

POLICY NO**C1:33****POLICY TITLE UNREASONABLE COMPLAINANT CONDUCT**

VERSION I: Adopted 21 August 2019

Last reviewed: N/A

OBJECTIVE

This policy has been developed to assist all staff members to better manage unreasonable complainant conduct ('UCC'). Its aim is to ensure that all staff:

- Feel confident and supported in taking action to manage UCC.
- Act fairly, consistently, honestly and appropriately when responding to UCC.
- Are aware of 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
- Have a clear understanding of the criteria that will be considered before we decide to change or restrict a complainant's access to our services.
- Are aware of the processes that will be followed to record and report UCC incidents as well as the procedures for consulting and notifying complainants about any proposed actions or decisions to change or restrict their access to our services.

COUNCIL STATEMENT

This policy applies to all situations involving unreasonable complainant conduct experienced by staff of Dungog Shire Council.

POLICY STATEMENT**1. Statement of support**

Dungog Shire Council is committed to being accessible and responsive to all complainants who approach our office for assistance and/or with a complaint. At the same time the success of Council depends on:

- the ability to conduct work and perform functions in the most effective and efficient ways possible
- the health, safety and security of Council staff, and
- the ability to allocate resources fairly across all the complaints we receive.

When complainants behave unreasonably in their dealings with us, their conduct can significantly affect our success. As a result, Dungog Shire Council will take proactive and decisive action to manage any complainant conduct that negatively and unreasonably affects us and will support our staff to do the same in accordance with this policy.

2. Defining Unreasonable Complainant Conduct

2.1 Unreasonable complainant conduct

Most complainants who come to our office act reasonably and responsibly in their interactions with us, even when they are experiencing high levels of distress, frustration and anger about their complaint. However in a very small number of cases some complainants behave in ways that are inappropriate and unacceptable – despite our best efforts to help them. They are aggressive and verbally abusive towards our staff. They threaten harm and violence, bombard our offices with unnecessary and excessive phone calls and emails, make inappropriate demands on our time and our resources and refuse to accept our decisions and recommendations in relation to their complaints. When complainants behave in these ways we consider their conduct to be ‘unreasonable’.

Unreasonable complainant conduct (‘UCC’) 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 our organisation, our staff, other service users and complainants or the complainant himself/herself.

UCC can be divided into five categories of conduct:

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

2.2 Unreasonable persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a complainant that has a disproportionate and unreasonable impact on our organisation, staff, 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.
- 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 further action cannot or will not be taken on their complaints.
- Reframing a complaint in an effort to get it taken up again.
- Bombarding our staff/organisation with phone calls, visits, letters, emails (including cc'd correspondence) after repeatedly being asked not to do so.
- Contacting different people within our organisation and/or externally to get a different outcome or more sympathetic response to their complaint – internal and external forum shopping.

2.3 Unreasonable demands

Unreasonable demands are any demands (express or implied) that are made by a complainant that have a disproportionate and unreasonable impact on our organisation, staff, services, time and/or resources. Some examples of unreasonable demands include:

- Issuing instructions and making demands about how we have/should handle their complaint, the priority it was/should be given, or the outcome that was/should be achieved.
- Insisting on talking to a senior manager, General Manager or Mayor personally when it is not appropriate or warranted.
- Emotional blackmail and manipulation with the intention to guilt trip, intimidate, harass, shame, seduce or portray themselves as being victimised – when this is not the case.
- Insisting on outcomes that are not possible or appropriate in the circumstances – eg for someone to be sacked or prosecuted, an apology and/or compensation when no reasonable basis for expecting this.
- Demanding services that are of a nature or scale that we cannot provide when this has been explained to them repeatedly.

2.4 Unreasonable lack of cooperation

Unreasonable lack of cooperation is an unwillingness and/or inability by a complainant to cooperate with our organisation, staff, or complaints system and processes that results in a disproportionate and unreasonable use of our services, time and/or resources. Some examples of unreasonable lack of cooperation include:

- Sending a constant stream of comprehensive and/or disorganised information without clearly defining any issues of complaint or explaining how they relate to the core issues being complained about – only where the complainant is clearly capable of doing this.
- Providing little or no detail with a complaint or presenting information in 'dribs and drabs'.
- Refusing to follow or accept our instructions, suggestions, or advice without a clear or justifiable reason for doing so.
- Arguing frequently and/or with extreme intensity 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, misquoting others, and so forth.

