



Policy 60 – Dealing with Unreasonable Customer Conduct

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Statutory Authority: - *Workplace Health and Safety Act 2012*
- *Local Government (Meeting Procedures) Regulations 2005*
- *Right to Information Act 2009*
- *Personal Information Protection Act 2004*

OBJECTIVE

The purpose of this policy is to provide guidance to staff and councillors on how to deal with and better manage unreasonable customer conduct. It aims to help staff and councillors:

- feel confident and supported in taking action to manage UCC
- act fairly, consistently, honestly and appropriately when responding to UCC
- understand their roles and responsibilities in relation to the management of UCC, and how this policy will be used
- understand the types of circumstances when it may be appropriate to manage UCC using one or more of the mechanisms outlined in this policy

SCOPE

This policy applies to all staff, councillors and all persons who interact with Council's staff and councillors.

DEFINITIONS

Customer means any person who has dealings with Council

Council means Dorset Council.

Unreasonable Customer Conduct (UCC) means any behaviour (physical or via electronic methods) by a person which, because of its nature or frequency, adversely impacts the health or safety of Council's staff, councillors, other service users or customer themselves, or the ability of Council to equitably

utilise its resources to provide services to the community. UCC includes the following, as defined in this policy:

- Unreasonable demands
- Unreasonable persistence
- Unreasonable arguments
- Unreasonable lack of cooperation
- Unreasonable behaviour

POLICY

1 INTRODUCTION

Council is committed to being accessible and responsive to all customers that it deals with and ensuring that all customers are treated fairly and reasonably in accordance with the Customer Service Charter. At the same time, Council's success depends upon:

- The ability to do work in the most efficient and effective ways possible
- The health, safety and security of staff and councillors
- The ability to allocate resources fairly across all the enquiries, requests and complaints that Council receives

When customers behave unreasonably, their conduct can significantly affect the successful conduct of staff and councillors work. Council will act proactively and decisively to manage any customer conduct that negatively affects staff, councillors or others and will support staff and councillors to do the same in accordance with this policy.

2 OVERARCHING PRINCIPLES

Council will give fair consideration to customer requests and dealings while ensuring that:

- investigating and resolving the customer's request does not excessively or unreasonably use Council's resources
- Council's response to complaints is proportionate to the circumstances, having regard to the resources of Council that are available to serve the community and to the principles of equity and fairness
- the health and safety of staff and councillors is protected and Council is meeting its duty of care obligations

In exchange, Council requires that customers:

- treat Council's staff and councillors with mutual respect
- respect the privacy and rights of other community members
- give Council accurate and complete information to work with
- work with Council to solve problems
- give Council feedback on how it can continue to improve its service

3 TYPES OF UCC

The following are examples of different types of UCC which will not be tolerated by Council. In particular, Council has a zero tolerance with regard to aggressive, intimidating, violent, abusive, humiliating or bullying behaviour towards staff and councillors. Council has a duty to ensure that as far as reasonably practicable it reduces the risk of such behaviour towards staff and councillors.

3.1 Unreasonable Behaviour

Unreasonable behaviour is conduct that is unreasonable in all circumstances, regardless of the situation, because it places the health, safety and security of staff, councillors or customers at risk. Examples of unreasonable behaviour include:

- violence and aggression such as behaviour that involves physical force or threats of physical force, yelling or intimidation
- displaying confronting behaviour such as rudeness, threats, discriminatory comments or harassment
- harassing behaviour (i.e. behaviour that is unwelcome or unsolicited, offensive, humiliating or intimidating and can relate to someone's personal characteristics)
- sending or posting rude, confronting or threatening correspondence
- making threats of self-harm
- making threats of harm to others
- displaying manipulative behaviour (e.g. overly ingratiating, tears or veiled threats)
- deliberately misrepresenting facts or circumstances relating to a complaint (including misquoting staff or councillors) publically or in dealings with staff and councillors

3.2 Unreasonable Demands

Unreasonable demands are any demands (expressed or implied) that are made by a customer, that have a disproportionate and unreasonable impact on Council's staff, councillors, services, time or resources. Some examples of unreasonable demands include:

- issuing instructions and making demands about a request or complaint, the priority it should be given, or the outcome that should be achieved
- insisting on talking to a senior manager or the General Manager personally where it is not appropriate or warranted and this has been 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 (e.g. asking for someone to be fired or prosecuted, or for an apology or compensation when there is no reasonable basis)

- demanding services that are of a nature or scale that cannot be provided, even after this has been explained to the customer repeatedly

