



LEETON
SHIRE COUNCIL

UNREASONABLE COMPLAINTS POLICY

DECEMBER 2019

DOCUMENT AUTHORISATION

RESPONSIBLE OFFICER	Complaints Coordinator (Manager IP&R and Governance)				
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REVIEW OF THIS POLICY

This Policy will be reviewed every four years or as required in the event of legislative changes. The Policy may also be changed as a result of other amendments that are to the advantage of Council and in the spirit of this Policy. Any amendment to the Policy must be by way of a Council Resolution or the approval of the General Manager.

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1. Purpose

The purpose of this policy is to set out Leeton Shire Council's approach to customer communications received that Council considers unreasonable or unacceptable, and the action it will take in order to manage that situation.

This policy supplements Council's Complaints Handling Policy which deals with the complaints management process and the options available to Council customers in making complaints, including to the NSW Ombudsman, the Independent Commission Against Corruption and the NSW Office of Local Government.

2. Policy scope

This policy applies to Council staff and councillor's dealings with its customers.

3. Outcomes

This policy seeks to ensure fair and open access for all residents, visitors and members of the business community, including those in the community who have difficulty in dealing with Council as an authority.

It is Council's responsibility to treat all customers fairly and with respect. Staff need to demonstrate impartiality and professionalism when faced with challenging behaviour. This does not mean that staff are expected to tolerate conduct that is threatening, aggressive or abusive.

Through this policy, Council seeks to:

- ensure other customers and Council employees and elected members do not suffer any disadvantage from customers who act in an unacceptable manner.
- minimise the impacts of unreasonable or unacceptable communication on resources, processes, other customers and staff.

4. Policy Statement

Council acknowledges that the circumstances that lead to some customers making a complaint may be distressing and upsetting, and therefore complainants may be distressed, angry or upset when making their complaint. However, when a complainant's behaviour becomes unacceptable, this policy will take effect. Unacceptable behaviour includes (but is not limited to):

- repeatedly providing false and misleading information
- making the same complaint repeatedly with no new or additional information
- demanding outcomes that are not practicable
- being unwilling to accept the outcome of the complaint's resolution (notwithstanding a complainant's right to appeal)
- exhibiting unacceptable behaviour, including threats of harm to self or others, or acts of violence.

Council will manage unreasonable complainant behaviour for several reasons:

- Council's resources are limited and must be used efficiently in dealing with all customer requests and its other functions. All customers are entitled to a fair share of time and resources and a consistent approach by Council in dealing with their issues.

- Council is responsible for ensuring the health and safety of its staff. Ensuring that all staff are properly trained, supervised and supported in dealing with unreasonable conduct will minimise staff stress.
- Unreasonable conduct can make it harder for Council to resolve a complaint. It can lead to the complaint issue being blurred, the investigation side-tracked, and the process being needlessly prolonged.
- A complaint investigation that is drawn out is less likely to end satisfactorily. The complainant may change the focus of their grievance to the way their complaint was handled. The ongoing relationship between the customer and the Council can be damaged.

5. Roles and Responsibilities

All Council staff and councillors have a role to play in complaints management. If the Council officer responding to a complaint is concerned that the complainant is becoming 'unreasonable' according to the terms of this policy, they will discuss the matter with their supervisor and agree a course of action with the approval of the General Manager.

The Restricted Contact Register will be maintained by Council's nominated Complaints Officer.

6. Definitions

Unreasonable Complainant Conduct

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 parties to the complaint.

Exceptions

This policy does not apply in circumstances where there is legislation or Council policy covering the making of a complaint. For example:

- The making of a Public Interest Disclosure under the *Public Interest Disclosures Act 1994* (managed through Council's Internal Reporting Policy).
- The making of applications for internal review of alleged breaches of privacy under the *Privacy and Personal Information Act 1998* (managed through Privacy Management Plan).
- The making of applications for access to information under the *Government Information (Public Access) Act 2009*.
- Complaints under Council's Code of Conduct.
- Grievances under Council's Grievance Policy and Procedure.

7. Legislation and Supporting Documents

NSW Ombudsman - [Managing Unreasonable Complainant Conduct – Practice Manual](#).

8. Attachments

Policy Procedure

8.1 Unreasonable or Unacceptable Communication

8.1.1 Abusive, offensive or slanderous language

Council does not accept that its staff or councillors should be subjected to abusive, offensive or slanderous language, including when it arises when the customer is under stress, as this may be offensive. What is deemed to be offensive will differ between individuals, but can include cultural racial or religious references. Every employee and elected official has the right not to be subjected to language they would consider offensive.

8.1.2 Unmanageable Demands

Although not always intentionally, customers may make what Council considers unmanageable demands due to the amount of information they seek; the nature and scale of service they expect; or, the number of approaches they make. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the customer.

Examples of this include:

- demanding responses within an unreasonable time-frame
- insisting on seeing or speaking to a particular employee
- excessive telephone calls, emails, faxes or letters
- sending duplicate requests to more than one employee
- requiring responses to correspondence where the content is malicious.

Council will consider this contact to be unacceptable and/or unreasonable if it starts to impact substantially upon workload, for example by taking up, in comparison to the issues raised, an excessive amount of employees' time to the disadvantage of other customers or service delivery.

Council will take no action on behalf of a complainant where the complaint is deemed to be trivial, frivolous, vexatious or not made in good faith. When a course of 'no action' is determined, a file note will be made and the person making the note will advise their supervisee of the 'no action' decision.

8.1.3 Unreasonable Persistence

Council recognises that some customers will not or cannot accept that Council is unable to assist them further or provide a level of service other than that provided already. Customers may persist in disagreeing with the action or decision taken in relation to their concerns or they may contact Council persistently about the same issue.

