

Unreasonable Complainant Conduct Policy

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Responsible Officer(s):	Chief Executive Officer
Council File Reference:	Council Policies (P)
Applicable Legislation:	Local Government Act 1999 Work Health and Safety Act 2012
Relevant Policies:	Review of Council Decisions (including Handling Complaints)
Related Procedures:	WHS Procedures Council Decisions (including Handling Complaints) Procedure Berri Barmera Council Customer Charter
Delegations:	Chief Executive Officer

1. Introduction

Berri Barmera Council is committed to being accessible and responsive to all complainants, including those with a complaint or feedback. However, Council’s ability to deliver for the community depends on:

- the ability to perform Council functions in the most effective and efficient ways possible;
- the health, safety and security of Council employees; and
- the ability to allocate resources fairly across all complaints.

When complainants behave unreasonably in their dealings with Council, their conduct can significantly affect the success of the organisation. As a result, Berri Barmera Council will take proactive and decisive action to manage any complainant conduct that negatively and unreasonably affects the Council and will support employees to do the same in accordance with this policy.

It should be noted that this policy focuses on complainant conduct deemed ‘unreasonable’.

This policy has been modelled from the “Managing Unreasonable Complainant Conduct” Practice Manual 2nd Edition (Australasian Parliamentary Ombudsman) and accompanying model policy (NSW Ombudsman 2012).

2. Definitions

Complaint	an expression of dissatisfaction with a product or service delivered by the Council or its representatives that has failed to reach the standard stated, implied, or expected.
Complainant	a customer who is dissatisfied with the service delivery of the Council or the handling of a request for information.
Customer	a general term for a person/s (and/ or organisation) who live, work, study, own property, conduct private or government business, visit or use the services, facilities and public spaces and places in the Council area

3. Principles

This policy has been developed to assist all employees to better manage unreasonable complainant conduct. Its aim is to ensure all employees:

- Feel confident and supported in taking action to manage unreasonable complainant conduct
- Act fairly, consistently, honestly, and appropriately when responding to unreasonable complainant conduct
- Understand the types of circumstances when it may be appropriate to manage unreasonable complainant conduct using the strategies and processes in this policy

3.1. Unreasonable complainant conduct

Is any behaviour by a current or former customer which, because of its nature or frequency raises health, safety, resource or equity issues for the Council, employees, other service users and customers or the customer himself/herself.

Unreasonable complainant conduct can be divided into five categories:

- Unreasonable persistence
- Unreasonable demands
- Unreasonable lack of cooperation
- Unreasonable arguments
- Unreasonable behaviours

4. Policy Statement

4.1. Managing Unreasonable Complainant Conduct

Unreasonable complainant conduct should be managed with reference to the following table.

Types 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 • clearly communicate 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 re-frame the complaint to keep the <u>matter alive unless there are</u>
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 Council • wanting unreasonable regular and 	<ul style="list-style-type: none"> • set limits on what will be done ie what issues will be investigated, by whom, how communication will happen etc • be clear with complainant in advance what Council will do, and the limits • end telephone calls that are unproductive, with a warning • may need to limit contact to in writing 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 	<ul style="list-style-type: none"> • employees 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
Unreasonable arguments	<ul style="list-style-type: none"> • exaggerating issues • holding irrational beliefs • refusing to consider the other side • being obsessed with irrelevant or trivial points 	<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"> • set clear expectations that employees will not tolerate unreasonable behaviour • communicate that threats are unacceptable and may be reported to police or otherwise the subject of legal action • in the case of rude correspondence, ask complainants to reframe their complaint in more moderate terms • In the case of unreasonable behaviour in phone conversations, warn complainants that their conduct is unacceptable and that if the behaviour persists the call will be ended • end phone calls if the
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Reference may also be made to documents of a similar nature, including Managing Unreasonable Complainant Conduct Practice Manual – 2nd Edition, NSW Ombudsman 2012.

