

Procedure name	Unreasonable Customer Conduct
Responsible manager(s)	General Manager
Contact officer(s)	Public Officer
Directorate	Corporate and Commercial Services
Approval date	7 September 2017
Outcome	9 Innovative and Proactive Leadership
Strategy	9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision 9.2 Ensure financial sustainability and support the organisation in achieving efficient ongoing operations
Delivery Program	9.1.2 Implement effective governance 9.2.1 Provide effective, friendly, customer service and information

Purpose

Eurobodalla Shire Council is committed to being accessible and responsive to all customers who approach Council for assistance or with a complaint. At the same time, the success of Council's organisation depends on:

- the ability to do its work and perform its functions in the most effective and efficient ways possible,
- the health, safety and security of Councillors and staff, and
- the ability to allocate resources fairly across all the customer interactions Council receives.

When customers behave unreasonably in their dealings with Council, their conduct can significantly affect successful outcomes. As a result, Council will take proactive and decisive action to manage any customer conduct that negatively and unreasonably affects its services to the community, and supports Councillors and staff to do the same in accordance with this procedure.

Aim

This procedure has been developed to better manage unreasonable customer conduct (UCC). The aim of this procedure is to ensure that all Councillors and 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 procedure will be used.
- Understand the types of circumstances when it may be appropriate to manage UCC using one or more of the following mechanisms:
 - The strategies provided in the NSW Ombudsman's *Managing Unreasonable Complainant Conduct Practice Manual (2nd edition)* ('practice manual') including strategies to change or restrict a customer's access to Council's services.
 - Alternative dispute resolution strategies to deal with conflicts involving customers and members of Council's organisation.
 - Legal instruments such as trespass laws/ legislation to prevent a customer from coming onto Council's premises; and orders to protect specific staff members from any actual or apprehended personal violence, intimidation or stalking.

- Have a clear understanding of the criteria that will be considered before Council decides to change or restrict a customer's access to Council's 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 customers about any proposed actions or decisions to change or restrict their access to Council's services.
- Are familiar with the procedures for reviewing decisions made under this procedure, including specific timeframes for review.

Procedure

1	<p>Application</p> <p>This Procedure applies to Eurobodalla Shire Council customers, including ratepayers, service users, community members, business owners, organisations, and other stakeholders who interact with the Council.</p>
2	<p>Compliance</p> <p>This procedure is based on the NSW Ombudsman's 2013 model policy, and is compliant with and supported by the following:</p> <ul style="list-style-type: none"> • Council's Work Health and Safety Policy and Complaints Policy • NSW Ombudsman's 'Managing unreasonable complainant conduct practice manual (2nd edition)' 2012 • Unauthorised entry onto agency premises – applying the provisions of the <i>Inclosed Lands Protection Act 1901</i> (NSW) • Orders to address violence, threats, intimidation and / or stalking by customers
3	<p>What is Unreasonable Conduct?</p> <p>The majority of customers act reasonably and responsibly in their interactions with Council, even if they are experiencing distress, frustration or anger about a particular matter. However in a very small number of cases, despite Council's best efforts to help them, some customers behave in ways that are inappropriate and unacceptable.</p> <p>They may be aggressive and verbally abusive towards Councillors and staff, threaten harm and violence, inundate Council's offices with unnecessary and excessive phone calls and emails, make inappropriate demands on Council's time and resources and/ or refuse to accept Council's decisions and recommendations in relation to their matter.</p> <p>When customers behave in these ways, Council considers their conduct to be 'unreasonable'.</p> <p>UCC can be divided into five categories of conduct:</p> <ul style="list-style-type: none"> • Unreasonable persistence • Unreasonable demands • Unreasonable lack of cooperation • Unreasonable arguments • Unreasonable behaviours
3.1	<p>Unreasonable Persistence</p> <p>Unreasonable persistence is continued, incessant and unrelenting conduct by a customer that has a disproportionate and unreasonable impact on Council's organisation, staff, services, time and/ or resources.</p> <p>Some examples of unreasonably persistent behaviour include:</p> <ul style="list-style-type: none"> • 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.

