



# Managing Unreasonable Conduct by Complainants Policy



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## Leadership - Wingecarribee Community Strategic Plan 2041 –

Goal 1.1 -Ethical and trusted levels of government that work together in the best interests of the Shire

<b>Document Type</b>	Council Policy
<b>Document Reference No.</b>	281516
<b>Version No.</b>	2.0
<b>Council File Reference</b>	Policy - Organisation Wide Policies (CMGT)
<b>Adoption Date</b>	20 November 2024
<b>Resolution Number</b>	MN 2024/323
<b>Document Owner</b>	Manager Governance and Corporate Performance
<b>Responsible Branch</b>	Corporate Strategy and Resourcing
<b>Responsible Business Unit</b>	Governance and Corporate Performance
<b>Review Schedule</b>	4 years
<b>Review Date</b>	20 November 2028

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## 1 Objectives

The objective of the Policy are:

To assist all Council staff members to better manage unreasonable conduct by complainants (UCC). It aims to help staff:

- to feel confident and supported in taking action to manage UCC
- to act fairly, consistently, honestly, and appropriately when responding to UCC
- to understand their roles and responsibilities in relation to the management of UCC, and how this policy will be used
- to 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 'Managing unreasonable conduct by a complainant manual' (3rd edition) including the strategies to change or restrict a complainant's access to our services
  - alternative dispute resolution strategies to deal with conflicts involving complainants and members of our organisation
  - legal instruments such as trespass laws or other legislation to prevent a complainant from coming onto our premises, and orders to protect specific staff members from any actual or apprehended personal violence, intimidation, or stalking
- to understand the criteria we will consider before we decide to change or restrict a complainant's access to our services
- to be aware of the processes that will be followed to record and report UCC incidents, and the procedures for consulting and notifying complainants about any proposed action or decision to change or restrict their access to our services
- to understand the procedures for reviewing decisions made under this policy, including specific timeframes for review.

## 2 Policy Statement

Whilst Council respects the public's right to complain when they are dissatisfied with a Council service, a member of staff or the handling of a complaint it is expected and required that complainants behave in a manner that is neither threatening, abusive nor unreasonably persistent. This policy provides the framework to manage such behaviours.

## 3 Introduction

Wingecarribee Shire Council (Council) is committed to being accessible and responsive to all complainants who approach our office regardless of ethnic identity, national origin, religion, linguistic background, sex, gender expression, sexual orientation, physical ability or other cultural or personal factors. At the same time, the success of our office depends on:

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

When complainants behave unreasonably, their conduct can significantly affect the successful conduct of our work. Council will act proactively and decisively 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.

## 4 Process

### 4.1 Unreasonable conduct by complainants

Most complainants 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, despite our best efforts to help them, in a very small number of cases complainants display inappropriate and unacceptable behaviour. They can be aggressive and verbally abusive towards our staff, threaten harm and violence or bombard our offices with unnecessary and excessive phone calls and emails. They may make inappropriate demands on our time and resources or refuse to accept our decisions and recommendations in relation to their complaints. When complainants behave in these ways (and where there are no cultural factors that could reasonably explain their behaviour) we consider their conduct to be 'unreasonable'.

In short, unreasonable conduct by a complainant 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 themselves.

UCC can be divided into 5 categories of conduct:

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

### 4.2 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, 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 (even when it is evident the complainant does understand the information provided).
- 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, even after we have explained that a review is not warranted – and refusing to accept that we cannot or will not take further action on their complaint.
- Reframing a complaint in an effort to get it taken up again.
- Multiple and repeated phone calls, visits, letters, emails (including cc'd correspondence) after we have repeatedly asked them not to.
- Contacting different people within or outside our organisation to get a different outcome or a more sympathetic response to their complaint – this is known as internal and external 'forum shopping'.

### **4.3 Unreasonable demands**

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

- Issuing instructions and making demands about how to handle their complaint, the priority it should be given, or the outcome to be achieved.
- Insisting on talking to a senior manager or the General Manager personally when the reasons that this is not appropriate or warranted have been carefully explained to the complainant.
- Emotional blackmail and manipulation resulting in intimidation, harassment, shaming, seduction or portraying themselves as being victimised when this is not the case.
- Insisting on outcomes that are not possible or appropriate in the circumstances, for example asking for someone to be fired or prosecuted, or for an apology or compensation when there is no reasonable basis for this.
- Demanding services of a nature or scale that we cannot provide, even after we have explained this to them repeatedly.

