
Cessnock City Council Unreasonable Customer Conduct (UCC) Policy

Date Adopted: **22/05/2023** Revision: **2**

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1. POLICY OBJECTIVES

This policy has been developed to assist all Council Officials to better manage Unreasonable Customer Conduct (**UCC**). Its aim is to ensure that all Council Officials follow the principles of Council's values and:

- 1.1. Feel confident and supported in taking action to manage UCC;
- 1.2. Act fairly, consistently, honestly and appropriately when responding to UCC;
- 1.3. Are aware of their roles and responsibilities in relation to the management of UCC and how this policy will be used;
- 1.4. Understand the types of circumstances when it may be appropriate to manage UCC;
- 1.5. Have a clear understanding of the criteria that will be considered before a decision to change or restrict a Customer's access to Council services or facilities;
- 1.6. 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 services or facilities; and
- 1.7. Are familiar with the procedures for reviewing decisions made under this policy, including specific timeframes for review.

2. POLICY SCOPE

This policy applies to all situations involving UCC experienced by Council Officials at Council premises and by Council Officials in the performance of their Official duties, whether or not this takes place at Council premises.

3. POLICY STATEMENT

- 3.1. Council is committed to being accessible and responsive to all customers who approach Council for assistance and/or with a complaint. At the same time the success of Council depends on:
 - 3.1.1. The ability to conduct work and perform functions in the most effective and efficient ways possible;
 - 3.1.2. The health, safety and security of Council Officials and third parties; and
 - 3.1.3. The ability to allocate resources fairly across all the complaints Council receives.
- 3.2. When Customers behave unreasonably in their dealings with Council, their conduct can significantly affect the organisation's success. As a result, Council will take proactive and decisive action to manage any Customer conduct that negatively and unreasonably affects Council and will support Council Officials to do the same in accordance with this policy and Council's UCC Guidelines.

4. DEFINING UNREASONABLE CUSTOMER CONDUCT

- 4.1. Most Customers who approach Council act reasonably and responsibly in their interactions with Council Officials, even when they are experiencing high levels of distress, frustration and anger about their complaint.
- 4.2. However, in a very small number of cases, some Customers behave in ways that are inappropriate and unacceptable – despite Council's best efforts to help them. These

Customers are aggressive and verbally abusive towards Council Officials. They threaten harm and violence, barrage Council's offices and Council Officials with unnecessary and excessive phone calls, written correspondence and online commentary, make inappropriate demands in terms of Council's response and resources, and refuse to accept Council's decisions and recommendations in relation to their complaints.

- 4.3. When Customers behave in these ways (and where there are no cultural factors that could reasonably explain their behaviour), Council considers their conduct to be 'unreasonable'.
- 4.4. Council has a zero tolerance policy towards any harm, abuse or threats directed towards Council Officials or third parties attending Council premises.
- 4.5. Any conduct of this kind will be dealt with under this policy and in accordance with Council's duty of care and work health and safety responsibilities.
- 4.6. Unreasonable conduct can be divided into five (5) categories of conduct:
 - 4.6.1. Unreasonable Persistence;
 - 4.6.2. Unreasonable Demands;
 - 4.6.3. Unreasonable Lack of Cooperation;
 - 4.6.4. Unreasonable Arguments;
 - 4.6.5. Unreasonable Behaviours.

Unreasonable Persistence

- 4.7. Unreasonable Persistence is continued, incessant and unrelenting conduct by a Customer that has a disproportionate and unreasonable impact on Council, Council Officials, Council services, the time and/or resources allocated to provide these services. Some examples of unreasonably persistent behaviour Customers can exhibit include:
 - 4.7.1. An unwillingness or inability to accept reasonable and logical explanations, including final decisions that have been comprehensively considered and dealt with (even if when it is evident the Customer does not understand the information provided).
 - 4.7.2. Persistently demanding a review simply because it is available, and without arguing or presenting a case for one.
 - 4.7.3. Pursuing and exhausting all available review options, when it is not warranted and refusing to accept that no further action will be taken on their complaints.
 - 4.7.4. Reframing a complaint in an effort to get it taken up again.
 - 4.7.5. Barraging Council Officials with phone calls, visits, letters, and emails (including Cc'd correspondence) after repeatedly being asked not to do so.
 - 4.7.6. Contacting different people within Council and/or externally to get a different outcome or more sympathetic response to their complaint (also referred as 'forum shopping').

