



# **UNREASONABLE COMPLAINTS POLICY**

**DOCUMENT AUTHORISATION**

<b>RESPONSIBLE OFFICER:</b>		MANAGER OF GOVERNANCE, RISK AND CORPORATE PLANNING			
<b>REVIEWED BY:</b>		MANEX			
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General Manager

2/10/20  
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Date

## INTRODUCTION

Glen Innes Severn Council (Council) is committed to being accessible and responsive to all complainants who approach Council for assistance and/or with a complaint. At the same time, the success of Council depends on:

- the ability to complete work and perform necessary functions in the most effective and efficient ways possible;
- the health, safety and security of Council staff; and
- Council's ability to allocate resources fairly across all the complaints it receives.

When complainants behave unreasonably in their dealings with Council, their conduct can significantly affect Council's resources and service delivery. Consequently, Council will take proactive and decisive action to manage any complainant conduct that negatively and unreasonably affects Council and will support staff to do the same in accordance with this policy.

## APPLICABILITY

This policy and associated Unreasonable Complaints Procedures apply to all Glen Innes Severn Council staff when handling complaints.

## AIMS OF THE POLICY

This policy has been developed in association with the Unreasonable Complaints Procedure to assist all staff members to better manage **unreasonable complainant conduct (UCC)**.

The aims of the policy are 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 using one (1) or more of the following mechanisms:
  - the strategies provided in the NSW Ombudsman's Managing Unreasonable Complainant Conduct Practice Manual (2<sup>nd</sup> edition) ('practice manual') including the strategies to change or restrict a complainant's access to Council services;

- alternative dispute resolution strategies to deal with conflicts involving complainants and members of the organisation;
- legal instruments such as trespass laws / legislation to prevent a complainant from coming onto Council 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 complainant's access to Council 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 Council services; and
- are familiar with the procedures for reviewing decisions made under this Policy, including specific timeframes for review.

### **Defining Unreasonable Complainant Conduct**

Most complainants who come to Council act reasonably and responsibly in their interactions with staff, 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 Council's best efforts to help them. They are aggressive and verbally abusive towards staff. They threaten harm and violence, bombard Council offices with unnecessary and excessive phone calls and emails, make inappropriate demands on staff time and resources and refuse to accept Council's decisions and recommendations in relation to their complaints.

When complainants behave in these ways, Council considers 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 the organisation, staff, other service users and complainants or the complainant him / herself.

UCC can be divided into the following five (5) categories of conduct:

- unreasonable persistence;
  - unreasonable demands;
  - unreasonable lack of cooperation;
  - unreasonable arguments;
  - unreasonable behaviours.
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Further information on these categories can be found in Council's Unreasonable Complaints Procedures.

## **ROLES AND RESPONSIBILITIES**

### **All Staff**

All staff are responsible for familiarising themselves with this Policy and the Unreasonable Complaints Procedures. 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.

It must be emphasised that any strategies that effectively change or restrict a complainant's access to services must be reviewed and considered by the Public Officer or a higher staff member as provided in this Policy.

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. A file note of the incident should also be copied into **ECM** – subject *Unreasonable Complaints Register*.

### **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 Council services in the circumstances identified in this policy. When doing so, he or she will consider the relevant criteria and will aim to impose any service changes / restrictions in the least restrictive ways possible. The aim, when taking such actions, should 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 (1) open line of communication with a complainant. However, Council recognises 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 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 the Policy. They will also manage and keep a file record of all cases where this Policy is applied.

### **Directors and Managers**

All Directors and/or Managers are responsible for supporting staff to apply the strategies in this Policy and the associated procedures and Practice Manual.

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They are also responsible for ensuring compliance with the procedures identified in this policy and ensuring that all staff members are trained to deal with UCC, including during induction.

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

Depending on the circumstances, directors and / or managers may also be responsible for arranging other forms of support for staff, which are detailed in part 12 of the procedures.