2.5 Unreasonable arguments

Unreasonable arguments include any arguments that are not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or delirious and that disproportionately and unreasonably impact upon our organisation, staff, services, time, and/or resources. Arguments are unreasonable when they:

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

2.6 Unreasonable behaviour

Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated that a complainant is – because it unreasonably compromises the health, safety and security of our staff, other service users or the complainant himself/herself. Some examples of unreasonable behaviours include:

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

All staff should note that Dungog Shire 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 our duty of care and work health and safety responsibilities.

3. Roles and Responsibilities

3.1 All staff

All staff are responsible for familiarising themselves with this policy. Staff 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 for UCC.

Staff are also responsible for recording and reporting all UCC incidents they experience or witness (as appropriate) to the Public Officer within 24 hours of the incident occurring, using the Sample UCC incident form in Appendix A. A file note of the incident should also be copied into Council's Corporate Document Management System.

3.2 The Public Officer

The Public Officer, in consultation with relevant staff, has the responsibility and authority to change or restrict a complainant's access to our services in the circumstances identified in this policy. When doing so they will take into account the criteria below and will aim to impose any service changes/restrictions in the least restrictive ways possible. Their aim, when taking such actions will not be to punish the complainant, but rather to manage the impacts of their conduct.

When applying this policy the Public Officer will also aim to keep at least one open line of communication with a complainant. However, in extreme situations all forms of contact may need to be restricted for some time to ensure the health and safety and security of our staff and/or third parties.

The Public Officer 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.

3.3 Senior managers

All senior managers are responsible for supporting staff to apply the strategies in this policy.

Following a UCC and/or stressful interaction with a complainant senior managers are responsible for providing affected staff members with the opportunity to debrief and vent their concerns either formally or informally. Senior managers will also ensure that staff are provided with proper support and assistance including medical and/or police assistance and support through programs such as Employee Assistance Program (EAPS), if necessary.

4. Responding to and Managing UCC

4.1 Changing or restricting a complainant's access to our services

UCC incidents will generally be managed by limiting or adapting the ways that we interact with and/or deliver services to complainants by restricting:

- **Who they have contact with** – eg limiting a complainant to a sole contact person/staff member at Council.
- **What they can raise with us** – eg restricting the subject matter of communications that we will consider and respond to.
- **When they can have contact** – eg limiting a complainant's contact with our organisation to a particular time, day, or length of time, or curbing the frequency of their contact with us.
- **Where they can make contact** – eg limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office.
- **How they can make contact** – eg limiting or modifying the forms of contact that the complainant can have with us. This can include modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to our premises, contact through a representative only, taking no further action or terminating our services altogether.

When using the restrictions provided in this section we recognise that discretion will need to be used to adapt them to suit a complainant's personal circumstances, level of competency, literacy skills, etc. In this regard, we also recognise that more than one strategy may need to be used in individual cases to ensure their appropriateness and efficacy.

4.2 Who – limiting the complainant to a sole contact point

Where a complainant tries to contact multiple officers for a different response, changes their issues of complaint repeatedly, reframes their complaint, or raises an excessive number of complaints it may be appropriate to restrict their access to a single staff member (a sole contact point) who will exclusively manage their complaint(s) and interactions with Council. This may ensure they are dealt with consistently and may minimise the chances for misunderstandings, contradictions and manipulation.

Complainants who are restricted to a sole contact person will however be given the contact details of one additional staff member who they can contact if their primary contact is unavailable – eg they go on leave or are otherwise unavailable for an extended period of time.

4.3 What – restricting the subject matter of communications that we will consider

Where complainants repeatedly send written communications, letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content or relate to a complaint/issue that has already been comprehensively considered and/or reviewed (at least once) by Council, we may restrict the issues/subject matter the complainant can raise and that Council will respond to. For example, we may:

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

4.4 When – limiting when and how a complainant can contact us

If a complainant's telephone, written or face-to-face contact with Council places an unreasonable demand on Council time or resources because it is overly lengthy (eg disorganised and voluminous correspondence) or affects the health safety and security of Council staff because it involves behaviour that is persistently rude, threatening, abusive or aggressive, Council may limit when and/or how the complainant can interact with us. 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 (5) typed or written pages, single sided, font size 12 or it will be sent back to the complainant to be organised and summarised
 - Limiting face-to-face interviews to a maximum of (30) minutes.
- Limiting the frequency of their telephone calls, written correspondence or face-to-face interviews. Depending on the natures of the service(s) provided we may limit:
 - Telephone calls to (1) every two weeks
 - Written communications to (1) every two weeks
 - Face-to-face interviews to (1) every month.