	<ul style="list-style-type: none"> • 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. • Inundate Council’s staff/ organisation with phone calls, visits, letters, e-mails (including cc’d correspondence) after repeatedly being asked not to do so. • Contacting different people within Council to obtain a different outcome or more sympathetic response to their complaint – known as internal or external ‘forum shopping’.
<p>3.2</p>	<p>Unreasonable demands</p> <p>Unreasonable demands are any demands (express or implied) that are made by a customer that have a disproportionate and unreasonable impact on Council’s organisation, staff, services, time and/ or resources.</p> <p>Some examples of unreasonable demands include:</p> <ul style="list-style-type: none"> • Issuing instructions and making demands about how Council has/ should handle their matter, the priority it was/ should be given, or the outcome that was/ should be achieved. • Insisting on talking to a senior manager, Director or the General Manager personally when it is not appropriate or warranted. • Emotional blackmail and manipulation with the intention to, intimidate, harass, shame, or portray themselves as being victimised when this is not the case. • Insisting on outcomes that are not possible or appropriate in the circumstances, e.g. someone to be sacked or prosecuted, and/ or compensation when there is no reasonable basis for expecting this. • Demanding services that are of a nature or scale that Council cannot provide when this has been explained to them repeatedly.
<p>3.3</p>	<p>Unreasonable lack of co-operation</p> <p>Unreasonable lack of cooperation is an unwillingness and/ or inability by a customer to cooperate with Council’s organisation, staff, policies, procedures, or customer service system, which results in a disproportionate and unreasonable use of Council’s services, time and/ or resources.</p> <p>Some examples of unreasonable lack of cooperation include:</p> <ul style="list-style-type: none"> • Sending a constant stream of irrelevant and/ or disorganised information without clearly defining any issues relating to the matter or explaining how they relate to the core issues to be addressed (where the customer is clearly capable of doing so) • Providing little or no information, evidence or detail to support a request, enquiry, claim, or complaint; withholding relevant information; or presenting 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 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.
<p>3.4</p>	<p>Unreasonable arguments</p> <p>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 Council’s organisation, staff, services, time, and/ or resources. Arguments are unreasonable when they:</p> <ul style="list-style-type: none"> • fail to follow a logical sequence

	<ul style="list-style-type: none"> • 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 • are false, inflammatory or defamatory.
<p>3.5</p>	<p>Unreasonable behaviour</p> <p>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’s staff, other service users or the customer himself/ herself. Some examples of unreasonable behaviours include:</p> <ul style="list-style-type: none"> • 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. <p>All Councillors and staff 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 procedure, any other relevant security policy/ procedure, and in accordance with Council’s duty of care and occupational health and safety responsibilities. Any threat of physical violent will be reported to the police.</p>
<p>4.</p>	<p>Responding to and Managing UCC</p> <p>Council will respond to and manage UCC incidents as follows:</p>
<p>4.1</p>	<p>Changing or restricting a customer’s access to Council services</p> <p>UCC incidents will generally be managed by limiting or adapting the ways that Council interacts with and/ or delivers services to customers by restricting:</p> <ul style="list-style-type: none"> • <u>Who</u> they have contact with – e.g. limiting a customer to a sole contact person/ staff member in Council’s organisation. • <u>What</u> matters they can raise – e.g. restricting the subject matter of communications that Council will consider and respond to. • <u>When</u> they can have contact – e.g. limiting a customer’s contact with Council to a particular time, day, or length of time, or curbing the frequency of their contact. • <u>Where</u> they can make contact – e.g. limiting the locations where Council will conduct face-to-face interviews to secured facilities or areas of the office. • <u>How</u> they can make contact – e.g. 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’s premises, contact through a representative only, taking no further action or terminating Council’s services altogether. <p>When using the restrictions provided in this section Council recognises that discretion will need to be used to adapt them to suit a customer’s personal circumstances, level of competency, literacy skills, etc. In this regard, Council also recognises that more than one strategy may need to be used in individual cases to ensure their appropriateness and efficacy.</p>