### **4.4 Unreasonable lack of cooperation**

Unreasonable lack of cooperation is when a complainant is unwilling or unable to cooperate with us, our staff, or our complaints process – resulting in a disproportionate and unreasonable use of our services, time, or resources. Some examples of unreasonable lack of cooperation include:

- Sending us a constant stream of complex or disorganised information without clearly defining the issue at hand or explaining how the material provided relates to their complaint (where the complainant is clearly capable of doing this).
- Providing little or no detail around their complaint or providing information in 'drips and drabs'.
- Refusing to follow or accept our instructions, suggestions, or advice without a clear or justifiable reason for doing so.
- Arguing that a particular solution is the correct one in the face of valid contrary arguments and explanations.
- Unhelpful behaviour such as withholding information, acting dishonestly and misquoting others.

### **4.5 Unreasonable arguments**

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 our organisation, staff, services, time, or resources. Arguments are unreasonable when they:

- fail to follow a logical sequence that the complainant is able to explain to staff
- are not supported by any evidence 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.

### **4.6 Unreasonable behaviour**

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

- acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory

remarks

- harassment, intimidation, or physical violence
- rude, confronting, or 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 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, other relevant Council policies and in accordance with our duty of care and work health and safety responsibilities.

## **4.7 Responding to and managing UCC**

### **4.7.1 Changing or restricting a complainant's access to our services**

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

- **Who they have contact with** – limiting a complainant to a sole contact person or staff member in our organisation.
- **What they can raise with us** – restricting the subject matter of communications that we will consider and respond to.
- **When they can have contact** – 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** – limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office.
- **How they can make contact** – 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 provision of 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 such as level of competency, literacy skills, and cultural background. In this regard, we also recognise that more than one strategy may be needed in individual cases to ensure their appropriateness and efficacy.

### **4.7.2 Who: limiting the complainant to a sole contact point**

Where a complainant tries to forum-shop within our organisation, changes their issues of complaint repeatedly, constantly 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 interaction with our office. This may help ensure they are dealt with consistently and may minimise the incidence of misunderstandings, contradictions, and manipulation.

To avoid staff 'burnout', the sole contact officer's supervisor will provide them with regular support and guidance as needed. The Manager Governance and Corporate Performance will also review the arrangement every 6 months to ensure that the officer is managing/coping with the arrangement.



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 – for example if they go on leave or are otherwise unavailable for an extended period of time.

#### **4.7.3 What: restricting the subject matter of communications that we will consider**

Where complainants repeatedly send letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content, or relate to an issue that has already been comprehensively considered or reviewed (at least once) by our office, we may restrict the issues the complainant can raise with us. For example, we may:

- Refuse to respond to correspondence that raises an issue that has already been dealt with, that raises a trivial issue, or is not supported by evidence. The complainant will be advised that future correspondence of this kind will be read and filed without acknowledgement unless we decide that we need to pursue it further – in which case, we may do so on our 'own motion'.
- Restrict the complainant to one complaint or issue per month. Any attempts to circumvent this restriction (for example by raising multiple complaints or issues in the one letter) may result in modifications or further restrictions being placed on their access.
- Return the correspondence to the complainant and require them to remove any inappropriate content before we agree to consider its contents. We will also keep a copy of the inappropriate correspondence for our records to help identify repeat UCC incidents.

#### **4.7.4 When and how: limiting when and how a complainant can contact us**

If a complainant's contact with our organisation places an unreasonable demand on our time or resources, or affects the health, safety, and security of our staff because it involves behaviour that is persistently rude, threatening, abusive or aggressive, we may limit when 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 15 typed or written pages, single sided, font size 12 or it will be sent back to the complainant to be organised and summarised – This option is only appropriate in cases where the complainant is capable of summarising the information and refuses to do so.
  - 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 nature of the service(s) provided we may limit:
  - Telephone calls to 1 every 2 weeks/month.



