every 2 weeks.
 - b. Written communications to 1 every 2 weeks.
 - c. Face-to-face interviews to 1 every 2 weeks.

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

- i. Require the complainant 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.
- ii. Restrict the frequency with which complainants can send emails or other written communications to Council.
- iii. Restrict a complainant to sending emails to a particular email account or block their email access altogether and require that any further correspondence be sent through Australia Post only.

4.6.4 'Writing Only' restrictions

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

- i. Australia Post only;
- ii. Email only to a specific Council officer's email or Council's general email account; or
- iii. Some other relevant form of written contact, where applicable.

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

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

4.6.5 Where: limiting face-to-face interviews to secure areas

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

These restrictions can include:

- i. Restricting access to particular secured premises or areas of Council such as the reception area or a secured room or facility.
- ii. Restricting their ability to attend Council premises to specified times of the day or days of the week only - for example, when additional security is available or to times or days that are less busy;
- iii. Allowing them to attend Council premises on an 'appointment only' basis, and only with specified officers; and
- iv. Banning the complainant from attending Council premises altogether and allowing some other form of contact, e.g., 'writing only' or 'telephone only' contact.

4.6.6 Contact through a representative

4.6.6.1 In cases where Council cannot completely restrict its contact with a complainant 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 someone nominated by the complainant, but they must be approved by the General Manager.

4.6.6.2 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 complainant. If the General Manager determines that the representative or support person may exacerbate the situation with the complainant, the complainant will be asked to nominate another person and Council may assist them in this regard.

4.6.7 Completely terminating a complainant's access to Council's services

4.6.7.1 In rare cases, and as a last resort, when all other strategies have been considered, the General Manager may decide that it is necessary for Council to completely restrict a complainant's contact or access to Council's services.

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

- i. Acts of aggression, verbal or physical abuse, threats of harm, harassment, intimidation, stalking, assault;
- ii. Damage to property while on Council premises;
- iii. Threats with a weapon or common office items that can be used to harm another person or themselves;
- iv. Physically preventing a Council Official from moving around freely either within their office or during an off-site visit – e.g., entrapping them in their home; and
- v. Conduct that is otherwise unlawful.

4.6.7.3 In these cases, the complainant will be sent a letter notifying them that their access has been restricted.

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

4.7 **Appealing a decision to change or restrict access to Council's services**

4.7.1 Right of Appeal

4.7.1.1 People who have their access changed or restricted are entitled to one appeal of a decision to change or restrict their access to Council's services. This review will be undertaken by a senior manager of Council who was not involved in the original decision to change or restrict the complainant's access. This officer will consider the complainant's arguments and personal circumstances, along with all relevant records regarding the complainant's past conduct. They will advise the complainant of the outcome of their appeal by letter, which must be signed off by the General Manager. The officer will then refer any materials or records relating to the appeal to the General Manager to be kept in the appropriate file.

4.7.1.2 If a complainant is still dissatisfied after the appeal process, they may seek an external review from an oversight agency such as the 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.

4.8 **Non-compliance with a change or restriction on access to Council's services**

4.8.1 Recording and reporting incidents of non-compliance

4.8.1.1 All Council Officials are responsible for recording and reporting incidents of non-compliance by complainants. This should be recorded in a file note and a copy forwarded to the General Manager who will decide whether any action needs to be taken to modify or further restrict the complainant's access to Council's services.

4.9 Periodic reviews of all cases where this policy is applied

4.9.1 Period for review

4.9.1.1 All cases where this policy is used will be reviewed every 3 months or 6 months (depending on the nature of the service provided) and not more than 12 months after the service change or restriction was initially imposed or upheld.

4.9.2 Notifying the complainant of an upcoming review

4.9.2.1 The General Manager will ask complainants if they would like to participate in the review process unless they determine that this invitation will provoke a negative response from the complainant (i.e., further UCC). The invitation will be given, and the review will be conducted in accordance with the complainant's access restrictions.

4.9.3 Criteria to be considered during a review

4.9.3.1 When conducting a review, the General Manager will consider:

- i. Whether the complainant has had any contact with Council during the restriction period;
- ii. The complainant's conduct during the restriction period;
- iii. Any information or arguments put forward by the complainant for review;
- iv. Any other information that may be relevant in the circumstances.

4.9.3.2 The General Manager may also consult any Council officers who have had contact with the complainant during the restriction period.

4.9.3.3 Sometimes a complainant 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 complainant 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.

4.9.4 Notifying a complainant of the outcome of a review

4.9.4.1 The General Manager will tell the complainant the outcome of their review using an appropriate method of communication, as well as a written letter explaining the outcome. The review letter will:

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

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

- i. Indicate the nature of the new or continued restriction;
- ii. State the duration of the new restriction period;
- iii. Provide the name and contact details of the General Manager who the complainant can contact to discuss the letter; and
- iv. Be signed by the General Manager.

4.9.5 Recording the outcome of a review and notifying relevant officers

4.9.5.1 The General Manager is responsible for keeping a record of the outcome of the review, updating the complainant's file and notifying all relevant officers of the outcome of the review including if the restriction has been withdrawn.

4.10 **Managing officers stress**

4.10.1 Officers reactions to stressful situations

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

4.10.3 Council has a responsibility to support Council officers who experience stress as a result of situations arising at work and Council will do its best to provide officers with debriefing and counselling opportunities, when needed. However, to do this Council also needs the help of all Council officers to identify stressful incidents and situations. All officers have a responsibility to tell relevant supervisors and senior managers about UCC incidents, and any other stressful incidents that they believe require senior management to be involved.

4.10.2 Debriefing

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

4.10.2.2 Officers may also access an external professional service if required through the Employee Assistance Program.

4.11 **Training and awareness**

4.11.1 Council is committed to ensuring that all Council Officials are aware of and know how to use this policy. All officers who deal with complainants in the course of their work will also receive appropriate training and information on using this policy and on managing UCC on a regular basis and, in particular, on induction.

5 **VARIATION**

5.1 Council reserves the right to vary the terms and conditions of this policy subject to a report to Council.

Revision History

Version	Adoption Date	Authorised by	Approved by	Revision Date
1	18/08/2022	General Manager	Council	18/08/2024

Change History

Version	Change Details
V1	Initial policy

Related Documents

Title

Forbes Shire Council Complaint Management Policy

Forbes Shire Council Complaint Management Procedures

Forbes Shire Council Work Health and Safety Policy

NSW Ombudsman's Managing unreasonable conduct by a complainant manual (3rd edition), including:

- i. Unauthorised entry onto agency premises – applying the provisions of the Enclosed Lands Protection Act 1901 (NSW)
- ii. Orders to address violence, threats, intimidation or stalking by complainants