

Unreasonable Complainant Policy

Reference Number:	CR20/40960
Type:	Council Policy
Responsibility:	Corporate Services
Responsible Officer (s):	Governance Advisor
Initial Adopted Date:	August 2020
Last Review Date:	New Policy
Next Review Date:	December 2023
Legislation:	Local Government Act 1999 Freedom Of Information Act 1991
Related Documents:	Internal Review of a Council Decision Customer Service Charter Handling Aggression, Violence or Threats Procedure NSW Ombudsman' Managing Unreasonable Complainant Conduct Practice Manual

1 Purpose

1.1 City of Prospect:

- 1.1.1 Is committed to a positive complaint-handling experience for its customers; and
- 1.1.2 Strives to ensure that resources are responsibly managed so that Council may continuously improve service delivery.

1.2 This policy establishes a framework for how the City of Prospect ("the Council") will respond to customer requests for service and information, and specifically the approach to be adopted when managing unreasonable requests for service, information and complaints.

2 Definitions

2.1 A **Complaint** is made when a customer expresses or infers dissatisfaction with a product or service delivered by the organisation, which has or should have been received, that has failed to reach the standard stated, implied or expected. This may include decisions of Council, its policies, procedures, charges, employees, agents, or the quality of Council services.

2.2 **Request for Service** is an application to have Council take some form of action to provide a service for works.

2.3 **Request for information** means an application to have Council take some form of action to provide generally available information about Council services or works.

2.4 **Unreasonable complainant conduct** is any behaviour by a current or former customer, which by its nature or frequency, raises health, safety, resources, or equity issues for the Council, employees, other service users, and customers (including the customer himself/herself). Unreasonable complainant conduct can be divided into five categories, and examples are provided in Appendix A to this policy:

- 2.4.1 Unreasonable persistence
- 2.4.2 Unreasonable demands
- 2.4.3 Unreasonable lack of cooperation
- 2.4.4 Unreasonable arguments
- 2.4.5 Unreasonable behaviours

3 Scope

3.1 The policy establishes clear guidelines for handling unreasonable behaviour towards Council.

3.2 This policy will apply to Unreasonable Complainant Conduct in regards to complaints received by Council concerning:

- 3.2.1 Requests for service;
- 3.2.2 Requests for information; and/or
- 3.2.3 Freedom of Information Requests.
- 3.3 Members of public have a legitimate right to access Council information under the *Freedom of Information Act 1991*. Any limitations imposed on a complainant under this policy will not impede these statutory rights. However, unreasonable customer conduct may contribute to a request being denied under 18 (2a) of the Act.
- 3.4 This policy does not apply to complaints involving the following issues:
 - 3.4.1 Complaints related to competitive neutrality;
 - 3.4.2 Allegations of a breach of conflict of interest obligations by a Council Member or employee;
 - 3.4.3 Internal staff complaints;
 - 3.4.4 Aggressive, violent, or threatening behaviour; and/or
 - 3.4.5 Any matters before a Court, Tribunal, South Australian Police, a Minister of the Crown, a South Australian or Federal Government Department, the Office for Public Integrity, or the South Australian Ombudsman.

4 Dealing with Unreasonable Requests

- 4.1 If Administration determines that a request is malicious, frivolous, or vexatious, this is grounds to dismiss the request and not take any further action in relation to it. A determination that a request is unreasonable on this basis, must take into account:
 - 4.1.1 any similar requests previously made by the person (i.e. about the same or similar service, information, or documents);
 - 4.1.2 the response and outcome to previous requests made by the person (if any);
 - 4.1.3 the outcomes sought by the person;
 - 4.1.4 if it is a request for information, the resources required to provide the information (to ensure that it is not an unreasonable diversion of public resources); and/or
 - 4.1.5 If it is a request for service, whether the service is capable of being provided by or is required to be provided by Council.
- 4.2 A decision to take no further action in respect to a request that is unreasonable will be communicated in writing to the person making the request.
- 4.3 The person who made the request may seek to review a decision made under clause 4.1 (to take no further action) according to the procedure set out in the Internal Review of Council's Decisions Policy.