Examples of actions grouped under this heading include persistent refusal to accept a decision made in relation to a complaint; persistent refusal to accept explanations relating to what Council can or cannot do; and, continuing to contact the Council without presenting any new information.

It is not necessarily the manner in which these customers communicate with the Council that is unreasonable, but their perseverance in contacting Council after its decision has already been explained.

8.2 Managing Communication

How Council decides to manage the communication referred to in this policy depends on the nature and the impact it has on individual employees or the Council as a whole. However, Council may need to manage the unacceptable action by restricting the customer's contact with it.

Restrictions that may be considered are: informing a customer that they can only contact Council in person, by telephone, fax, letter or electronically; limiting the frequency responses to correspondence will be sent; and, or appointing a named officer to be the customer's single point of contact. Council will always try to maintain at least one form of contact. In these cases the Council will only respond to communication through the nominated point of contact. In some circumstances, a third party (eg Council's legal advisor) may be nominated as the point of contact.

8.2.1 Abusive or offensive language

The threat or use of verbal abuse or harassment towards employees is likely to result in the ending of all direct contact with the customer. Incidents may be reported to the Police. This will always be the case if physical violence is threatened.

8.2.2 Correspondence

Council will not deal with correspondence (letter, fax or electronic) that is abusive to employees or contains allegations that lack substantive evidence. When this happens Council will tell the customer that it considers the content of their communication to be unacceptable. Council will request the customer to cease such communication, and advise that if it does not stop, further correspondence will not be responded to. Council reserves the right to require future contact to be through a third party.

8.2.3 Telephone Calls

Council employees will terminate telephone calls if they feel the caller is being aggressive, abusive or offensive. The employee taking the call has the right to make this decision. In most cases the caller will be advised that the behaviour is unacceptable and that the call will be ended if the behaviour does not stop. On the rare occasion when the employee is unable to continue with the call due to its unacceptable nature, they have the right to disconnect it without warning.

8.2.4 Face to face

Council employees will ask a customer to leave Council property or premise/place of work if they feel the customer is being aggressive, abusive or offensive. The employee dealing with the customer has the right to make this decision. In most cases the officer will advise the customer that their behaviour is unacceptable and that they will be asked to leave if the behaviour does not stop. If the unacceptable behaviour continues and the customer refuses to leave the premises, the police may be called.

8.2.5 Unreasonable Demands

Where a customer repeatedly telephones, visits Council offices, sends irrelevant documents, or continually raises the same issues, Council may decide to adopt one or more of the following restrictions:

- Only take telephone calls from the customer at set times, on set days or by arrangement.
- Arrange for one named employee to deal with all future calls or correspondence from the customer.
- Limit communication to writing only.
- Only respond to communication at a set frequency (eg: monthly basis)
- Inform the customer that their correspondence will be read to ensure no new issues have been made, acknowledged and filed.
- Require the customer to make an appointment to see a named employee before visiting the office.
- Return documents received to the customer or, in extreme cases, advise the customer that further irrelevant documents will be destroyed.
- Take other action that Council considers appropriate.

8.2.6 Unreasonable persistence

Where a customer continues to correspond on a wide range of issues, and this action is considered excessive, Council may decide to adopt one or more of the following restrictions:

- Inform the customer that Council will limit the number of issues it will consider in a given period.
- Ask the customer to limit or focus their requests accordingly.
- Arrange for one named employee to deal with future calls or correspondence from the customer.

A customer's action may be considered unreasonably persistent if, after all internal review mechanisms have been exhausted they continue to dispute the Council's decision relating to the issues raised. In these circumstances, the customer will be told that they will be required to make all future contact on the issue in writing. Any correspondence will be read and filed but only acknowledged or responded to if new information relating to the issue is provided.

8.2.7 Social Media

Council will remove any abusive, offensive or slanderous comments from online forums within Council's level of control and where Council is the site administrator. Council will also request third party site administrators to remove any comments relating to Council that are considered abusive, offensive, slanderous or in breach of any Australian law. Council also reserves the right to take further action against third party site administrators where such comments are not removed.

8.3 Restricting Contact

With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact will only be taken after careful consideration by the General Manager.

To ensure equality for all our customers an impact assessment, must be carried out before a restriction is determined to consider potential problems a restriction may pose on the customer.

When a decision has been made and approved, customers will be told in writing:

- Why a decision has been made to restrict future contact
- The restricted contact arrangements
- If relevant, the length of time that these restrictions will be in place.

Please note: Employees who directly experience aggressive or abusive behaviour from a customer have the authority to appropriately deal immediately with that behaviour in a manner they consider appropriate to the situation. These may include such actions as ceasing the phone call or asking the customer to leave the premises.

8.3.1 Appealing a decision to restrict contact

A customer can appeal a decision to restrict contact. The appeal will be considered by the General Manager or his/her nominee not involved in the original decision. The customer will be advised in writing whether the restricted contact arrangements still apply or a different course of action has been determined.

8.3.2 Recording and reviewing a decision to restrict contact

Where it is decided to restrict contact, an entry noting this will be made in relevant files held by the Council. The name and contact details of the customer and the restriction applied will also be added to the Restricted Contact Register maintained by the Complaints Officer. The name will only be held on the Register for the period the restriction applies.

The Restricted Contact Register will be reviewed annually. If the customer demonstrates a more acceptable approach, restrictions to contact may be revoked.

Note: As this Register is a Council document, it may be subject to the provisions of the *Government Information (Public) Access Act 2009*.