Note: For more examples of, and strategies for managing, Unreasonable Persistence see pages 21 – 31 of the [NSW Ombudsman managing unreasonable conduct by a complainant: A manual for frontline staff, supervisors and senior managers \(2021\)](#).

Unreasonable Demands

4.8. Unreasonable demands are any demands (express or implied) that are made by a Customer that have a disproportionate and unreasonable impact on Council, Council Officials, Council services, time and/or resources allocated to deliver these services. Some examples of unreasonable demands or expectations of Council's responsibilities or capacity include:

- 4.8.1. Issuing instructions and making demands about how Council have to/should handle their complaint, the priority it was/should be given, or the outcome that was/should be achieved.
- 4.8.2. Insisting on talking to senior management, General Manager or the Mayor personally when it is not appropriate or warranted.
- 4.8.3. Emotional blackmail and manipulation resulting in, intimidation, harassment, shaming, seduction or portraying themselves as being victimised when this is not the case.
- 4.8.4. Insisting on outcomes that are not possible or appropriate in the circumstances – e.g. for someone to be sacked or prosecuted, for an apology and/or compensation when there is no reasonable basis for this.
- 4.8.5. Demanding services that are of a nature or scale that Council cannot provide even after this has been explained to them repeatedly.

Note: For more examples of, and strategies for managing, Unreasonable Demands see pages 32 – 45 of the [NSW Ombudsman Managing unreasonable conduct by a complainant: A manual for frontline staff, supervisors and senior managers \(2021\)](#).

Unreasonable Lack of Cooperation

4.9. Unreasonable lack of cooperation is an unwillingness and/or inability by a Customer to cooperate with Council, Council Officials, or the complaints system and processes that result in a disproportionate and unreasonable use of Council services, time and/or Council resources. Some examples of unreasonable lack of cooperation include:

- 4.9.1. Sending a constant stream of complex and/or disorganised information without clearly defining any issues or explaining how they relate to the core issues being complained about (where the Customer is clearly capable of doing this).
- 4.9.2. Providing little or no detail within their complaint or presenting information in 'drips and drabs'.
- 4.9.3. Refusing to follow or accept Council's instructions, suggestions, or advice without a clear or justifiable reason for doing so.
- 4.9.4. Arguing that a particular solution is the correct one in the face of valid contrary arguments and explanations.
- 4.9.5. Displaying unhelpful behaviour such as withholding information, acting dishonestly, misquoting others.

Note: For more examples of, and strategies for managing, Unreasonable Lack of Cooperation see pages 46 – 51 of the [NSW Ombudsman Managing unreasonable conduct by a complainant: A Manual for frontline staff, supervisors and senior managers \(2021\)](#).

Unreasonable Arguments

4.10. Unreasonable arguments include any arguments that are not based on any reason or logic, that are incomprehensible, false or inflammatory, trivial or delirious and that

disproportionately and unreasonably impact upon Council, Council Officials, services, time, and/or resources. Arguments are unreasonable when they:

- 4.10.1. fail to follow a logical sequence that the Customer is able to explain to staff;
- 4.10.2. are not supported by any evidence and/or are based on conspiracy theories;
- 4.10.3. lead a Customer to reject all other valid and contrary arguments;
- 4.10.4. are trivial when compared to the amount of time, resources and attention that the Customer demands;
- 4.10.5. are false, inflammatory or defamatory;
- 4.10.6. are expecting conclusions that are disproportionate reactions to the evidence;
or
- 4.10.7. suggest actions disproportionate to the evidence, and are not modified after reasonable attempts by Council Officials to clarify.