- 4.4 A person that persists in making the same or similar requests for service will be treated as a complainant under this policy, and may be managed and dealt with under the provisions for dealing with unreasonable complainant conduct.

5 Dealing with Unreasonable Complainant Conduct

- 5.1 Council will take a model approach to notification, decisions to restrict access, and upcoming reviews with reference to the [NSW Ombudsman's Model Procedure \(see Appendix D, E, and F\)](#).

- 5.2 If a complainant's unreasonable behaviour persists or becomes extreme, Administration may limit or withdraw a complainant's access to Council, using the following steps:

- 5.2.1 Issue the complainant with a final warning outlining expectations and repercussions

- (1) This is to be in writing and is to inform the complainant that their access to Council may be limited or withdrawn if their behaviour continues.
- (2) The complainant will be advised: Should the CEO determine them to be an unreasonable Complainant for the purposes of this policy, Council Members may be (at the discretion of the CEO) notified for the purposes of limiting or excluding access to Council under this policy.
- (3) Warning letters need to be signed off by the CEO or delegate appointed by the CEO.

- 5.2.2 Place Limitations on the complainant's access to Council

- (1) A decision to limit a complainant's access to Council must be approved by the CEO or delegate appointed by the CEO.
- (2) Any limitation imposed must:
 - (a) Be proportionate and appropriate to the behaviour it aims to negate (see Appendix A for examples and strategies); and
 - (b) Take into account that person's individual circumstances. For example, a person who is illiterate should not be required to communicate in writing.
- (3) The contact may be limited in terms of:
 - (a) The times a complainant may make contact;
 - (b) The staff the complainant may have contact with; and/or
 - (c) The form in which the contact may take place, i.e. the complainant may be directed that he/she can only make contact in writing and not via telephone or in person.

- (4) Where limitations are imposed on a complainant, notification will be made to the complainant in writing, specifying the limits, and the reasons for their imposition.

5.2.3 Exclude a complainant from access

- (1) This action will only be taken as a last resort by the Council or CEO, after all other avenues have been exhausted, and where the complainant is making unacceptable demands on the Council's complaint handling resources.
- (2) Before any action is taken to exclude a complainant from access, the Council or CEO will write to the complainant to notify him/her of the proposed action, and the reasons why. They will invite comments from the complainant within a specified period (that is not less than 21 days) as to why such action should not be taken. Submission by the complainant will be taken into account before determining whether to proceed with the proposed action.

If it is decided that the complainant be excluded from access, the Council or CEO will inform the complainant that any further complaints will not be acknowledged, unless they detail significant new information, or new issues which, in the opinion of the Council, warrant action.

- 5.3 The Council or CEO will review the appropriateness of any restrictions imposed on the complainant every 12 months. If it is considered that the restrictions imposed on the complainant are no longer necessary (taking into account the complainant's conduct in the 12 months prior), the Council will:

5.3.1 Revoke the restrictions;

5.3.2 Notify the complainant of its decision in writing accordingly; and

5.3.3 Notify Council Members (at the discretion of the CEO).

- 5.4 Complainants may request a review of the decision to limit (under clause 5.3) or terminate their access (under clause 5.4), according to the procedure set out in the Internal Review of Council Decisions Policy. If a complainant continues to be dissatisfied after the internal review process, they may seek an external review from the South Australian Ombudsman.

6 Review

- 6.1 The Policy will be reviewed once per Council term or as required by legislation.

7 Access to the Policy

- 7.1 The Policy is available for public inspection on Council's website www.prospect.sa.gov.au, and from Customer Service at Payinthe, 128 Prospect Road, Prospect SA 5082.