4.2. Limiting or withdrawing a complainant's access to Council

If a complainant's unreasonable conduct persists or becomes extreme, Council may limit or withdraw a complainant's access to Council using the following steps.

4.2.1. Issue the complainant with a final warning outlining expectations and repercussions

- 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.
- Warning letters need to be signed off by the Chief Executive Officer (or another Manager appointed by the CEO to handle the matter)

4.2.2. Place limitations on the complainant's access to Council

- The contact may be limited in terms of:
 - the number of times and/or the time of day a complainant may make contact;
 - the employees and Council Members the complainant may have contact with;
 - the subject matter that Council will consider and respond to;
 - the form in which the contact may take place i.e. the complainant may be directed that he or she can only make contact in writing and not via telephone or in person.
- A decision to limit a complainant's access to Council must be approved by the Chief Executive Officer (or another Manager appointed by the CEO to handle the matter)

- A complainant will be notified by letter which will specify the limitations being imposed, the duration of the limitations and a time period for review
- Any limitations on a complainant's right to approach Council must take into account that person's individual circumstances. For example, a person who is illiterate should not be required to communicate in writing.

4.2.3. Withdraw a complainant's access to Council

- It may be appropriate to refuse access to Council by a complainant. The circumstances in which this would be done include where the complainant:
 - is consistently abusive;
 - makes threats to employees;
 - causes damage to Council property;
 - intimidates or threatens physical harm to employees or third parties;
 - is physically violent;
 - produces a weapon.
- A decision to refuse access to a complainant must be approved by the Chief Executive Officer (or another Manager appointed by the CEO to handle the matter)
- A complainant will be notified by letter which will provide clear information about the decision and why it has been made. This should include a description of the complainant's behaviour, the consequences of that behaviour, duration of the withdrawal of access and a time period for review
- The access that is being withdrawn will depend on the nature of the unreasonable conduct and all of the relevant circumstances and will be described in the notification letter
- If a person is refused access to Council, alternative contact arrangements may be considered. For example, contact may be possible via an advocate or nominee for the complainant. The Chief Executive Officer will determine when it would be appropriate to consider such arrangements.
- Employee safety will always be the first consideration and nothing in this section prevents Council or employees from seeking a legal remedy (i.e. calling the police) in the first instance in cases of serious threatening, aggressive or abusive behaviour.
- A person's access to Council must not be withdrawn without giving the complainant written notice in their language.
- The written notice is to be approved and signed by the Chief Executive Officer.
- As appropriate, the Chief Executive Officer may recommend the issuing of formal orders or directions under the Local Government Act 1999 or council's by- laws, or the seeking of an intervention order under the Intervention Orders (Prevention of Abuse) Act 2009.

4.2.4. Review of decision

Complainants may request a review of the decision to limit or terminate their access to Council according to the procedure set out in the *Review of Council Decisions (including Handling Complaints) Policy*. If a

complainant continues to be dissatisfied after the internal review process, they may seek an external review from the South Australian Ombudsman.

4.2.5. Non-compliance with access limits or refusal

Employees will record and report incidents of non-compliance by complainants. This should be recorded in the appropriate system and forwarded to the Chief Executive Officer who will decide whether any action needs to be taken to modify or further limit the complainant's access to Council services or to otherwise escalate the action taken under this Policy.

4.2.6. Threats of self harm

Where a complainant expresses thoughts of suicide or other self harm the matter should be reported to the Mental Health Triage Service/Assessment and Crisis Intervention Service by telephoning 13 14 65. If there is any doubt about reporting the matter, the employee should consult the Chief Executive Officer or another member of the Senior Management Team.

5. Delegation

The Chief Executive Officer has the delegation to:

- approve, amend and review any procedures that shall be consistent with this Policy; and
- make any formatting, nomenclature or other minor changes to the Policy during the period of its currency;
- determine and amend from time to time, the senior officer(s) nominated for particular roles within this policy.

6. Availability of the Policy

This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.berribarmera.sa.gov.au. Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

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