For irrelevant, overly lengthy, disorganised or frequent written correspondence we may also:

- Require the complainant to clearly identify how the information or supporting materials they have sent to us relate to the central issues that we have identified in their complaint.
- Restrict the frequency with which complainants can send emails or other written communications to our office.

- Restrict a complainant to sending emails to a particular email account (eg the organisation's main email account) or block their email access altogether and require that any further correspondence be sent through post only.

Writing only restrictions

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

- Mail
- Email only to a specific staff email or our general Council email account
- Fax only to a specific fax number

If a complainant's contact is restricted to 'writing only', the Public Officer will clearly identify the specific means that the complainant can use to contact Council.

Any communications that are received by our office in a manner that contravenes a 'write only' restriction will either be returned to the complainant or read and filed without acknowledgement.

4.5 Where – limiting face-to-face interviews to secure areas

If a complainant is violent, aggressive, unreasonably disruptive, threatening or demanding Council may consider restricting our face-to-face contact with them.

These restrictions may include:

- Restricting access to particular secured premises or areas of the office – such as the reception area or secured room/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 on an 'appointment only' basis and only with specified staff.
- Banning the complainant from attending Council premises altogether and allowing some other form of contact – eg 'writing only' or 'telephone only' contact.

Contact through a representative only

In cases where we cannot completely restrict our contact with a complainant and their conduct is particularly difficult to manage, we may also restrict their contact to contact through a support person or representative only. The support person may be nominated by the complainant but must be approved by the Public Officer.

4.6 Completely terminating a complainant's access to our services

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

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 and/or their conduct poses a significant risk for our staff or other parties because it involves one or more of the following types of conduct:

- 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.
- Conduct that is otherwise unlawful.

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

A complainant's access to Council services and premises may also be restricted (directly or indirectly) using the legal mechanisms such as trespass laws/legislation or legal orders to protect members of our staff from personal violence, intimidation or stalking by a complainant.

5. Procedure to be Followed When Changing Or Restricting a Complainant's Access to Our Services

5.1 Consulting with relevant staff

When the Public Officer receives a UCC incident form from a staff member they will contact the staff member to discuss the incident. They will discuss:

- The circumstances that gave rise to the UCC/incident.
- The impact of the complainant's conduct on Council, relevant staff, time, resources, etc.
- The complainant's responsiveness to the staff member's warnings/requests to stop the behaviour.
- The actions the staff member has taken to manage the complainant's conduct, if any.
- The suggestions made by relevant staff on ways that the situation could be managed.

5.2 Criteria to be considered

Following a consultation with relevant staff the Public Officer will search TRIM for information about the complainant's prior conduct and history with Council. They 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 complainant's case has merit.
- The likelihood that the complainant 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 complainant's behaviour.
- Whether changing or restricting access to Council services will affect the complainant's ability to meet their obligations, such as reporting obligations.
- Whether changing or restricting access to Council services will have an undue impact on the complainant's welfare, livelihood or dependents etc.
- Whether the complainant's personal circumstances have contributed to the behaviour? For example, the complainant 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
 - substance or alcohol abuse.
- Whether the complainant's response/ conduct in the circumstances was moderately disproportionate, grossly disproportionate or not at all disproportionate.
 - Whether there any statutory provisions that would limit the types of limitations that can be put on the complainant's contact/access to our services.

Once the Public Officer has considered these factors they will decide on the appropriate course of action. They may suggest formal or informal options for dealing with the complainant's conduct which may include one or more of the strategies provided in this policy.

5.3 Providing a warning letter

Unless a complainant's conduct poses a substantial risk to the health and safety of Council staff or other third parties, the Public Officer will provide them with a written warning about their conduct in the first instance.

The warning letter will:

- Specify the date, time and location of the UCC incident.
- Explain why the complainant's conduct/ UCC incident is problematic.
- Identify the change and/or restrictions that will be imposed and what it means for the complainant.
- 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 the name and contact details of the senior officer who they can contact about the letter and/or request a review of the decision.
- Be signed by the General Manager.