### *Managing Unreasonable Conduct by Complainants Policy Draf.docx*

- Written communications to 1 every 2 weeks/month.
- Face-to-face interviews to 1 every 2 weeks/month.

For irrelevant, overly lengthy, disorganised or very 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 (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 complainant is restricted to 'writing only' they may be restricted to written communications through:

- Australia Post only
- Email only to a specific staff email or our general office email account
- Some other relevant form of written contact, where applicable.

If a complainant's contact is restricted to writing only, the Manager Governance and Corporate Performance will clearly identify the specific means that the complainant can use to contact our office (e.g., Australia Post only). If it is not appropriate for a complainant to enter our premises to hand deliver their written communication this must be communicated to them as well.

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

#### **4.7.5 Where: limiting face-to-face interviews to secure areas**

If a complainant is violent or overtly aggressive, unreasonably disruptive, threatening or demanding or makes frequent unannounced visits to our premises, we may consider restricting our face-to-face contact with them.

These restrictions can include:

- Restricting access to particular secured premises or areas of the office such as the reception area or a secured room or facility.
- Restricting their ability to attend our premises to specified times of the day or days of the week only – for example, when additional security is available or to times or days that are less busy.
- Allowing them to attend our office on an 'appointment only' basis, and only with specified staff (for these meetings, staff should enlist the support and assistance of a colleague for added safety and security.)
- Banning the complainant from attending our 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 we cannot completely restrict our contact with a complainant and their conduct is particularly difficult to manage, we may require them to contact us through a support person or representative only. The support person may be someone nominated by the complainant, but they must be approved by the Manager Governance and Corporate Performance.

When assessing a representative or support person's suitability, the Manager Governance and Corporate Performance should consider factors such as their level of competency and literacy skills, demeanour and behaviour, and relationship with the complainant. If the Manager Governance and Corporate Performance determines that the representative or support person may exacerbate the situation with the complainant, the complainant will be asked to nominate another person and we may assist them in this regard.

#### **4.7.6 Completely terminating a complainant's access to our services**

In rare cases, and as a last resort when all other strategies have been considered, the Manager Governance and Corporate Performance and the General Manager may decide that it is necessary for our organisation to completely restrict a complainant's contact or access to our 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, or their conduct poses a significant risk for our staff or other parties because it involves one or more of the following:

- Acts of aggression, verbal or physical abuse, threats of harm, harassment, intimidation, stalking, assault.
- Damage to property while on our 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.

In these cases, the complainant will be sent a letter notifying them that their access has been restricted as outlined in section 4.9.4 below.

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

## **4.8 Alternative Dispute Resolution (ADR)**

If the Manager Governance and Corporate Performance and the General Manager determine that we cannot terminate our services to a complainant in a particular case or that we or our staff bear some responsibility for causing or exacerbating their conduct, they may consider using alternative dispute resolution strategies (ADRs) such as mediation and conciliation to resolve the conflict with the complainant and attempt to rebuild our relationship with them. If an ADR is considered to be an appropriate option in a particular

case, it will be conducted by an independent third party to ensure transparency and impartiality.

However, we recognise that in UCC situations an ADR may not 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.

## **4.9 Procedure to be followed when changing or restricting a complainant's access to our services**

### **4.9.1 Consulting with relevant staff**

When the Manager Governance and Corporate Performance 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, including the complainant's situation, personal and cultural background, and perspective.
- The impact of the complainant's conduct on our organisation, relevant staff, our time, resources etc.
- The complainant's response to the staff member's warnings or requests to stop the unreasonable behaviour.
- What the staff member has done to manage the complainant's conduct (if applicable).
- Any suggestions made by relevant staff on ways that the situation could be managed.

### **4.9.2 Criteria to be considered**

Following a consultation with relevant staff the Manager Governance and Corporate Performance will search Council's electronic documents and records management system for information about the complainant's prior conduct and history with our organisation. 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 our services will be effective in managing the complainant's behaviour
- Whether changing or restricting access to our services will affect the complainant's ability to meet their obligations, such as reporting obligations.
- Whether changing or restricting access to our 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's cultural background may mean their communication patterns differ from those of our staff or our organisation's standards, or 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 or conduct was moderately disproportionate, grossly disproportionate, or not at all disproportionate in the circumstances.
  - Whether there are any statutory provisions that would limit the types of limitations that can be applied to the complainant's contact with, or access to our services.