<p>4.2</p>	<p>Who – Limiting the customer to a Sole contact point</p> <p>Where a customer tries to ‘forum shop’ internally within Council’s organisation, 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 manage their complaint(s) and interactions with Council’s office.</p> <p>This will ensure they are dealt with consistently and may minimise the chances for misunderstandings, contradictions and manipulation.</p> <p>To avoid staff ‘burn out’ the sole contact officer’s supervisor will provide them with regular support and guidance as needed. Also, the Public Officer will review the arrangement every six months to ensure that the officer is managing/ coping with the arrangement.</p> <p>Customers 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 – e.g. they go on leave or are otherwise unavailable for an extended period of time.</p>
<p>4.3</p>	<p>What – Restricting the Subject Matter of Communications that Council Will Consider</p> <p>Where customers 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’s office, Council may restrict the issues/ subject matter the customer can raise / Council will respond to. For example, Council may:</p> <ul style="list-style-type: none"> • 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 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, it may do so on Council’s ‘own motion’. • Restrict the customer 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 customer 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 Council’s records to identify repeat/ further UCC incidents.
<p>4.4</p>	<p>When – limiting when and how a customer can contact Council</p> <p>If a customer’s telephone, written or face-to-face contact with Council’s organisation places an unreasonable demand on Council’s time or resources because it is overly lengthy (e.g. disorganised and voluminous correspondence) or affects the health safety and security of staff because it involves behaviour that is persistently rude, threatening, abusive or aggressive, Council may limit when and/ or how the customer can interact with the organisation. This may include:</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> ○ Telephone calls may be limited to [10] minutes at a time and will be politely terminated at the end of that time period. ○ Limiting face-to-face interviews to a maximum of [45] minutes. • 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: <ul style="list-style-type: none"> ○ Telephone calls to [1] every two weeks/ month.

- Written communications to [1] every two weeks/ month.
- Face-to-face interviews to [1] every two weeks/ month.
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For irrelevant, overly lengthy, disorganised or frequent written correspondence Council may also:

- Require the customer to clearly identify how the information or supporting materials they have sent 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's office.
- Restrict a customer to sending emails to a particular email account (e.g. the organisation'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

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

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

If a customer's contact is restricted to 'writing only', the Public Officer will clearly identify the specific means that the customer can use to contact Council's office (e.g. Australia Post only).

If it is not suitable for a customer to enter Council's premises to hand-deliver their written communication, this must be communicated to them as well.

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

4.5

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

If a customer is violent or overtly aggressive, unreasonably disruptive, threatening or demanding or makes frequent unannounced visits to Council's premises, Council may consider restricting 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's 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.
- Banning the customer from attending Council's premises altogether and allowing some other form of contact – e.g. 'writing only' or 'telephone only' contact.

Contact through a representative only

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

When assessing a representative/ support person's suitability, Public Officer should consider factors like: the nominated representative/ support person's competency and literacy skills, demeanour/ behaviour and relationship with the customer.

	<p>If the Public Officer determines that the representative/ support person may exacerbate the situation further, the customer will be asked to nominate another person or Council may assist them in this regard.</p>
<p>4.6</p>	<p>Terminating a customer’s access to Council’s services</p> <p>In rare cases, and as a last resort when all other strategies have been considered and/ or attempted, the General Manager may decide that it is necessary for Council to completely restrict a customer’s contact/ access to its services.</p> <p>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’s staff or other parties because it involves one or more of the following types of conduct:</p> <ul style="list-style-type: none"> • Acts of aggression, verbal and/ or physical abuse, threats of harm, harassment, intimidation, stalking, 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 a staff member from moving around freely either within their office or during an off-site visit – e.g. entrapping them in their home. • Conduct that is otherwise unlawful. <p>In these cases the customer will be sent a letter notifying them that their access has been restricted as outlined in Part 6.4 below. The Police will be notified of the circumstances listed above.</p> <p>A customer’s access to Council’s 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 Council’s staff from personal violence, intimidation or stalking by a customer. For more information, about the types of circumstances where legal mechanisms may be used to deal with UCC, please see:</p> <ul style="list-style-type: none"> • Unauthorised entry onto agency premises – applying the provisions of the <i>Inclosed Lands Protection Act 1901 (NSW)</i> • Orders to address violence, threats, intimidation and/ or stalking by customers.
<p>5.</p>	<p>Using alternative dispute resolution strategies to manage conflicts</p> <p>If the General Manager determines that Council cannot terminate its services to a customer in a particular case or that Council/ its staff bear some responsibility for causing or exacerbating their conduct, they may consider using alternative dispute resolution strategies (ADR) such as mediation and conciliation to resolve the conflict with the customer and attempt to rebuild the relationship with them. If ADR is considered to be an appropriate option in a particular case, the ADR will be conducted by an independent third party to ensure transparency and impartiality.</p> <p>However, Council recognise that in UCC situations, ADR 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.</p>
<p>6.</p>	<p>Changing or restricting a customer’s access to Council’s services</p> <p>The procedures to be followed when changing or restricting a customer’s access to Council’s services are as follows:</p>
<p>6.1</p>	<p>Consulting with relevant staff</p> <p>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:</p> <ul style="list-style-type: none"> • The circumstances that gave rise to the UCC/ incident.