3.3 Unreasonable Persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a customer that has a disproportionate and unreasonable impact on Council's staff, councillors, services, time or resources. Some examples of unreasonable persistence include:

- unwillingness or inability to accept reasonable and logical explanations, including final decisions that have been comprehensively considered and dealt with to finality
- 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 when it is not warranted and refusing to accept that further action cannot or will not be taken on service requests or complaints
- re-framing requests or complaints in an effort to get it taken up again
- multiple and repeated phone calls, visits, letters and emails after previously being asked not to do so
- contacting different people within Council or externally in order to achieve a different outcome or a more sympathetic response to their request or complaint (this may include excessive communications with councillors)

3.4 Unreasonable Arguments

Unreasonable arguments include any arguments that are not based on reason or logic, that are incomprehensible, false, inflammatory or trivial and that have a disproportionate and unreasonable impact on Council's staff, councillors, services, time or resources. Arguments are unreasonable when they:

- fail to follow a logical sequence that the customer is able to explain
- are not supported by any evidence or are based on conspiracy theories
- lead a customer to reject other valid and contrary arguments
- are trivial when compared to the amount of time, resources and attention that the customer demands
- are vexatious, false, inflammatory or defamatory

3.5 Unreasonable Lack of Cooperation

Unreasonable lack of cooperation is an unwillingness by a customer to cooperate with staff, councillors or Council's requests and complaints systems and processes which results in a disproportionate and unreasonable impact on Council's staff, councillors, services, time and resources. Some examples of unreasonable lack of cooperation include:

- sending a stream of complex, extensive or disorganised information without clearly defining the issues at hand or explaining how the material provided relates to the complaint or enquiry (when the customer is capable of doing this)
- providing little or no detail around the complaint or enquiry, presenting incomplete or insufficient information or not presenting information in the correct format
- refusing to follow or accept instructions, suggestions or advice without a clear or justifiable reason
- arguing that a particular solution is the correct one in the face of valid contrary arguments and explanations
- displaying unhelpful behaviour such as withholding information, acting dishonestly or misquoting others

4 ROLES AND RESPONSIBILITIES

4.1 Staff and Councillors

All staff and councillors are responsible for familiarising themselves with this policy as well as the expectations of Council and customers in accordance with Council's Policy 18 – Customer Service Charter. Staff and councillors are also encouraged to explain the contents of this document to customers, particularly those who engage in UCC or show early warning signs of UCC.

Staff are also encouraged and authorised to use the strategies and scripts provided at the Ombudsman Tasmania's website – see the *Managing Unreasonable Conduct by a Complainant Manual*.

Any strategies that change or restrict a customer's access to Council's services must be considered by the General Manager or their delegate in accordance with this policy.

Staff and councillors are also responsible for recording and reporting all UCC incidents they experience or witness to the General Manager or their delegate as soon as reasonably practicable after the incident occurs.

4.2 The General Manager

The General Manager, in consultation with relevant staff, has the responsibility and authority to change or restrict a customer's access to Council's services in the circumstances identified in this policy. When doing so the General Manager will consider any circumstances that are unique to the customer and will aim to impose any service changes or restrictions in the least restrictive ways possible.

Under this policy, the General Manager is able to delegate certain responsibilities to another senior manager, however the final decision regarding service limitation will always be a responsibility of the General Manager.

When applying this policy, the General Manager or their delegate will also aim to keep at least one open line of communication with a customer. However, in some extreme circumstances all forms

of contact may need to be restricted for some time to ensure the health, safety and security of staff, councillors and third parties.

4.3 Senior Managers and Other Leaders

All senior managers and other leaders are responsible for supporting staff to apply the strategies in this policy as well as those in the *Managing Unreasonable Conduct by a Complainant Manual* available on the Ombudsman Tasmania's website.

Senior managers and other leaders are also responsible for ensuring compliance with any relevant operational procedures and that all staff and councillors are trained to deal with UCC including during induction.

5 RESPONDING TO AND MANAGING UCC

Where the UCC is of a serious nature (such as threatening or abusive behaviour towards staff or councillors), Council will take whatever action available to it which is deemed appropriate in the circumstances. This may involve:

- calling the police
- directing a customer to immediately leave Council property
- reporting the behaviour to any other relevant authorities
- making an application for a restraint order

Council will otherwise generally manage UCC by restricting or adapting the ways in which Council interact with or deliver services to the customer.

5.1 Avoiding Misuse and Overuse of UCC Policy

This policy should be applied cautiously and sparingly and should never be seen as a quick solution for dealing with customers who are angry or frustrated, or who are regarded as being annoying or a nuisance. People who are making enquiries, raising concerns or complaints should be treated with respect regardless of their behaviour.