Once the Manager Governance and Corporate Performance has considered these criteria, 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.

#### **4.9.3 Providing a warning letter**

Unless a complainant's conduct poses a substantial risk to the health and safety of staff or other third parties, the Manager Governance and Corporate Performance will provide them with a written warning about their conduct in the first instance. If the complainant is unable to read the letter, it will be followed/accompanied by a telephone call, using an interpreter if necessary. The warning letter will:

- Specify the date, time, and location of the UCC incident(s).
- Explain why the complainant'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 but only those that are most relevant).
- Provide clear and full reasons for the warning being given
- Include an attachment of the organisation's ground rules and/or briefly state the standard of behaviour that is expected of the complainant. See Attachment 1 - Individual rights and mutual responsibilities of parties to a complaint.
- Provide the name and contact details of the staff member who they can contact about the letter.
- Be signed by the Manager Governance and Corporate Performance

#### **4.9.4 Providing a notification letter**

If a complainant'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 Manager Governance and Corporate Performance has the discretion to send a notification letter immediately restricting the complainant's access to our services (without prior or further written warning). If the complainant is unable to read the letter (due to literacy issues, non-English speaking, etc.) the letter will be followed or accompanied by a telephone call, using an interpreter if necessary.

This notification letter will:

- Specify the date, time, and location of the UCC incident(s).
- Explain why the complainant's conduct is problematic.

- Identify the change and/or restriction 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 Manager Governance and Corporate Performance.

#### **4.9.5 Notifying relevant staff about access changes/restrictions**

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

The Manager Governance and Corporate Performance will also update Council's electronic documents and records management system with a record outlining the nature of the restriction imposed and its duration.

#### **4.9.6 Continued monitoring/oversight responsibilities**

Once a complainant has been issued with a warning letter or notification letter the Manager Governance and Corporate Performance will review the complainant's record/restriction every 3 months, 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 Manager Governance and Corporate Performance 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.

### **4.10 Appealing a decision to change or restrict access to our services**

People who have their access changed or restricted are entitled to one appeal of a decision to change or restrict their access to our 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 and personal circumstances, including cultural background, 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 or records relating to the appeal to the Manager Governance and Corporate Performance to be kept in the appropriate file.

If a complainant is still 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 we have

acted fairly, reasonably, and consistently and have observed the principles of good administrative practice, including procedural fairness.

#### **4.11 Non-compliance with a change or restriction on access to our services**

All staff members are responsible for recording and reporting incidents of non-compliance by complainants. This should be recorded in a file note in Council's electronic and records management system and a copy forwarded to the Manager Governance and Corporate Performance who will decide whether any action needs to be taken to modify or further restrict the complainant's access to our services.

#### **4.12 Periodic reviews of all cases where this policy is applied**

##### **4.12.1 Period for review**

All cases where this policy is used 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 upheld.

##### **4.12.2 Notifying the complainant of an upcoming review**

The Manager Governance and Corporate Performance will ask complainants if they would like to participate in the review process unless they determine that this invitation will provoke a negative response from the complainant (i.e., further UCC). The invitation will be given, and the review will be conducted in accordance with the complainant's access restrictions.

##### **4.12.3 Criteria to be considered during a review**

When conducting a review, the Manager Governance and Corporate Performance 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 or arguments put forward by the complainant for review.
- Any other information that may be relevant in the circumstances.

The Manager Governance and Corporate Performance may also consult any staff members who have had contact with the complainant during the restriction period.

Sometimes a complainant may not have a reason to contact our office during their restriction period. As a result, a review decision that is based primarily on the fact that the complainant has not contacted our organisation during their restriction period may not be an accurate representation of their level of compliance/reformed behaviour. This should be taken into consideration, in relevant situations.