	<ul style="list-style-type: none"> • The impact of the customer’s conduct on Council’s organisation, relevant staff, Council’s time, resources, etc. • The customer’s responsiveness to the staff member’s warnings/ requests to stop the behaviour. • Actions the staff member has taken to manage the customer’s conduct, if any. • Suggestions made by relevant staff on ways that the situation could be managed.
<p>6.2</p>	<p>Criteria to be considered</p> <p>Following a consultation with relevant staff the Public Officer will search the case management system for information about the customer’s prior conduct and history with the organisation. They will also consider the following criteria:</p> <ul style="list-style-type: none"> • 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’s services will be effective in managing the customer’s behaviour • Whether changing or restricting access to Council’s services will affect the customer’s ability to meet their obligations, such as reporting obligations • Whether changing or restricting access to Council’s services will 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 is a vulnerable person who is under significant stress as a result of one or more of the following: <ul style="list-style-type: none"> - homelessness - physical disability - illiteracy or other language or communication barrier - mental or other illness - personal crises - substance or alcohol abuse. • Whether the customer’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 customer’s contact/access to Council’s services. <p>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 customer’s conduct which may include one or more of the strategies provided in the practice manual and this procedure. See APPENDIX C – Sample checklist for Public Officer to consider when deciding to modify or restrict a customer's access.</p>
<p>6.3</p>	<p>Providing a warning letter</p> <p>Unless a customer’s conduct poses a substantial risk to the health and safety of staff or other third parties, the Public Officer will provide them with a written warning about their conduct in the first instance.</p> <p>The warning letter will:</p> <ul style="list-style-type: none"> • Specify the date, time and location of the UCC incident. • Explain why the customer’s conduct/ UCC 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, only those most relevant). • Provide clear and full reasons for the warning being given

	<ul style="list-style-type: none"> • Include an attachment of the organisation's ground rules and / or briefly state the standard of behaviour that is expected of the customer. See APPENDIX A. • Provide the name and contact details of the staff member who they can contact about the letter. • Be signed by the Public Officer or the General Manager.
<p>6.4</p>	<p>Providing a notification letter</p> <p>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 Public Officer has the discretion to send a notification letter immediately restricting the customer's access to Council's services (without prior written warning). This notification letter will:</p> <ul style="list-style-type: none"> • Specify the date, time and location of the UCC incident(s). • Explain why the customer's conduct/UCC incident(s) 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 the name and contact details of the senior officer who they can contact about the letter and/or request a review of the decision. <p>Be signed by the Public Officer or the General Manager.</p>
<p>6.5</p>	<p>Notifying relevant staff about access changes/restrictions</p> <p>The Public Officer will notify relevant staff about any decisions to change or restrict a customer's access to Council's services, in particular reception and security staff in cases where a customer is prohibited from entering Council's premises. The Public Officer will also update the case management system [and/or other centralised register/list] with a record outlining the nature of the restrictions imposed and their duration.</p>
<p>6.6</p>	<p>Continued monitoring/oversight responsibilities</p> <p>Once a customer has been issued with a warning letter or notification letter the Public Officer will review the customer's record/restriction every 3 months, on request by a staff member, or following any further incidents of UCC that involve the particular customer 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 customer's conduct or are otherwise inappropriate they may decide to either modify the restrictions, impose further restrictions or terminate the customer's access to Council's services altogether.</p>
<p>7.</p>	<p>Right of Appeal</p> <p>Customers are entitled to one appeal of a decision to change/ restrict their access to Council's services. This review will be undertaken by a senior staff member who was not involved in the original decision to change or restrict the customer's access. This staff member will consider the customer's arguments 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 staff member will then refer any materials/ records relating to the appeal to the Public Officer to be kept in the appropriate file.</p> <p>If a customer continues to be dissatisfied after the appeal process, they may seek an</p>

