

DEALING WITH DIFFICULT AND VEXATIOUS CUSTOMERS POLICY

Policy Reference No.	POL/228
File No.	HCC10/669
Strategic Objective	5.3 Provide responsible and transparent governance, services and infrastructure which responds to and supports community needs
Adopted by Council	24 July 2017
Re-Adopted	
Date for Review	28 February 2023
Responsible Officer	Manager Governance
Department	Governance

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1 POLICY STATEMENT

- 1.1** Council needs to manage unsuitable customer conduct and unreasonable or excessive demands placed upon Council staff, Councillors and resources. This will include having options for redress for Council and identifies limits on communications with and services from Council.
- 1.2** Council is committed to balancing the rights of customers to make complaints, with the rights of staff and Councillors to safety and respect and the equitable allocation of time and resources to all customers.
- 1.3** This policy should be considered in conjunction with the Victorian Ombudsman's 'Managing Unreasonable Complaint Conduct Practice Manual' and the following Council documents:
- 1.3.1** Customer Feedback and Complaints Handling Policy
 - 1.3.2** Code of Conduct for Councillors
 - 1.3.3** Staff Code of Conduct Policy
 - 1.3.4** Meeting Procedure and Governance Local Law
 - 1.3.5** Procedure for Dealing with Aggressive and Violent Customers

2 PURPOSE

- 2.1** This policy guides Council's management of complainants who, apart from having a complaint in relation to Council services, respond to Council in a manner which can be considered threatening, intimidating or extreme and which can have occupational health and safety risks for Council officers and others. This policy acknowledges the risks inherent in such conduct and aims to minimise the consequences of such behaviour in a reasonable and proportionate manner.
- 2.2** This policy complies with the Victorian Ombudsman's recommendations in 'Councils and Complaints – a report on current practice and issues' (May 2012) and 'Councils and Complaints – a good practice guide – a report on current practice and issues' (February 2015).

3 SCOPE

- 3.1** Applies to all customers, staff and Councillors of Hume City Council.
- 3.2** Where a reference is made within this policy for a determination or action by the Chief Executive Officer then, as appropriate, that determination or action can be made by a Councillor where the unreasonable communication is directed to the Councillor.

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4 OBJECTIVE

4.1 This policy aims to:

- 4.1.1 ensure Council services and resources are fair and equitable for all Council customers
- 4.1.2 ensure the health and safety of Council staff and Councillors
- 4.1.3 provide definitions of unreasonable complaints and conduct
- 4.1.4 provide guidance for Council customers, staff and Councillors for the assessment and determination of complaints considered in accordance with this policy
- 4.1.5 ensure that staff and Councillors are aware of their roles and responsibilities in relation to the management of unreasonable customer conduct and how these procedures will be used
- 4.1.6 ensure that staff and Councillors feel confident and supported in taking appropriate action to manage unreasonable customer conduct.

5 POLICY IMPLEMENTATION

5.1 Rights of Public Access:

- 5.1.1 Council recognises that in the absence of good reasons to the contrary, members of the public have a right of access to councillors and Council contact staff to seek advice, assistance or services that Council offers.
- 5.1.2 Criticism of, and complaints against, Council are a welcome, legitimate and necessary part of the relationship between Council and its local community. They are a valuable means of reflecting on the operations of Council and improving both those operations and the quality of Council's relationship with its local community.
- 5.1.3 Nobody, no matter how much time and effort is taken up in responding to their complaints and concerns shall be unconditionally deprived of the right to have those complaints or concerns addressed. However Council also has an obligation to use its resources efficiently and effectively and has obligations to its staff as an employer.
- 5.1.4 Accordingly Council has decided that there are circumstances in which it will limit the nature and scope of its responses to difficult customers.

5.2 Difficult/Vexatious Customers

There are various types of difficult customers and this policy shall apply to them all other than to those that are aggressive. Refer paragraph 5.3 – Aggressive behaviour.

5.2.1 Categories of difficult and vexatious customers:

- a) Those who cannot let go – i.e. people who are unreasonably persistent and who:
 - i. make excessive phone calls, or
 - ii. seek to exercise excessive personal contact, or
 - iii. engage in lengthy correspondence.