This policy must always take a customer's cultural and personal circumstances into account and should never be applied in ways that go beyond what is appropriate and necessary to manage a customer's conduct. The aim is not to punish the customer, but to manage the impacts of their conduct.

To guard against misuse or overuse of this policy, Council commits to having effective systems for:

- **Recording and reporting all UCC incidents** – this includes ensuring that staff are trained in appropriate and consistent record keeping practices and making available a system where UCC incidents can be easily reported, recorded and accessed.
- **Tracking and monitoring all uses of this policy** – the Administration Manager will be responsible for recording, tracking, monitoring and reviewing all uses of this policy to ensure that it is being applied consistently, appropriately and effectively and that cases are reviewed at appropriate intervals.

- **Reviewing this policy and relevant procedures regularly** – this policy and any relevant procedures should be reviewed regularly to ensure they are necessary, appropriate and effective for the circumstances.

5.2 Initial Response to UCC

Where an employee or councillor is interacting with a customer and believes that the customer is exhibiting UCC, the employee or councillor is encouraged to advise the customer of this and withdraw themselves from the interaction. The wellbeing and safety of staff and councillors is paramount and UCC will not be tolerated.

Following an interaction that is deemed UCC in accordance with this policy (whether or not that was able to be communicated to the customer by the employee or councillor at the time of the interaction), the General Manager or their delegate will initially provide the customer with a written warning about their conduct unless the customer's conduct is serious enough to warrant taking immediate action without first issuing a warning.

The written warning will:

- describe the date, time and general nature of the UCC
- identify which category of UCC the interactions falls under
- direct the customer to immediately stop engaging in UCC
- explain what will happen if the customer does not stop engaging in UCC as directed

This warning may also state that any further investigations into the matter will be undertaken at the customer's cost or include any other information that the General Manager or their delegate considers relevant.

5.3 Changing or Restricting a Customer's Access to Services

Where UCC remains ongoing despite warnings, or where the UCC may pose a risk to the health and safety of staff, councillors or others, the General Manager may change or restrict a customer's access to Council's services.

This will generally occur after a customer has failed to comply with a written warning, however where UCC is serious enough to warrant taking immediate action an initial written warning is not required.

Some examples of how access may be changed or restricted include:

- **who the customer has contact with:** limiting a customer to a sole contact person/staff member in Council
- **what issues the customer can raise when dealing with Council:** restricting the subject matter of communications that Council will consider and respond to
- **when the customer can have contact with Council:** limiting a customer's contact with staff or councillors to a particular time, day, or length of time, or curbing the frequency of their contact

- **where the customer can make contact:** limiting the locations where Council will conduct face-to-face interviews e.g. to secured facilities or areas of the office
- **how the customer can make contact:** limiting or modifying the forms of contact that the customer can have with Council e.g. written contact only

This list is not exhaustive and access will be changed or restricted by any means deemed necessary to protect the wellbeing and safety of staff, councillors and others. The General Manager or their delegate may conduct a risk assessment (or have a risk assessment conducted by an appropriate officer) to inform the General Manager's decision to change or restrict access to services.

The General Manager must advise the customer in writing of the restrictions that have been imposed and of their right to appeal the decision.

Discretion should be used to adapt the imposed change or restriction to suit a customer's personal circumstances such as level of competency, literacy skills, and the severity of the UCC. More than one strategy may be needed in some cases to ensure appropriateness and efficacy.

5.4 Completely Terminating a Customer's Access to Council's Services

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

A decision of this nature will only be made if it appears that the customer is unlikely to modify their conduct, or their conduct poses a significant risk for staff, councillors or other persons because it involves one or more of the following:

- Acts of aggression, verbal or physical abuse, threats of harm, harassment, intimidation, stalking or assault
- Damage to property while on Council's premises
- Threats with a weapon or common office items that can be used to harm another person or themselves
- Physically preventing an employee, councillor or other person from moving around freely either within their office or during an off-site visit (e.g. entrapping them in a public facility)
- Conduct that is otherwise unlawful

In these cases, the customer will be sent a letter notifying them that their access has been terminated. A customer's access to Council's services and premises may also be terminated (directly or indirectly) using legal mechanisms such as trespass laws or other legislation or legal orders as necessary to protect staff, councillors and other persons who access Council's services and premises.