	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.
8.	Periodic Reviews Periodic reviews of Cases where this Procedure is applied will be conducted in accordance with the following.
8.1	Period for review All UCC cases where this Procedure is applied 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 continued/upheld.
8.2	Notifying the customer of an upcoming review The Public Officer will invite all customers to participate in the review process unless they determine that this invitation will provoke a negative response from the customer (i.e. further UCC). The invitation will be given and the review will be conducted in accordance with the customer's access restrictions (e.g. 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: <ul style="list-style-type: none"> • 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 • 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 customer during the restriction period. Note – Sometimes a customer may not have a reason to contact Council's office during their restriction period. As a result, a review decision that is based primarily on the fact that the customer has not contacted Council's organisation during their restriction period (apparent compliance with Council's restriction) may not be an accurate representation of their level of compliance/reformed behaviour. This should be taken into consideration, in relevant situations.
8.4	Notifying a customer of the outcome of a review The Public Officer will notify the customer 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: <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> ○ 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 or relevant officer who the customer can contact to discuss the letter. • Be signed by the Public Officer or General Manager.

8.5	<p>Recording the outcome of a review and notifying relevant staff</p> <p>Like all other decisions made under this procedure, the Public Officer is responsible for keeping a record of the outcome of the review, updating the case management system [or other centralised register/list] and notifying all relevant staff of the outcome of the review including if the restriction has been withdrawn.</p>
9	<p>Councillors and Staff Members Health, Safety and Security</p>
9.1	<p>Managing health and safety</p> <p>Dealing with customers who are demanding, abusive, aggressive or violent can be extremely stressful and at times distressing or even frightening for Councillors and staff – both experienced and inexperienced. It is perfectly normal to get upset or experience stress when dealing with difficult situations.</p> <p>As an organisation, Council has a health and safety responsibility to support Councillors and staff members who experience stress as a result of situations arising at work and will do its best to provide Councillors and staff with debriefing and counselling opportunities, as needed. The Employee Assistance Program is also available on a needs basis.</p>
9.2	<p>Compensation for damage to clothing or personal effects</p> <p>Where damage is suffered to clothing or personal effects as a result of aggression by a customer, compensation may be sought.</p>
9.3	<p>Threats outside the office or outside working hours</p> <p>Where threats are directed at a particular Councillor or staff member and it appears those threats may be carried out outside normal working hours or outside the office, the Councillor or staff member should contact the police immediately.</p>
9.4	<p>Other security measures</p> <p>If other security measures are necessary, Council will give consideration to providing all reasonable support to ensure the safety and welfare of the staff member.</p>

Implementation

Requirements		Responsibility
1	<p>Other Policies</p> <p>This procedure will be implemented in conjunction with Council's Customer Service, Complaints and other relevant policy and in accordance with its Customer Service Charter.</p>	Council Officers
2	<p>Ombudsman May Request Copies Of Records</p> <p>Council will keep records of all cases where this procedure is applied, including a record of the total number of cases where it is used every year.</p> <p>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.</p>	Public Officer NSW Ombudsman
3	<p>Recording and Reporting Incidents of non-compliance</p> <p>All Councillors & staff members are responsible for recording and reporting incidents of non-compliance by customers.</p> <p>This should be recorded in a file note in Council's Records Management System and a copy forwarded to the Public Officer who will decide</p>	Council officers Public Officer

