

5.10. UNREASONABLE COMPLAINANT CONDUCT POLICY

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RECOMMENDATION

That Council adopts the Unreasonable Complainant Conduct Policy.

EXECUTIVE SUMMARY

Council is committed to being accessible and responsive to all people who lodge a complaint. At the same time, Council's ability to continue to deliver services to the community depends on:

- Council's ability to work and perform functions in the most effective and efficient ways possible
- The health, safety and security of Councillors and staff
- Council's ability to allocate resources fairly across all the complaints received

When customers behave unreasonably in their dealings with Council, their conduct can significantly affect Council's operations and have a negative impact on the wellbeing of Council staff. As a result, Council will take proactive and decisive action to manage any complainant conduct that negatively and unreasonably affects us and will support Councillors and staff to do the same in accordance with this policy.

Managing unreasonable conduct by a complainant - NSW Ombudsman.
<https://www.ombo.nsw.gov.au/guidance-for-agencies/managing-unreasonable-conduct-by-a-complainant>

BACKGROUND

Under the guidance of the Ombudsman, a policy has been developed to help Council and its staff take a systematic and consistent approach to managing their interactions with people engaging in unreasonable conduct.

Some people who complain are justifiably disappointed and angry. This can be because they have been treated unfairly through no fault of their own. Despite this, they are able to manage their frustration and anger. They are also able to productively engage with the systems, processes and people that whom they interact with.

However, this is not always the cases for everyone.

For some people, their frustration or anger can lead to escalated behaviour, including aggressive and abusive conduct towards the organisations and staff handling their complaints. This could be about the subject matter of their complaint, how it was handled or its outcome.

This is unreasonable conduct.

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

These people can be:

- the organisation responsible for handling a complaint
- the case officer(s) dealing with a complaint
- any subjects of complaint
- the person who made the complaint (potentially including members of their families and friends)
- other people who make a complaint
- and other service users

Unreasonable conduct can happen anywhere. It is not limited to telephone communications or face-to-face interactions. It can also take place online or in written correspondence.

COMMENTS

This Policy is Council's approach to managing unreasonable conduct by complainants. Council will take a systematic and consistent approach to managing unreasonable conduct.

PROPOSAL

That Council adopts the Unreasonable Complainant Conduct Policy.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

Council must comply with Work, Health and Safety and Duty of Care obligations by identifying the potential risks imposed by unreasonable conduct to staff health, safety and wellbeing and implementing measures to eliminate or control those risks. Staff safety is the number one goal.

SUSTAINABILITY IMPLICATIONS

Economic: Nil

Environmental: Nil

Social: Nil

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

Corporate Plan 2019-2024 Initiatives:

Theme 5 - Robust Governance and Efficient Service Delivery

Strong governance and financial management are the foundations of the way in which Council will conduct its business and implement the initiatives of the Corporate Plan.

Goal 1 - We will conduct Council business in an open and transparent manner with strong oversight and open reporting.

Operational Plan 2021-2022 Actions:

5.1.4 - Undertake full review of the Complaints Management System Processes.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

Regulator Council has a number of statutory obligations detailed in numerous regulations and legislative Acts. Council also makes local laws to ensure that the Shire is well governed. In fulfilling its role as regulator, Council will utilise an outcomes based approach that balances the needs of the community with social and natural justice.

CONSULTATION

Internal: Management consulted during Policy development.
Councillors consulted through the Councillor Briefing held 19 July 2022

External: Queensland Ombudsman

COMMUNITY ENGAGEMENT

Nil

ATTACHMENTS

1. Unreasonable Complainant Conduct Policy (1) [5.10.1 - 3 pages]

(89) UNREASONABLE COMPLAINANT CONDUCT POLICY

Purpose

To provide a framework for the responsible management of unreasonable complainant conduct (“UCC”) in alignment with the Council's Unreasonable Complainant Conduct Procedure and current best practices to ensure a fair and consistent approach is applied to interactions with complainants whose conduct is identified as unreasonable as defined.

Scope

This policy applies across Council and will:

- become operable only where a complainant’s conduct raises the types of safety, resource and equity issues identified in the **Managing Unreasonable Conduct by a complainant Manual 2021**¹

Policy Statement

Douglas Shire 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. Douglas Shire 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.

Unreasonable Complainant Conduct (UCC) Principles

Approaches to managing UCC are based upon the clear understanding that:

- All complainants are treated with fairness and respect
- In the absence of very good reasons to the contrary, all complainants have a right to access public services
- All complaints are considered on their merits
- Unreasonable complainant conduct does not preclude there being a valid issue
- The substance of a complaint dictates the level of resources dedicated to it, not a complainant’s demands or behaviour

¹ See NSW Ombudsman - [Managing unreasonable conduct by a complainant - NSW Ombudsman](#)

- Anger is an understandable and, to some degree, an acceptable emotion among frustrated complainants as long as it is not expressed through aggression or violence
- Safety and well-being of Councillors and staff are paramount when dealing with unreasonable complainant conduct
- This policy will not be applied in ways that go beyond what is appropriate and necessary to manage a complainant’s conduct and any actions taken must always be proportionate to the complainant’s personal circumstances
- This policy will be applied cautiously, sparingly and in the least restrictive manner
- The decision to change or restrict a complainant’s access to Council services as a result of their behaviour will only be made at a senior management level and in accordance with Council’s Unreasonable Complainant Conduct Procedure

Reporting

Council will keep records of all cases where this policy is applied, including a record of the total number of cases where it is used every year. This data may be requested by the Queensland Ombudsman to conduct an overall audit and review in accordance with its administrative functions and/or to inform its work on UCC.

Definitions

TERM	DEFINITION
Council	Douglas Shire Council includes all elected representatives, employees, contractors, volunteers, Standing or Advisory Committee, committee members and any entity under direct Council ownership, the management or financial control.
Unreasonable Complainant Conduct (UCC)	This means 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 a complaint.

Related Documents and References

- Managing Unreasonable Conduct by a complainant Manual 2021
- Unreasonable Complainant Conduct Procedure – Douglas Shire Council
- Administrative Action Complaints Management Policy

Related Legislation

- *Human Rights Act 2019*
- *Vexatious Proceedings Act 2005*
- *Local Government Act 2009*

Policy Review

This policy is to be reviewed every 2 years if no changes have been required to be enacted, at the direction of the Chief Executive Officer.

Policy Details

Policy Name	Unreasonable Complainant Conduct Policy
Policy Number	89
Policy Version	1
Document Number	1082644
Endorsed by	Chief Executive Officer
Policy Type	Council
Approval Authority	Council
Date Adopted	
Time Period	2 Years
Review Date	June 2024
Policy Department	Governance
Link to Corporate Plan	Robust Governance and Efficient Service Delivery
Revoked/Superseded	Nil

This policy is to remain in force until otherwise determined by Council.