## RESPONDING TO AND MANAGING UCC

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

- who the complainant has contact with;
- what the complainant can raise with Council;
- when the complainant can have contact;
- where the complainant can make contact;
- how the complainant can make contact.

When using these restrictions, Council recognises 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, Council also recognise that more than one (1) strategy may need to be used in individual cases to ensure their appropriateness and efficacy.

Further information on these restrictions can be found in the associated Unreasonable Complaints Procedures.

### Alternative Dispute Resolution

If the Public Officer and the General Manager determine that Council cannot terminate its services to a complainant in a particular case or that Council staff bear some responsibility for causing or exacerbating the conduct, Council may consider using **alternative dispute resolution (ADR)** strategies such as mediation and conciliation to manage or resolve the conflict with the complainant and attempt to rebuild a relationship with them. If ADR is an appropriate option, the ADR will be conducted by an independent third party to ensure transparency and impartiality.

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Council recognise that ADR may not always be an appropriate or effective strategy particularly if the complainant is uncooperative or resistant to compromise. Therefore, each case will be assessed on its own facts to determine the appropriateness of this approach.

### **Changing or Restricting a Complainant's Access to Council Services**

UCC incidents may result in changing or restricting a complainant's access to Council services. In such circumstances, the Public Officer will:

- consult with relevant staff;
- consider criteria for changing or restricting a complainant's access to Council services;
- provide a warning letter;
- in some cases, provide a notification letter;
- notify relevant staff about access changes / restrictions;
- monitor the complainant's records / restrictions.

Further information on changing or restricting a complainant's access to Council services can be found in the associated Unreasonable Complaints Procedures.

### **Non-Compliance with a Change or Restriction on Access to Council Services**

**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 **ECM** – subject *Unreasonable Complaints Register* 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.

### **Periodic Reviews of All Cases Where This Policy Is Applied**

All UCC cases where this Policy is applied will be reviewed every three (3) months to six (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.

The review process will involve:

- notifying the complainant of an upcoming review;
  - following the criteria to be considered during a review;
  - consulting with relevant staff;
  - notifying the complainant of the outcome of the review;
  - recording the outcome of a review and notifying relevant staff.
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Further information on the review process can be found in the associated Unreasonable Complaints Procedures.

### **Managing Staff Stress**

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

As an organisation, Council has a responsibility to support staff members who experience stress as a result of situations arising at work and Council will do its best to provide staff with debriefing and counselling opportunities, when needed.

To do this, Council needs the help of all staff to identify stressful incidents and situations. All staff have a responsibility to notify relevant supervisors / managers of UCC incidents and any stressful incidents that they believe require management's involvement. Council encourages all staff to engage in an appropriate level of debriefing, when necessary.

### **Training and Awareness**

Council is committed to ensuring that all staff are aware of and know how to use this policy. All staff who deal with complainants during their work will also receive appropriate training and information on using this Policy and managing UCC on a regular basis and on induction.

## **LEGISLATION AND SUPPORTING DOCUMENTS**

### **Relevant Legislation, Regulations and Industry Standards include:**

- NSW Ombudsman - Managing Unreasonable Complainant Conduct Practice Manual (2<sup>nd</sup> edition) – A manual for frontline staff, supervisors and senior managers.

### **Relevant Council Policies and Procedures including other Operational Policies, Plans and Information include:**

- Unreasonable Complaints Procedure.
  - Complaints Management Policy.
  - Procedure for Customer requests and Complaints;
  - Code of Conduct.
  - Work Health and Safety Policy.
  - Alternative Dispute Resolution Policy and Procedure.
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## **VARIATION AND REVIEW**

This Unreasonable Complaints Policy shall be reviewed every three (3) years, or earlier if deemed necessary, to ensure that it meets the requirements of legislation and the needs of Council. The term of this policy does not expire on the review date, but shall continue in force until superseded, rescinded or varied either by legislation or a new resolution of Council.

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