8 Further Information

8.1 For further information about this policy please contact:

Director City Corporate
City of Prospect
128 Prospect Road
Prospect SA 5082

Phone: 8269 5355

Email: admin@prospect.sa.gov.au

Appendix A

Type of Conduct	Examples of Complainant conduct	Strategies for dealing with conduct
Unreasonable persistence	<ul style="list-style-type: none"> Refusing to accept that a complaint is closed. Continuing to phone or contact after a matter is closed. Re-framing an old complaint. Being unable to accept the final decision. Persisting in interpreting the policy or the law in a way that is not in accordance with the accepted views on the subject. 	<ul style="list-style-type: none"> Be prepared to say 'no'. It may be appropriate to advise the complainant that the issue will not be investigated further. Communicate clearly if an unproductive telephone call is to be ended. Provide one internal review only. Adopt, when appropriate, a firm position of no further contact or correspondence. Do not allow the complainant to reframe the complaint to keep the matter alive, unless there are significant new issues. Make it clear that the decision of Ombudsman SA is final, or in the case of external reviews under the FOI act, advise the complainant of their appeal rights.
Unreasonable demands	<ul style="list-style-type: none"> Insisting on outcomes that are unattainable or not possible. Demanding assistance with issues that are out of the Council's jurisdiction. Demanding a remedy that is impractical, disproportionate, or unavailable. Insisting that more time be taken on the matter than is justifiable. Wanting revenge. Making unreasonable demands on the resources of the Council. Wanting unreasonable regular and lengthy contact with the Council. Showing reactions or demanding action that is out of proportion with the significance of the issue. 	<ul style="list-style-type: none"> Set limits on what will be done i.e. what issues will be investigated, by whom, how communication will happen etc. Be clear with the complainant in advance as to what the council will do, and the limits. End telephone calls that are unproductive, with a warning. May need to limit contact to written communications only.
Unreasonable lack of cooperation	<ul style="list-style-type: none"> Poor or confused definition of the complaint. Providing a large quantity of unnecessary material/information. Unhelpful behaviour. Failing to provide requested information or documents within the given timeframe. Dishonestly presenting the facts. Constantly re-defining a complaint. Focusing on principles rather than substantive issues. 	<ul style="list-style-type: none"> Staff need to set limits before proceeding with the matter. Require complainants to clarify and summarise information they have provided before proceeding with the matter. Require complainants to clearly define what their issues are before the complaint will be looked at. Refuse to deal with the matter if it is found that the complainant has been wilfully misleading or untruthful in a significant way.

Unreasonable arguments	<ul style="list-style-type: none"> • Exaggerating issues. • Holding irrational beliefs. • Refusing to consider alternative views. • Being obsessed with irrelevant or trivial points. • Having a conspiracy theory that is not supported by any evidence. 	<ul style="list-style-type: none"> • Decline or discontinue the matter. • If unreasonable issues are mixed with reasonable issues, ensure that they are clearly identified and separated, and only deal with the reasonable ones.
Unreasonable behaviour	<ul style="list-style-type: none"> • Displaying confronting behaviour. • Being rude. • Being aggressive. • Making threats of self-harm. • Making threats of harm/violence to others. 	<ul style="list-style-type: none"> • Refer to Council's Handling Aggression, Violence or Threats Procedure. • Staff will not tolerate unreasonable behaviour • Complainant is to be told that threats are unacceptable, and may be reported to police. • Rude correspondence will not be responded to, and complainant is asked to reframe their complaint in more moderate terms. • If a complainant is behaving unreasonably in a telephone conversation, he or she should be warned that their conduct is unacceptable, and that if the behaviour persists the call will be terminated. • Telephone calls are to be ended if the complainant continues to behave unreasonably after being warned, the CEO or Mayor is to be advised of this action. • Meetings are to be ended if the complainant continues to behave unreasonably after being warned. The CEO or Mayor is to be advised of this action.