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- b) Those who cannot be satisfied – i.e. people who demonstrate an unreasonable lack of co-operation as they:
 - i. cannot or will not accept that Council is unable to assist them, or
 - ii. cannot or will not accept that Council is unable to provide any further level of service other than that provided already, or
 - iii. disagree with the action Council has taken in relation to that complaint or concerns.
- c) Those who make unreasonable demands – i.e. people who make unreasonable demands on Council whether by:
 - i. The amount of information, or
 - ii. The value and scale of services they seek, or
 - iii. The number of approaches they make.
- d) Those who are rude and abusive – i.e. people who:
 - i. engage in personal abuse, or
 - ii. make inflammatory statements or comments, or
 - iii. make statements or comments clearly intended to intimidate.

5.3 Aggressive Behaviour

- 5.3.1** Council has a zero tolerance statement with regard to violence and aggressive behaviour towards councillors and its staff. Council has a duty to ensure that as far as is practically possible, it reduces the risk of violence, aggressive, or threatening behaviour towards its employees during the course of their work. Council affords the same protection to its elected members.
- 5.3.2** Section 5.4 gives guidance on limiting access and the way in which staff are instructed to deal with individuals that use inappropriate language and display abusive, aggressive, or threatening behaviour.
- 5.3.3** There are procedures in place across Council that provide guidance for staff to deal with aggressive customers.

5.4 Guiding principles on limiting access

- 5.4.1** Council will limit the nature and scope of access in the following circumstances:
 - a) where full access would be likely to compromise Council's obligations as an employer
 - b) where full access would be likely to compromise any statutory obligations to which Council is subject
 - c) where full access would be likely to be wasteful of Council's resources whether through excessive contact or use of services
 - d) where full access would be likely to encourage or allow rude and abusive behaviour.

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5.5 Limiting access in particular circumstances

5.5.1 Not replying to written communications

Where Council receives a written communication that contains substantial and clearly inappropriate content such as abusive or threatening language or adverse personal reflections on individuals, a written notification shall be sent to the author of the written communication asking that they reframe the communication so as to exclude the inappropriate content and advising that in the event that a further substantial and clearly inappropriate communication is received by Council, Council will not give a substantive reply other than to the extent that such communication provides evidence of or alerts Council to a matter of public safety, criminal act, a failure to comply with a legal duty or other malpractice by or on behalf of Council.

5.5.2 Terminating telephone calls

- a) Where a caller uses inappropriate language such as abusive or threatening language or casting adverse personal reflections on individuals then the caller will be warned that unless the caller is prepared to speak in a different way, the call will be terminated. If the caller then continues to use inappropriate language the call may be terminated provided that it is made clear that the caller may call back if the caller is then prepared to speak in a different way.
- b) In cases of persistent callers using inappropriate language a written notification shall be sent to the caller advising that in the event that any further telephone call is made and the caller uses inappropriate language, not only will the call be terminated but also that for a specified period all future business will only be transacted in writing or through a nominated and agreed intermediary. If threats against Council or staff are made, the caller shall be reported to the police.

5.5.3 Limiting face to face contact

- a) Where, during a personal attendance a customer uses inappropriate language or behaves inappropriately, the customer will be notified that unless the customer is prepared to speak or behave in a different way the personal attendance will be terminated. If the customer then continues to use inappropriate language or behaves inappropriately, the personal attendance may be terminated provided that it is made clear that another personal attendance may be arranged by appointment if the customer is prepared to speak or behave in a different way. Such arrangement shall be for such specified period as the Chief Executive Officer or his delegate deem necessary, provided that the arrangement shall be reviewed in any case where such arrangement is in place for a period in excess of six months not less frequently than once every six months. The customer shall be notified in writing accordingly.

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- b) In cases of persistent personal attendances where the customer uses inappropriate language or behaves inappropriately a written notification shall be sent to the customer advising that in the event that any further personal attendance takes place and the customer uses inappropriate language or behaves inappropriately, not only will the personal attendance be terminated but that also for a specified period all future business will only be transacted in writing or through a nominated and agreed intermediary.