Note: For more examples of, and strategies for managing, Unreasonable Arguments see pages 52 – 59 of the [NSW Ombudsman Managing unreasonable conduct by a complainant: A manual for frontline staff, supervisors and senior managers \(2021\)](#).

Unreasonable Behaviour

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

- 4.11.1. acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks,
- 4.11.2. harassment, intimidation or physical violence,
- 4.11.3. rude, confronting or threatening correspondence,
- 4.11.4. threats of harm to self or third parties, threats with a weapon or threats to damage property including bomb threats,
- 4.11.5. stalking (in person or online), or
- 4.11.6. emotional manipulation.

Note: For more examples of, and strategies for managing, Unreasonable Behaviour see pages 60 – 72 of the [NSW Ombudsman Managing unreasonable conduct by a complainant: A manual for frontline staff, supervisors and senior managers \(2021\)](#).

5. RESPONDING TO AND MANAGING UNREASONABLE CUSTOMER CONDUCT

Changing or restricting a Customer's Access to Council Services or Facilities

- 5.1.** Incidents involving UCC will generally be managed by limiting or adapting the ways that Council interacts with and/or delivers services to Customers by restricting:
 - 5.1.1. Who they have contact with** – e.g. limiting a Customer to a sole contact person/Council Official.
 - 5.1.2. What they can raise with Council** – e.g. restricting the subject matter of communications that Council will consider and respond to.

- 5.1.3. **When 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 with Council.
 - 5.1.4. **Where 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.
 - 5.1.5. **How 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 premises, contact through a representative only, taking no further action or terminating Council services altogether.
- 5.2. When using the restrictions provided in this policy, Council recognises that discretion will need to be used to adapt them to suit a Customer’s personal circumstances, such as level of competency, literacy skills, and cultural background. In this regard, Council also recognises that more than one strategy may need to be used in individual cases to ensure their appropriateness and efficacy.

6. ALTERNATIVE DISPUTE RESOLUTION

- 6.1. If the Public Officer and the General Manager determine that Council’s services to a Customer in a particular case cannot be terminated or that Council Officials bear some responsibility for causing or exacerbating their conduct, they may consider using alternative dispute resolution (**ADR**) strategies such as mediation and conciliation to resolve the conflict with the Customer and attempt to rebuild the relationship with them.
- 6.2. 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.
- 6.3. However, Council recognises that in situations involving UCC, 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.

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

In accordance with the UCC Guideline, Customers have right to one appeal of a decision to change/restrict their access to Council services.

8. PERIODIC REVIEWS OF ALL INCIDENTS WHERE THIS POLICY IS APPLIED

All incidents where this policy is applied will be reviewed every 12 months after the service change or restriction was initially imposed or continued/upheld and every 6 months after the first review in accordance with the [UCC Guidelines](#).

9. ROLES AND RESPONSIBILITIES

All Council Officials

- 9.1. All Council Officials are responsible for familiarising themselves with this policy and the UCC Guidelines. Council Officials are also strongly encouraged to explain the

contents of these documents to all Customers particularly those who engage in UCC or exhibit the early warning signs of UCC.

- 9.2. Council Officials are also responsible for recording and reporting all incidents involving Unreasonable Customers they experience or witness, as appropriate, to the Public Officer in accordance with the UCC Guideline.

The General Manager

- 9.3. The General Manager is responsible for the implementation of this policy, overseeing the UCC process and ensuring that regular reports are provided to the elected Council as outlined in the UCC Guideline.
- 9.4. The General Manager is committed to ensuring that all Council Officials are aware of and know how to use this policy. All Council Officials who deal with Customers or Unreasonable Complainants will also receive appropriate training and information on using this policy and managing UCC on a regular basis and, in particular, on induction. This should include training to support culturally appropriate communication.

