

Managing Unreasonable Complainant Conduct Policy

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Position Title of Responsible Manager/Director:	Director Community Relations	

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1. TITLE

Managing Unreasonable Complainant Conduct Policy

2. OBJECTIVES

- 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 or others. This policy acknowledges the risks inherent in such conduct and aims to minimize 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. DEFINITIONS AND ABBREVIATIONS

Term	Meaning
Complaint	An expression of dissatisfaction with: <ul style="list-style-type: none">- the quality of an action taken, decision made, or service provided by or on behalf of Council; and/or- a delay or failure in providing a service, taking an action, or making a decision by or on behalf of Council.
Unreasonable Complainant or Complainant	A person who or organisation which makes a complaint to Council and whose conduct is considered to be Unreasonable Complainant Conduct.
Unreasonable Complainant Conduct or Conduct	Conduct by a Complainant which : <ul style="list-style-type: none">- has unacceptable consequences for one or more of the parties to the complaint; and/or- because of its nature and/or frequency, raises substantial health, safety, resource or equity issues for Council, its employees, one or more Councillors or a third party. Such conduct may involve individual or group behaviour.

4. SCOPE

- 4.1 This policy extends to Unreasonable Complainant Conduct arising in relation to the whole of Council services and to Councillors and officers.
- 4.2 This policy extends to, but is not limited to, Unreasonable Complainant Conduct across all communication channels including face to face, telephone, mail, email, communications to the media and social media.

5. CONTEXT

- 5.1 Council recognises the impacts and consequences on Council officers, Councillors, resources and the community of dealing with Unreasonable Complainant Conduct, in particular violent and aggressive Complainants, and has implemented this policy to manage these issues in the best interests of Council and the community.

6. TYPES OF UNREASONABLE COMPLAINANT CONDUCT

- 6.1 Unreasonable Complainant Conduct usually exhibits, without limitation, one or more of the following characteristics:
- a. Unreasonable persistence
 - b. Unreasonable demands and/or threats
 - c. Unreasonable lack of cooperation
 - d. Unreasonable arguments
 - e. Unreasonable behavior (such as prolific and/or inappropriate levels of correspondence and phone calls, loud and aggressive communications, harassment and bullying, threats and intimidation).

This policy will apply where any one or more of these characteristics is exhibited, or where there is any other behaviour of this type.

7. UNREASONABLE COMPLAINANT CONDUCT POLICY

7.1 Policy summary

This policy seeks to:

- ensure equity and fairness for the community,
- improve Council resource allocation and efficiency, and
- protect the health and safety of Complainants, Councillors, Council officers and third parties.

7.2 Policy principles

- 7.2.1 Council recognizes that all members of the community have a right to ask questions and seek information from Council about the services it provides. Likewise, members of the community have a right to express opinions and to lodge complaints about Council, its services and officers. Council has in place a Complaints Handling Policy for the management of complaints.
- 7.2.2 Council adopts a systematic and consistent approach to managing complaints. The substance of a complaint dictates the resources dedicated to it, not a Complainant's

demands or behaviour. However, the right to ask questions, express opinions and make complaints is not unqualified.

- 7.2.3 The exhibition of Unreasonable Complainant Conduct does not preclude there being a valid complaint or issue. All complaints are considered on their merits in accordance with Council's Complaints Handling Policy.
- 7.2.4 Council will, as far as is practicable, allow a Complainant to continue to communicate with Council in a reasonable/controlled manner.
- 7.2.5 Council is legally obliged to eliminate or reduce risk to the mental and physical health of Councillors, officers, volunteers and specified contractors and to provide a safe workplace¹.
- 7.2.6 Council acknowledges it has a legal obligation to take appropriate action when circumstances require. This may occur where the Unreasonable Complainant Conduct involves a real or imminent threat to the mental or physical health or well-being of a Councillor, officer, contractor, volunteer or third party or where the Complainant fails to obey a reasonable request or lawful instruction. Appropriate action must be in the form set out in this policy.

8. RESPONSIBILITIES FOR MANAGEMENT OF UNREASONABLE COMPLAINANT CONDUCT

- 8.1 Unless otherwise determined:
 - a) The Director, Community Relations is responsible for determining the appropriate strategy to be used to manage Unreasonable Complainant Conduct; and
 - b) The Manager, Customer Service is responsible for overseeing arrangements in the management of Unreasonable Complainant Conduct.

9. STRATEGIES FOR MANAGING UNREASONABLE COMPLAINANT CONDUCT

9.1 Overview

- 9.1.1 Council response to Unreasonable Complainant Conduct will be reasonable and proportionate.
- 9.1.2 The appropriate strategy for managing Unreasonable Complainant Conduct will be incident specific.
- 9.1.3 Council may consult Government departmental and agency guidelines, external bodies including the Victorian Police and lawyers, when dealing with Unreasonable Complainant Conduct.