##### **4.12.4 Notifying a complainant of the outcome of a review**



The Manager Governance and Corporate Performance will tell the complainant the outcome of their review using an appropriate method of communication, as well as a written letter explaining the outcome. The review letter will:

- Briefly explain the review process.
- Identify the factors that have been considered during the review.
- Explain the decision or 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 Manager Governance and Corporate Performance who the complainant can contact to discuss the letter.
- Be signed by the Manager Governance and Corporate Performance

#### **4.12.5 Recording the outcome of a review and notifying relevant staff**

The Manager Governance and Corporate Performance is responsible for keeping a record of the outcome of the review, updating Council's electronic documents and records management system and notifying all relevant staff of the outcome of the review including if the restriction has been withdrawn.

See sections 3.9.5 above and 5.2 below

### **4.13 Managing staff stress**

#### **4.13.1 Staff reactions to stressful situations**

Dealing with demanding, abusive, aggressive, or violent complainants can be extremely stressful, distressing and even frightening for our staff. It is perfectly normal to get upset or stressed 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 the help of all Council staff to identify stressful incidents and situations. All staff have a responsibility to tell relevant supervisors and senior managers about UCC incidents, and any other stressful incidents that they believe require management to be involved.

#### **4.13.2 Debriefing**

Debriefing means talking things through following a difficult or stressful incident. It is an important way of dealing with stress. Many staff do this naturally with colleagues after a difficult telephone call, but staff can also debrief 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 if required. All staff can access the LifeWorks Employee Assistance Program (a free, confidential counselling service) on 1300 361 008.

#### **4.14 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 in the course of their work will also receive appropriate training and information on using this policy and on managing UCC on a regular basis and, in particular, on induction. This should include training to support culturally appropriate communication

## **5 Responsibilities**

### **5.1 Councillors**

Councillors shall be aware of this policy and consider any amendments and reviews when reported to Council.

### **5.2 Executive**

The Executive shall:

- Ensure that the policy is reviewed every two (2) years and that all relevant staff are aware and trained in the requirements of the policy
- Ensure that all complainants are dealt with fairly and in a non-discriminatory way as per the requirements of the policy

### **5.3 Manager Governance and Corporate Performance**

The Manager Governance and Corporate Performance and Community, 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 consider the criteria in section 4.9.2 above and will aim to impose any service changes or 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 Manager Governance and Corporate Performance will also aim to keep at least one open line of communication with a complainant. However, we do recognise that in extreme situations all forms of contact may need to be restricted for some time to ensure the health, safety, and security of our staff or third parties.

The Manager Governance and Corporate Performance 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 manage and keep a file record of all cases where this policy is applied.

The Manager Governance and Corporate Performance shall provide guidance to Councillors, Executive and other Council staff as to the content and implementation of this Policy;

- ensure the timely review of this Policy; and

- assist in investigations of alleged non-compliance with this policy and conduct investigations into alleged non-compliance with this Policy Managers

## **5.4 Managers**

All managers are responsible for supporting staff to apply the strategies in this policy, as well as those in the manual. Managers are also responsible for ensuring compliance with the procedures outlined in this policy, and that all staff members are trained to deal with UCC – including on induction. After a stressful interaction with a complainant, managers should provide affected staff members with the opportunity to debrief their concerns either formally or informally. Managers will also ensure that staff are provided with proper support and assistance including medical or police assistance, and if necessary, support through programs like the Employee Assistance Program. Managers may also be responsible for arranging other forms of support for staff, such as appropriate communication or intercultural training.

## **5.5 Council staff**

All staff are responsible for familiarising themselves with this policy as well as the Individual Rights and Mutual Responsibilities of the Parties to a Complaint document at Attachment 1. 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 of UCC.

Staff are also encouraged and authorised to use the strategies and scripts provided at the NSW Ombudsman’s website – see Part 2 of the Managing unreasonable conduct by a complainant Manual (3rd edition):

- Strategies and scripts for managing unreasonable persistence
- Strategies and scripts for managing unreasonable demands
- Strategies and scripts for managing unreasonable lack of cooperation
- Strategies and scripts for managing unreasonable arguments
- Strategies and scripts for managing unreasonable behaviours

Any strategies that change or restrict a complainant’s access to our services must be considered at the Group Manager Corporate or Community level or higher as provided in this policy.