5.4 Notifying relevant staff about access changes/restrictions

The Public Officer will notify relevant staff about any decisions to change or restrict a complainant's access to Council services, in particular reception and security staff in cases where a complainant is prohibited from entering Council premises.

The Public Officer will also update TRIM with a record outlining the nature of the restrictions imposed and their duration.

5.5 Continued monitoring/oversight responsibilities

Once a complainant has been issued with a warning letter or notification letter the Public Officer will review the complainant's restriction within 12 months and 6 months thereafter, or on request by a staff member, or following any further incidents of UCC that involve the particular complainant to ensure that they are complying with the restrictions/the arrangement is working.

If the Public Officer determines that the restrictions have been ineffective in managing the complainant's conduct or are otherwise inappropriate they may decide to either modify the restrictions, impose further restrictions or terminate the complainant's access to our services altogether.

6. Appealing a Decision to Change or Restrict Access to Our Services

6.1 Right of appeal

Complainants are entitled to one appeal of a decision to change/restrict their access to Council services. This review will be undertaken by a senior staff member who was not involved in the original decision to change or restrict the complainant's access. This staff member will consider the complainant's arguments 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 staff member will then refer any materials/records relating to the appeal to the Public Officer to be kept in the appropriate file.

If a complainant continues to be 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 have acted fairly, reasonably and consistently and have observed the principles of good administrative practice including, procedural fairness.

7. Non-Compliance with a Change or Restriction on Access to Council Services

7.1 Recording and reporting incidents of non-compliance

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

8. Periodic Reviews of All Cases where this Policy is Applied

8.1 Period for review

All UCC cases where this policy is applied will be reviewed every 12 months after the service change or restriction was initially imposed and every 6 months after the first review.

8.2 Notifying the complainant of an upcoming review

The Public Officer will invite all complainants to participate in the review process unless they determine that this invitation will provoke a negative response from the complainant (ie further UCC). The invitation will be given and the review will be conducted in accordance with the complainant's access restrictions (eg if contact has been restricted to writing only then the invitation to participate will be done in writing).

8.3 Criteria to be considered during a review

When conducting a review the Public Officer will consider:

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

The Public Officer may also consult any staff members who have had contact with the complainant during the restriction period.

8.4 Notifying a complainant of the outcome of a review

The Public Officer will notify the complainant of the outcome of their review using the appropriate/relevant method of communication as well as a written letter explaining the outcome, as applicable. The review letter will:

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

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 Public Officer who the complainant can contact to discuss the letter.
- Be signed by the General Manager.

8.5 Recording the outcome of a review and notifying relevant staff

Like all other decisions made under this policy, the Public Officer is responsible for keeping a record of the outcome of the review, updating Council's Electronic Document Management System and notifying all relevant staff of the outcome of the review including if the restriction has been withdrawn.

9. Managing Staff Stress

9.1 Staff reactions to stressful situations

Dealing with complainants who are demanding, abusive, aggressive or violent can be extremely stressful and at times distressing or even frightening for all Council staff – both experienced and inexperienced. It is perfectly normal to get upset or experience stress when dealing with difficult situations.

As an organisation, we have a responsibility to support staff members who experience stress as a result of situations arising at work and we will do our best to provide staff with debriefing and counselling opportunities, when needed. However, to do this we also need help of all Council staff to identify stressful incidents and situations. As a result, all staff have a responsibility to notify relevant supervisors/senior managers of UCC incidents and any stressful incidents that they believe require management involvement.

9.2 Debriefing

Debriefing means talking things through following a difficult or stressful incident. It is an important way of 'off-loading' or dealing with stress. Many staff members naturally do this with colleagues after a difficult telephone call, but debriefing can also be done with a supervisor or senior manager or as a team following a significant incident. We encourage all staff to engage in an appropriate level of debriefing, when necessary.

Staff may also access an external professional service on a needs basis. All staff can access the Employee Assistance Program – a free, confidential counselling service. Brochures about this service are available from the Human Resources Advisor.

10. Ombudsman May Request Copies of Council Records

Council will keep records of all cases where this policy is applied, including a record of the total number of cases where it is used every year. This data may be requested by the

Ombudsman to conduct an overall audit and review in accordance with its administrative functions and/or to inform its work on UCC.

Date Policy Adopted	Minute No	Authority
21 August 2019	38151	Council resolution