	whether any action needs to be taken to modify or further restrict the customer's access to Council's services.	
4	Training and Awareness Council is committed to ensuring that all of its customers, Councillors and staff are aware of this procedure. All Councillors and staff who deal with customers and customers in the course of their work will also receive appropriate training and information on using this procedure and on managing UCC on a regular basis, in particular, on induction.	Community Councillors Council officers
5	Staff & Councillors Responsibilities Under supervision, applicable Council staff will be responsible for ensuring that this procedure is implemented appropriately within their work area, after they have received relevant training. All staff members have a responsibility to notify relevant supervisors/ senior managers of UCC incidents and any stressful incidents and situations that may require management involvement. Council encourages all staff to engage in an appropriate level of debriefing, when necessary. Many staff members naturally do this with colleagues after a difficult customer interaction, but debriefing can also be done with a supervisor, senior manager, or as a team following a significant incident. Councillors should notify the General Manager's office of any incidents of unreasonable customer conduct. Staff and Councillors may also access an external professional service on a needs basis. All staff can access the Employee Assistance Program – a free, confidential counselling service- via Organisation Development.	Council officers
6	Complaints Complaints received regarding this procedure will be recorded on Council's records system and handled in accordance with Council's Complaints Policy. They will be used to analyse the history of concerns and to help determine follow up actions.	Public Officer
7	Consultation Consultation regarding this procedure will occur with key stakeholders as relevant and may include legislative bodies, other relevant legislation, industry guidelines, and public comment.	As applicable

Review

This procedure will be reviewed every four years. It may also be reviewed and updated as necessary when legislation or the NSW Ombudsman requires it; or Council's functions, structure or activities change; or when technological advances or new systems change the way that Council manages its customers.

Reviews of the effectiveness of this procedure could include the following:

Performance indicator	Data source(s)
Concerns registered	Council records
Number of warnings and access restrictions	Council records
Customer Feedback Survey Responses	Surveys
Internal or external review	Audit

Governance

This procedure should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Related Council Policy or Code	www.esc.nsw.gov.au
Local Government Act 1993	www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/
Managing unreasonable complainant conduct - a model policy and procedure NSW Ombudsman 2012	www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/managing-unreasonable-complainant-conduct-a-model-policy-and-procedure

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au
NSW Ombudsman	www.ombo.nsw.gov.au

Supporting documents

Name	Link
Manual: Managing Unreasonable Complainant Conduct (2nd edition) NSW Ombudsman 2012	www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/unreasonable-complainant-conduct-manual-2012
Fact Sheet: Responding to Unreasonable Behaviour - Threats, Anger and Aggression NSW Ombudsman 2012	www.ombo.nsw.gov.au/news-and-publications/publications/fact-sheets/state-and-local-government/responding-to-unreasonable-behaviour-threats,-anger-and-aggression

Definitions

Word/ Term	Definition
ADR	Alternative Dispute Resolution. Strategies such as mediation or conciliation to resolve conflict and attempt to rebuild the relationship between parties.
Debriefing	Talking things through following a difficult or stressful incident. It is an important way of 'off-loading' or dealing with stress.
Forum Shopping	Contacting several different people internally within the organisation and/ or externally, in an attempt to get a different outcome or more sympathetic response to the same issue or complaint.
UCC	Unreasonable customer conduct - 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's organisation, staff, other service users and customers, or the customer himself/ herself.

Change history

Version	Approval date	Approved by	Min No	File No	Change
1	7 September	General	-	E06.0378	New Procedure drafted as per NSW

	2017	Manager			Ombudsman's Model (replaces previous codes of practice: 'Difficult Complainants' and 'Repetitive Complainants')
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Internal use

Responsible officer		General Manager		Approved by		General Manager	
Min no	N/A	Report no	N/A	Effective date	7 September 2017		
File No	E06.0378	Review date	September 2021	Pages	20		

APPENDIX A

Individual Rights and Mutual Responsibilities of the Parties to a Complaint

In order for Eurobodalla Shire Council to ensure that all customers are dealt with fairly, efficiently and effectively and that workplace health and safety standards and duty of care obligations are adhered to, the following rights and responsibilities must be observed and respected by all of the parties to the complaint process.