Staff are also responsible for recording and reporting all UCC incidents they experience or witness (as appropriate) to the Manager Governance and Corporate Performance within 24 hours of the incident occurring. A file note of the incident should also be copied into Council’s electronic documents and records management system.

## **6 Performance Measures**

The success of this Policy will be measured by:

- the number of cases of unreasonable complainant conduct that are addressed by Council in accordance with this Policy; and
- reporting of feedback is actively considered in Executive and Council decision making.

## 7 Definitions

### **unreasonable complainant conduct -**

any behaviour by a complainant which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the people involved in the complaint process.

## 8 Related Material

### **8.1 Related Legislation**

The following legislative materials are related to this Policy:

- Government Information (Public Access) Act 2009;
- Local Government Act 1993;
- Privacy and Personal Information Protection Act 1998; and
- Work Health and Safety Act 2011

### **8.2 Related Documents**

The following documents are related to this Policy:

- Code of Conduct;
- Customer Service Charter;
- Complaints and Feedback Management Policy;
- Complaints and Feedback Management Procedure;
- Customer Service Strategy 2016-2020;
- NSW Ombudsman Complaint Handling Model Policy;
- NSW Ombudsman Complaint Management Framework;
- NSW Ombudsman Effective Complaint Handling Guidelines;
- NSW Ombudsman Managing Unreasonable Conduct by a Complainant: A Manual for Frontline Staff, Supervisors and Senior Managers;
- NSW Ombudsman Unreasonable Complainant Conduct Model Policy;
- Privacy Code of Practice for Local Government;
- Privacy Management Plan; and
- Procedures for the Administration of the Code of Conduct

## 9 Non-compliance with this Policy

Non-compliance with this Policy should be reported to Manager Governance and Corporate Performance who will investigate and determine the appropriate course of action.

## 10 Document Control

### **10.1 Version Control**

Version	Adoption Date	Notes
1.0	15 June 2022	Initial adoption of the policy
2.0	20 November 2024	Transfer of original policy onto the latest policy template updating reference to staff positions and documentation dates

## 11 Attachments

1. Individual rights and mutual responsibilities of the parties to a complaint

### **Approved by:**

**WINGECARRIBEE SHIRE COUNCIL**

20 November 2024

## Attachment 1

### **Individual Rights and Mutual Responsibilities of the Parties to a Complaint**

In order for Council to ensure that all complaints are dealt with fairly, efficiently and effectively and that occupational 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.

#### **Individual rights**

##### **Complainants have the right:**

- to make a complaint and to express their opinions in ways that are reasonable, lawful and appropriate
- to a reasonable explanation of the organisation's complaints procedure, including details of the confidentiality, secrecy 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 or 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 or 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 complainants
- 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 environment
- to modify, curtail or decline service (if appropriate) in response to unacceptable behaviour by a complainant.

##### **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 Council staff
- 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 the reasons for any decision or recommendation that may be detrimental to them
- to be protected from harassment by disgruntled complainants acting unreasonably

## **Mutual responsibilities**

### **Complainants are responsible for:**

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

If complainants 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 complainant. 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 complainants who need help to make a complaint and, where appropriate, during the complaint process
- dealing with all complaints, complainants and people or organisations the subject of complaint professionally, fairly and impartially
- giving complainants or their advocates a reasonable opportunity to explain their complaint, subject to the circumstances of the case and the conduct of the complainant
- 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 complainants informed of the actions taken and the outcome of their complaints
- giving complainants reasons that are clear and appropriate to their circumstances and adequately explaining the basis of any decisions that affect them
- treating complainants and any people the subject of complaint with courtesy and respect at all times and in all circumstances
- taking all reasonable and practical steps to ensure that complainants are not subjected to any detrimental action in reprisal for making their complaint
- giving adequate warning of the consequences of unacceptable behaviour.

If the Council or its staff fail to comply with these responsibilities, complainants may complain to the General Manager.

### **Subjects of a complaint are responsible for:**

- cooperating with Council staff 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 Council staff with courtesy and respect at all times and in all circumstances
- refraining from taking any detrimental action against the complainant 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 complainants 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, secrecy 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, complainants may complain to the General Manager.