5.5.4 Excessive access

- a) Where a customer:
- i. makes excessive phone calls, or
 - ii. make excessive visits to Council Offices, or
 - iii. engages in excessive written communications, or
 - iv. raises the same issues with different staff

The Chief Executive Officer may nominate a member of Council staff to deal with all contact with the customer for a specified period and shall inform the customer in writing accordingly.

- b) Where a person or a group contacts Council on a wide range of issues all at once or in a selective way or in a constant stream, the Chief Executive Officer may notify the person or group in writing either that only significant and serious issues will be addressed by Council or that only a certain number of issues will be addressed by Council in any given period provided always that such arrangements shall not prevent the exercise of any statutory right of a customer to access Council services or any of them.

5.6 Abusing the right to information

- 5.6.1** Individuals or groups may place excessive demands on the resources of Council in making continual and extensive demands for information such as sending large numbers of letters, each containing detailed requests for information or being unwilling to accept documented evidence to support an adequate response.

- 5.6.2** If the Chief Executive Officer is satisfied that the resource demands in responding to such contacts are excessive he/she may place limits on the manner and/or degree to which Council will respond to such demands (but not so as to prevent the exercise of any statutory rights of the public to information).

5.7 Declining to further investigate complaints

- 5.7.1** Where having exhausted Council's Customer Feedback and Complaints Handling Policy a complainant remains dissatisfied with the outcome of a complaint, the Chief Executive Officer will inform the complainant, in writing, that Council will decline to respond to any further attempted

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contact or communications concerning the issues raised by the complainant unless significant new information or new issues are raised which in the opinion of Council warrants action.

- 5.7.2** If the Chief Executive Officer believes that a complainant is deliberately providing fresh information in a selective way he/she will advise the complainant in writing to immediately pass on all relevant material to Council and will also advise the complainant that if such material is raised later that Council will require a satisfactory explanation as to why the material was not supplied earlier before agreeing to consider that material.

5.8 Miscellaneous

Other circumstances in which it may be appropriate to limit access include:

- 5.8.1** Where a customer is unwilling to accept that the matter raised by them is not within the remit of Council.
- 5.8.2** Where a customer displays unreasonable demands or expectations and fails to recognise that these are unreasonable such as insisting on responses to be made more urgently than Council's response time.

5.9 Equality and diversity

- 5.9.1** Council recognises that, in some circumstances, customers may have a mental health problem and/or other disability where it may be difficult for them to either express themselves or communicate clearly and/or appropriately. Where unacceptable behaviour is evidenced under these circumstances, Council will consider the individual needs and circumstances of the customer and our staff before deciding on how best to manage the situation.

This may include exploring other ways to deal with the complainant such as access via a relative, friend, carer or other professional. However it should always be remembered that the customer has a right to confidentiality and may not want certain people to be involved.

- 5.9.2** Persons under the age of 18 years

In the case of a difficult customer who is under the age of 18 one form of contact - generally by means of written communication - must always be maintained. It may be possible to arrange to deal with such a customer through their parent or guardian provided that written consent of both the customer and their parent or guardian is first obtained.

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6 DEFINITIONS AND ABBREVIATIONS

Where reference is made to Council in this policy, it shall be read to also apply to an individual Councillor where the communication is directed to an individual Councillor.

7 RELATED DOCUMENTS

- 7.1 Customer Feedback and Complaints Handling Policy
- 7.2 Information Privacy and Health Records Policy
- 7.3 Meeting Procedure and Governance Local Law
- 7.4 Staff Code of Conduct
- 7.5 Councillor Code of Conduct
- 7.6 Local Government Act 1989
- 7.7 Protected Disclosure Act 2012
- 7.8 Charter of Human Rights and Responsibilities Act 2006
- 7.9 Privacy and Data Protection Act 2014
- 7.10 Freedom of Information Act 1982
- 7.11 Occupational Health and Safety Act 2004
- 7.12 Ombudsman Victoria – Managing Unreasonable Complainant Conduct Practice Manual 2nd Edition August 2012.

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