Part 1 Individual rights

Customers have the right:

- to make a complaint and to express their opinions in ways that are reasonable, lawful and appropriateⁱ
- to a reasonable explanation of the organisation's complaints procedure, including details of the confidentiality, and/or privacy rights or obligations that may apply
- to a fair and impartial assessment and, where appropriate, investigation of their complaint based on the merits of the case
- to a fair hearing
- to a timely response
- to be informed in at least general terms about the actions taken and outcome of their complaint
- to be given reasons that explain decisions affecting them
- to at least one right of review of the decision on the complaint
- to be treated with courtesy and respect
- to communicate valid concerns and views without fear of reprisal or other unreasonable response.

Staff have the right:

- to determine whether, and if so how, a complaint will be dealt with
- to finalise matters on the basis of outcomes they consider to be satisfactory in the circumstances
- to expect honesty, cooperation and reasonable assistance from customers
- to expect honesty, cooperation and reasonable assistance from organisations and people within jurisdiction who are the subject of a complaint
- to be treated with courtesy and respect
- to a safe and healthy working environmentⁱⁱ
- to modify, curtail or decline service (if appropriate) in response to unacceptable behaviour by a customer.

Subjects of a complaint have the right:

- to a fair and impartial assessment and, where appropriate, investigation of the allegations made against them
- to be treated with courtesy and respect by staff of the Council
- to be informed (at an appropriate time) about the substance of the allegations made against them that are being investigated
- to be informed about the substance of any proposed adverse comment or decision

- to be given a reasonable opportunity to put their case during the course of any investigation and before any final decision is made
- to be told the outcome of any investigation into allegations about their conduct, including reasons for any decision or recommendation that may be detrimental to them
- to be protected from harassment by disgruntled customers acting unreasonably.

Part 2 Mutual responsibilities

Customers are responsible for:

- treating Councillors and staff of the Council with courtesy and respect
- clearly identifying to the best of their ability the issues of complaint, or asking for help from the staff of the Council to assist them in doing so
- providing to the best of their ability the Council with all the relevant information available to them at the time of making the complaint
- being honest in all communications with the Council
- informing the Council of any other action they have taken in relation to their complaintⁱⁱⁱ
- co-operating with the staff who are assigned to assess/ investigate/resolve/determine or otherwise deal with their complaint.

If customers do not meet their responsibilities, Council may consider placing limitations or conditions on their ability to communicate with staff or access certain services.

Council has a zero tolerance policy in relation to any harm, abuse or threats directed towards its staff. Any conduct of this kind may result in a refusal to take any further action on a complaint or to have further dealings with the customer. Any such conduct of a criminal nature will be reported to police and in certain cases legal action may also be considered.

Staff are responsible for:

- providing reasonable assistance to customers who need help to make a complaint and, where appropriate, during the complaint process
- dealing with all complaints, customers and people or organisations the subject of complaint professionally, fairly and impartially
- giving customers or their advocates a reasonable opportunity to explain their complaint, subject to the circumstances of the case and the conduct of the customer
- giving people or organisations the subject of complaint a reasonable opportunity to put their case during the course of any investigation and before any final decision is made
- informing people or organisations the subject of investigation, at an appropriate time, about the substance of the allegations made against them and the substance of any proposed adverse comment or decision that they may need to answer or address
- keeping customers informed of the actions taken and the outcome of their complaints
- giving customers reasons that are clear and appropriate to their circumstances and adequately explaining the basis of any decisions that affect them
- treating customers and any people the subject of complaints with courtesy and respect at all times and in all circumstances
- taking all reasonable and practical steps to ensure that complainants ^{iv} are not subjected to any detrimental action in reprisal for making their complaint
- giving adequate warning of the consequences of unacceptable behaviour

If staff fail to comply with these responsibilities, customers may complain to the Public Officer or General Manager.