The Public Officer

- 9.5. The Public Officer, in consultation with relevant Council Officials and the General Manager, has the responsibility and authority to change or restrict a Customer's access to Council services in the circumstances identified in this policy and the UCC Guidelines. When doing so they will take into account the criteria outlined in the UCC Guidelines 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 Customer, but rather to manage the impacts of their conduct.
- 9.6. When applying this policy, the Public Officer will also aim to keep at least one open line of communication with a Customer. However, Council does recognise that in extreme situations all forms of contact may need to be restricted for some time to ensure the health and safety and security of Council Officials and/or third parties.
- 9.7. 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. They will also manage and keep a file record of all cases where this policy is applied.
- 9.8. The Public Officer has the discretion to make one or more restrictions as referred to in this policy and the UCC Guideline for the same incident or UCC.

Directors and Managers

- 9.9. All Directors and Managers are responsible for supporting Council Officials to apply the strategies in this policy and for ensuring compliance with the procedures identified in this policy and/or the UCC Guideline.
- 9.10. Following a stressful interaction with a Customer, including being exposed to an UCC, Directors and Managers are responsible for providing affected Council Officials with the opportunity to debrief and discuss their concerns either formally or informally.
- 9.11. Directors and Managers will also ensure that Council Officials are provided with proper training including on induction, support and assistance including medical and/or police assistance and support through programs such as the Employee Assistance Program (EAP), if necessary.
- 9.12. Directors and Managers may also be responsible for arranging other forms of support for staff, such as appropriate communication or intercultural training.

Records Management

- 9.13. Council Officials must maintain all records relevant to administering this policy in accordance with Council's Records Management Policy and in accordance with the *UCC Guidelines*.

Privacy and Personal Information Handling

- 9.14. The personal information collected in the process of dealing with difficult or Unreasonable Customers will be used to deal with such Customers, including imposing, reviewing or removing restrictions, reporting on UCC, related administrative functions, compliance and complaint handling, internal auditing, and in accordance with Council's [Privacy Management Plan](#) and [Privacy Statement](#).
- 9.15. The intended recipients of the personal information are Council Officials using it for the purposes outlined in clause 9.14.
- 9.16. The provision of personal information is voluntary however Council may not be able to process or deal with UCC if required personal information is not provided.
- 9.17. The personal information collected may be disclosed to other government agencies as well as outlined in clause 9.14, and/or other government agencies as required or required to deal with UCC.
- 9.18. Collected personal information will be kept in Council's Information Management System in accordance with the relevant legislation. Council's address is 62-78 Vincent Street CESSNOCK NSW 2325.
- 9.19. Individuals may access, correct or update their personal information by visiting Council's website, contacting Council's Privacy Contact Officer on 4993 4100 or by sending an email to council@cessnock.nsw.gov.au.

10. POLICY DEFINITIONS

Act	means the <i>Local Government Act 1993</i> (NSW).
Council	means Cessnock City Council.
Customer	A customer expressing dissatisfaction with Council policy, procedure, action or quality of service.
General Manager	A reference to the General Manager includes a reference to their delegate.
Public Officer	Council's delegated Public Officer under section 343 of the Act appointed by the General Manager, currently Director Corporate and Community Services. Council Officials acting in the role of Director Corporate and Community Services automatically assume the role of the delegate of the Public Officer during the acting period.
Unreasonable Arguments	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, Council Officials, services, time, and/or resources.
Unreasonable Demands	Any demands (express or implied) that are made by a Customer that have a disproportionate and unreasonable impact on Council, Council Officials, Council services, time and/or resources allocated to deliver these services.
Unreasonable Customer	A Customer that has been declared unreasonable in accordance with this policy due to their UCC.