9.2 Assessment and Management of Unreasonable Complainant Conduct

When determining the appropriate procedures for managing a specific incidence of Unreasonable Complainant Conduct, all relevant factors will be considered including:

- a) whether the process and strategy are reasonable and proportionate in the specific

¹ Occupational Health and Safety Act 2004 (VIC)

- circumstances;
- b) the observable and specific nature of the Unreasonable Complainant Conduct, rather than possible motivations or causes for that conduct;
- c) the background and history of Council interaction with the Complainant;
- d) the immediacy of any risks associated with or arising from the Unreasonable Complainant Conduct;
- e) legislative obligations of Council; and
- f) any legal or other external advice obtained, including advice from the Victorian Police.

9.3 Management of the Complainant

9.3.1 Managing Unreasonable Complainant Conduct may involve Council placing a reasonable and proportionate limitation or restriction on one or more of:

- a) the subject matter of communications, including where Council is of the view that a specific issue has been adequately addressed;
- b) the timing of communications, including time of day and frequency or duration of contact;
- c) access to Council facilities and officers, including restricting or prohibiting entry to Council premises or limiting access to or communication with Council staff; and
- d) the method of communication with Council e.g. for all contact to be via a specific email address or through one nominated party.

9.3.2 Nothing in this policy limits the type of action Council may decide to take in relation to the Complaint, provided that the response is reasonable and proportionate.

9.3.3 The Complainant's complaint should continue to be handled in accordance with Council's Complaints Handling Policy, but such handling may be modified to comply with this policy.

9.3.4 Where Council considers it has done all that is reasonable and necessary to address the Complainant's complaint, it may decline to consider the complaint further and may refer the Complainant to the Victorian Ombudsman or other appropriate agency.

9.4 Warning and notification letters

9.4.1 Where appropriate the Complainant will initially be sent a warning letter in relation to the conduct setting out Council's position.

9.4.2 If the behaviour of the Complainant is not modified in response to the warning letter, or if the behaviour poses an imminent, ongoing or escalating risk to any person or property, Council will next send a notification letter advising of limitations or consequences which are considered reasonable and appropriate.

9.4.3 Warning and notification letter(s) will be sent by registered mail or email with receipt notification. A failure by the Complainant to receive or read the correspondence by their own action will not affect the application of this policy or the validity of the actions taken under it.

9.4.4 Nothing in this policy prevents Council taking appropriate alternative action to that set out in this policy following receipt of advice from the Victorian Police, lawyers or third party agencies.

9.5 Review of action taken against a Complainant

9.5.1 Council will review the limitations placed on the Complainant at the request of the Complainant, but no earlier than three (3) months following the implementation of the action.

9.5.2 When undertaking a review Council will consider:

- a) The level of compliance with the limitation arrangements;
- b) Evidence of capacity and willingness to modify conduct;
- c) Factors relevant to equitable distribution of Council resources (including time);
- d) Council's occupational health and safety and workplace responsibilities;
- e) Other risks to Council;
- f) Legislative obligations; and
- g) The reasonableness and proportionality of Council's response in all of the circumstances.

9.5.3 The Complainant is able, and should be encouraged, to refer any complaints about the application of this policy to the Complainant to relevant external agencies including those set out in clause 13 of this policy.

9.6 Staff Management

9.6.1 Senior managers will ensure relevant systems, policies and procedures are in place to manage Unreasonable Complainant Conduct and that all officers who interact with Complainants receive relevant training, guidance and direction, including in security procedures.

9.6.2 Counselling services will be provided for officers and others as required in response to Unreasonable Complainant Conduct.

10. POLICY REVIEW

This policy will be reviewed every two (2) years.

11. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES COMPATABILITY

11.1 This policy has been assessed as being compatible with the Charter of Human Rights and Responsibilities Act 2006 (Act).

11.2 Council will ensure that any restrictions imposed under this policy are compatible with the Act, do not breach the Act and, where relevant, are lawful and reasonably necessary within the meaning of section 15(3) of the Act.

12. ASSOCIATED DOCUMENTS

Glen Eira City Council Service Charter

Complaints Handling Policy

Occupational Health and Safety Act 2004

Victorian Ombudsman *Managing unreasonable complainant conduct practice manual – 2nd Edition 2012*

Victorian Ombudsman *Councils and complaints – A report on current practice and issues, 2015*

Department of Human Services (Vic), *Staff Safety in the Workplace*

Charter of Human Rights and Responsibilities Act 2006

Local Government Act 1989

13. EXTERNAL REVIEW AGENCIES

Victorian Ombudsman

Phone: 03 9613 6222

Email: ombudvic@ombudsman.vic.gov.au

Website: www.ombudsman.vic.gov.au

Human Rights and Equal Opportunity Commission Victoria

Phone: 1300 891 848

Email: www.humanrightscommission.vic.gov.au