Subjects of a complaint are responsible for:

- cooperating with the staff of the [name of organisation] who are assigned to handle the complaint, particularly where they are exercising a lawful power in relation to a person or body within their jurisdiction
- providing all relevant information in their possession to Council or its authorised staff when required to do so by a properly authorised direction or notice
- being honest in all communications with Council and its staff
- treating the staff of Council with courtesy and respect at all times and in all circumstances
- refraining from taking any detrimental action against the customer in reprisal for them making the complaint.

If subjects of a complaint fail to comply with these responsibilities, action may be taken under relevant laws and/or codes of conduct.

Council is responsible for:

- having an appropriate and effective complaint handling system in place for receiving, assessing, handling, recording and reviewing complaints
- decisions about how all complaints will be dealt with
- ensuring that all complaints are dealt with professionally, fairly and impartially
- ensuring that staff treat all parties to a complaint with courtesy and respect
- ensuring that the assessment and any inquiry into the investigation of a complaint is based on sound reasoning and logically probative information and evidence
- finalising complaints on the basis of outcomes that the organisation, or its responsible staff, consider to be satisfactory in the circumstances
- implementing reasonable and appropriate policies/procedures/practices to ensure that customers are not subjected to any detrimental action in reprisal for making a complaint including maintaining separate complaint files and other operational files relating to the issues raised by individuals who make complaints
- giving adequate consideration to any confidentiality, and/or privacy obligations or responsibilities that may arise in the handling of complaints and the conduct of investigations.

If Council fails to comply with these responsibilities, customers may complain to the Public Officer or General Manager.

APPENDIX B - UCC incident form

This form should only be completed if you encounter unreasonable customer conduct and consider that steps may need to be taken to change or restrict a customer's access to services provide by the organisation.

You must complete this form and send it electronically or by hand to the Public Officer within 24 hours of a UCC incident. They will decide on the necessary and appropriate course of action for responding to and managing the customer's conduct.

Date: _____ Officer's name: _____

Name of Customer: _____

Customer's file or CSR number: _____

Details of the customer's conduct/incident including whether emergency services were contacted:

Why do you consider this conduct to be unreasonable?

For example – has it occurred before/repeatedly, caused significant disruptions to our organisation, has or could raise significant health and safety issues for our staff or other persons.

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

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

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

Note – the final decision on the appropriate course of action will be made by the *[nominated senior manager]*.

Is there any other information that might be relevant to this case?

If necessary, attach any supporting documentation.

APPENDIX C - Checklist to consider when deciding to modify or restrict a customer's access

- I have received a signed and completed incident form from the case officer(s) involved (attach copy).
- I have spoken with relevant case officer(s) to obtain further information, as needed.
- I have reviewed the customer's record and all the relevant information in it.
- I have referred to and considered [Part 6.2 Criteria to be considered](#) which includes an assessment of the following:

- The merits of the customer's case

- The customer's circumstances

- Jurisdictional issues

- Proportionality

- Organisational or case officer responsibility

- Responsiveness, including previous conduct

- Case officer's personal boundaries

- Conduct that is unreasonable in all circumstances (assault, threats of harm etc.)

- Along with the case officer concerned and *[any other nominated senior officers]*, I have considered all reasonable options for managing the customer's conduct, including those that do not involve restricting their access to our services.
- _____

- The customer has been warned about their conduct in writing, and the letter has been signed by the General Manager if applicable.
- The customer has been advised in writing of our decision to restrict their access to our organisation, and the letter has been signed by the General Manager if applicable.
- I have made a record of my assessment and decision about the customer's conduct and all relevant staff members have been notified of my decision.
- A file note has been created in *EASE* that notifies any staff dealing with this customer of the nature of the conduct that caused us to be concerned, the nature of the restriction that has been placed on their access, its duration, how they are to deal with the customer (including who they should direct any communications from the customer to).

Date: _____

Signature: _____

ⁱ Differences of opinion are normal: people perceive things differently, feel things differently and want different things. People have a right to their own opinions, provided those opinions are expressed in acceptable terms and in appropriate forums.

ⁱⁱ See for example WH&S laws and the common law duty of care on employers.

ⁱⁱⁱ For example whether they have made a similar complaint to another relevant person or body or have relevant legal proceedings at foot.

^{iv} 'Complainants' include whistle-blowers/ people who make internal disclosures.