5.5 Managing UCC at Meetings

Where an individual displays UCC at any meeting of staff or councillors (including Council meetings, stakeholder meetings, committee meetings or any other meeting conducted by or participated in

by staff or councillors), they may receive a warning that they will be asked to leave the meeting if the behaviour persists.

If the behaviour persists, the individual may be asked to leave the meeting. As the 'person in charge of the land' per Section 14b of the *Police Offences Act 1935*, the General Manager may ask the individual to leave the premises. The General Manager may also take other reasonable steps to remove the customer from the meeting, including requesting the assistance of Police if necessary.

Council's Policy 41 – Council Meeting Procedures sets out further information regarding Council's expectations of customers when attending Council Meetings.

5.6 Review Period

In each case where a decision has been made to change or restrict access to services, the General Manager or their delegate will review the case after the service change or restriction is imposed or continued.

The time period for the review will be at the discretion of the General Manager or their delegate but must not be more than 12 months. Restrictions may be extended indefinitely, provided the case is reviewed periodically and at least once every 12 months.

The customer will be advised in writing of the case review, invited to participate in the review (unless the General Manager or their delegate determine that this invitation will provoke a negative response from the customer) and provided with an explanation of the review outcome.

5.7 Incidents of Non-Compliance

All staff and councillors are responsible for recording and reporting instances of non-compliance by a customer who has had their access changed or restricted to the General Manager as soon as reasonably practicable after the instance.

The General Manager or their delegate will keep a record of any instances of non-compliance and the General Manager will consider whether any further changes or restrictions to the customer's access are required.

6 ALTERNATIVE DISPUTE RESOLUTION STRATEGIES

If an investigation into potential UCC demonstrates that:

- There has been conflict between a customer and staff or councillors but that conflict does not amount to UCC and therefore the modification or restriction of that customer's access would not be justified in accordance with this policy; or
- A contributing factor to the potential UCC was caused by Council;

then the General Manager or their delegate may consider using alternative dispute resolution strategies such as mediation and conciliation to resolve the conflict with the customer and attempt to rebuild a relationship with them. If alternative dispute resolution is considered to be an appropriate option in a particular case, it will be conducted by an independent third party to ensure transparency and impartiality.

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

7 RIGHT OF APPEAL

Customers 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. To submit an appeal, please write to Council at:

Dorset Council
PO Box 21
Scottsdale
Email: dorset@dorset.tas.gov.au

A review of the decision will be undertaken by a senior staff member who was not involved in the original decision to change or restrict the customer's access. The senior staff member will consider the customer's arguments and personal circumstances along with all relevant records regarding the customer's past conduct.

To ensure the safety and wellbeing of staff, councillors and others, any decision made by the General Manager to change or restrict access will continue for the duration of the appeal process. The customer will be advised in writing of the review and provided with an explanation of the outcome.

If a customer is not satisfied with the handling or outcome of their internal appeal, they may lodge a complaint with the Ombudsman. For more information on how to contact the Ombudsman, visit ombudsman.tas.gov.au/home/contact-us.

8 DOCUMENTATION AND REPORTING

Upon the initiation of a changed or restricted access scenario, the General Manager or their delegate will communicate the change or restriction to all councillors and relevant staff. Where appropriate, the General Manager or their delegate may also forward such advice to the Office of Local Government and/or the Ombudsman for their information.

The General Manager or their delegate will maintain records of any action taken under this policy including reported incidents of UCC, warnings issued, decisions made to change or restrict access in accordance with this policy, review outcomes and reported instances of non-compliance. The General Manager or their delegate will provide the Council with a report at least once per year of the number and nature of instances in which this policy has been applied.

9 TRAINING AND AWARENESS

Council is committed to ensuring that all staff and councillors are aware of and know how to use this policy. All staff and councillors who deal with customers in the course of their work or term of office will also receive appropriate training and information on using this policy and on managing UCC during induction and periodically after that.

REVIEW

This policy will be reviewed no more than 5 years after the date adopted or more frequently as required, including when any changes are made to any model policies that inform Council's policy.

OTHER ASSOCIATED DOCUMENTS

- Policy 18 - Customer Service Charter
- Policy 51 – Work Health and Safety Policy
- Policy 41 – Council Meeting Procedures
- Operational Customer Service Standards
- Managing Unreasonable Conduct by a Complainant – A Manual for Frontline Staff, Supervisors and Senior Managers (Australasian Parliamentary Ombudsman, 2021)

DOCUMENT INFORMATION

Version	Doc Ref	Date Reviewed	Author	Comments
V1	DOC/23/13650	20 November 2023	Lauren Tolputt	Policy established.