<p>Unreasonable Customer Conduct (UCC)</p>	<p>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, Council Officials, other service users and Customers or the Customer.</p>
<p>Unreasonable Lack of Cooperation</p>	<p>An unwillingness and/or inability by a Customer to cooperate with Council, Council Officials, or complaints system and processes that results in a disproportionate and unreasonable use of Council services, time and/or Council resources.</p>
<p>Unreasonable Persistence</p>	<p>Continued, incessant and unrelenting conduct by a Customer that has a disproportionate and unreasonable impact on Council, Council Officials, Council services, time and/or resources allocated to deliver these services.</p>
<p>Violet, aggressive and threatening behaviour (VATB)</p>	<p>Violent, aggressive and threatening behaviour (VATB) is defined as “any incident in which a person is abused, threatened or assaulted in circumstances relating to their work”. This can include, but is not limited to, verbal and written abuse; threats; aggressive behaviour such as shouting, swearing or badgering; harassment such as derogatory comments; or physical attacks such as pushing or striking.</p>

11. POLICY ADMINISTRATION

Business Group	Corporate and Community Services
Responsible Officer	Public Officer
Associated Procedure	Unreasonable Customer Conduct Guidelines (DOC2018/027652) Unreasonable Customer Conduct Standard Operating Procedure (DOC2020/050669)
Policy Review Date	Three years from date of adoption unless legislated otherwise
File Number / Document Number	DOC2018/008730
Relevant Legislation (reference specific sections)	<ul style="list-style-type: none"> • <i>Government Information (Public Access) Act 2009</i> (NSW) • <i>Local Government Act 1993</i> (NSW) • <i>Ombudsman Act 1974</i> (NSW) ▪ <i>Work Health & Safety Act 2011</i> (NSW) ▪ Unauthorised entry onto agency premises – applying the provisions of the <i>Inclosed Lands Protection Act 1901</i> (NSW)
Relevant desired outcome or objectives as per Council's Delivery Program	Objective 1.3 - Promoting safe communities
Related Policies / Protocols / Procedures / Documents (reference document numbers)	<ul style="list-style-type: none"> ▪ Records Management Policy (DOC2019/038769) ▪ Unreasonable Customer Conduct Guidelines (DOC2018/027652) ▪ Code of Conduct (DOC2018/086716) ▪ Work Health and Safety Statement Policy ▪ Complaint Handling Policy (DOC2018/048382) ▪ Complaint Handling Procedure (DOC2019/123194) ▪ NSW Ombudsman Managing unreasonable conduct by a complainant: A manual for frontline staff, supervisors and senior managers (2021) ▪ UCC Register (DOC2020/005181 and DOC2019/090243) ▪ Individual Rights and Mutual Responsibilities of the Parties to a Complaint (2022)

12. POLICY AUTHORISATIONS

No.	Authorised Function	Authorised Business Unit / Role(s)
	Delegate authority to implement this policy and manage Council's UCC process.	General Manager
	Day to day management of Council's UCC Register.	Public Officer
	Responsibility and authority to change or restrict a Customer's access to Council services in the circumstances identified in this policy and the UCC Guidelines.	Public Officer
	Undertake a review, in accordance with this policy and the UCC Guideline, of the Public Officer's decisions to modify or restrict a Customer's access to Council services upon receipt of an appeals request	General Manager
	Responsibility for recording, monitoring and reviewing all cases where this policy is applied to ensure consistency, transparency and accountability for the application of this policy. They will also manage and keep a file record of all cases where this policy is applied.	Public Officer

13. POLICY HISTORY

Revision	Date Approved / Authority	Description Of Changes
1	18/09/2019	New policy adopted
2	22/05/2023	Periodic review

14. APPENDICES

- 14.1. Appendix A – Process Flow Diagram

Appendix A – Process Flow Diagram

[to be inserted after adoption of the policy]

https://cm.cessnock.nsw.gov.au/contentmanager?uri=3259561&t=record&lang=ln_english&mbd=false (DOC2022/179726)