



Light
Regional
Council

Unreasonable Complainant Conduct Policy

Reference Number:
Responsible Department:
Related Policy/Procedure:

Section 6 No. 31
Governance
6.12 Complaints Handling Policy
4.06 Enforcement Policy
6.32 Unreasonable Complainant Conduct Procedure
24 March 2020
24 March 2020
Page 2020/39
Original
Local Government Act, 1999
Local Nuisance and Litter Control Act, 2016
Work Health and Safety Act, 2012
March 2023
Within 12 months of a Council election or when legislation changes

Date of Adoption:
Current Review Date:
Minute Reference:
Version Number:
Applicable Legislation:

Next Review Date:
Review Frequency:

1. Purpose

Light Regional Council is committed to providing a high level of service to all customers who contact us, including those with a complaint or feedback. At the same time the success of our office depends on:

- our ability to do our work and perform our functions in the most effective and efficient ways possible
- the health, safety and security of our staff, and
- our ability to allocate our resources fairly across all the complaints we receive.

When complainants behave unreasonably in their dealings with us, their conduct can significantly affect our success. As a result, the purpose of this policy is to enable Light Regional Council to take fair, reasonable, proactive and decisive action to manage any complainant conduct that negatively and unreasonably affects us.

2. Definitions

Throughout this document, the below terms have been used and are defined as:

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. Background

Unreasonable complainant conduct ('UCC') is any behaviour by a current or former complainant which, because of its nature or frequency raises substantial health, safety, resource or equity issues for our organisation, our staff, other service users and complainants or the complainant himself/herself.

Policy No:	Section 6 No.31	Date of this Policy:	24 March 2020	Page 1 of 7
Version:	Original			

UCC can be divided into five categories of conduct:

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

Unreasonable persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a complainant that has a disproportionate and unreasonable impact on our organisation, staff, services, time and/or resources. Some examples of unreasonably persistent behaviour include:

- An unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with.
- Persistently demanding a review simply because it is available and without arguing or presenting a case for one.
- Pursuing and exhausting all available review options when it is not warranted and refusing to accept further action cannot or will not be taken on their complaints.
- Reframing a complaint to get it taken up again.
- Bombarding our employees/organisation with phone calls, visits, letters, emails (including cc'd correspondence) after repeatedly being asked not to do so.
- Contacting different people within our organisation and/or externally to get a different outcome or more sympathetic response to their complaint.

Unreasonable demands

Unreasonable demands are any demands (express or implied) that are made by a complainant that have a disproportionate and unreasonable impact on our organisation, staff, services, time and/or resources. Some examples of unreasonable demands include:

- Issuing instructions and making demands about how we have/should handle their complaint, the priority it was/should be given, or the outcome that was/should be achieved.
- Insisting on talking to a senior manager or the Chief Executive Officer or Mayor personally when it is not appropriate or warranted.
- Emotional blackmail and manipulation with the intention to guilt trip, intimidate, harass, shame, seduce or portray themselves as being victimised – when this is not the case.
- Insisting on outcomes that are not possible or appropriate in the circumstances – e.g. for someone to be sacked or prosecuted, an apology and/or compensation when no reasonable basis for expecting this.
- Demanding services that are of a nature or scale that we cannot provide when this has been explained to them repeatedly.

Unreasonable lack of cooperation

Unreasonable lack of cooperation is an unwillingness and/or inability by a complainant to cooperate with our organisation, staff, or complaints system and processes that results in a disproportionate and unreasonable use of our services, time and/or resources. Some examples of unreasonable lack of cooperation include:

- Sending a constant stream of comprehensive and/or disorganised information without clearly defining any issues of complaint or explaining how they relate to the core issues being complained about – only where the complainant is clearly capable of doing this.
- Providing little or no detail with a complaint or presenting information in ‘drips and drabs’, such that this hinders the process.
- Refusing to follow or accept our instructions, suggestions, or advice without a clear or justifiable reason for doing so.
- Arguing frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments and explanations.
- Displaying unhelpful behaviour – such as withholding information, acting dishonestly and misquoting others.

Unreasonable arguments

Unreasonable arguments include any arguments that are not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or delirious and that disproportionately and unreasonably impact upon our organisation, staff, services, time and/or resources. Arguments are unreasonable when they:

- fail to follow a logical sequence.
- are not supported by any evidence and/or are based on conspiracy theories.
- lead a complainant to reject all other valid and contrary arguments.
- are trivial when compared to the amount of time, resources and attention that the complainant demands.
- are false, inflammatory or defamatory.

Unreasonable behaviour

Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated that a complainant is – because it unreasonably compromises the health, safety and security of our staff, other service users or the complainant himself/herself. Some examples of unreasonable behaviours include:

- Acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks.
- Harassment, intimidation or physical violence.
- Rude, confronting and threatening correspondence.
- Threats of harm to self or third parties, threats with a weapon or threats to damage property including bomb threats.
- Stalking (in person or online).

- Emotional manipulation.

Light Regional Council has a zero-tolerance policy towards any harm, abuse or threats directed towards employees. Any conduct of this kind will be dealt with under this Policy and in accordance with Council's duty of care and work health and safety responsibilities. Involvement of the SA Police and/ or any subsequent legal remedies may also be utilised where warranted and at Council's discretion.

4. Managing Unreasonable Complainant Conduct

Changing or restricting a complainant's access to our services

When behaviour is determined to constitute unreasonable complainant conduct, situations will often be managed by limiting or adapting the ways we interact with and/ or deliver services to complainants by restricting:

- **Who they have contact with** – e.g. limiting a complainant to a sole contact person/ employee in our organisation.
- **What they can raise with us** – e.g. restricting the subject matter of communications that we will consider and respond to.
- **When they can have contact** – e.g. limiting a complainant's contact with our organisation to a particular time, day, or length of time, or curbing the frequency of their contact with us.
- **Where they can make contact** – e.g. limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office.
- **How they can make contact** – e.g. limiting or modifying the forms of contact that the complainant can have with us. This can include modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to our premises, contact through a representative only, taking no further action or terminating our services altogether.

When using any such restrictions it is recognised that discretion will need to be applied to adapt to suit a complainant's personal circumstances, level of competency, literacy skills, etc. In this regard, we also recognise that more than one strategy may need to be used in individual cases to ensure their appropriateness and efficacy.

Who – limiting the complainant to a sole contact point

Where a complainant tries to communicate with multiple employees within our organisation, changes their issues of complaint repeatedly, reframes their complaint, or raises an excessive number of complaints it may be appropriate to restrict their access to a single employee (a sole contact point) who will exclusively manage their complaint(s) and interactions. This may ensure they are dealt with consistently and may minimise the chances for misunderstandings, contradictions and manipulation.

The nomination of the single point of contact (SPOC) officer will be based on the most appropriate level of subject matter expertise that is required to manage the unreasonable complainant effectively.

What – restricting the subject matter of communications that we will consider

Instances in which complainants repeatedly send communications that raise trivial, frivolous or vexatious issues, contain inappropriate or abusive content or relate to a complaint/issue that has already been comprehensively considered, Council may restrict the issues/subject matter the complainant can raise that Council will respond to. For example, we may:

- Refuse to respond to correspondence that raises an issue that has already been dealt with comprehensively, that raises a trivial/ vexatious/ frivolous issue, or is not supported by clear/any evidence. The complainant will be advised that future correspondence of this kind will be read and filed without acknowledgement unless we decide that the information is new and therefore warrants further investigation.

When – limiting when and how a complainant can contact us

If a complainant's contact with our organisation places an unreasonable demand on our time or resources because it is overly lengthy (e.g. disorganised and voluminous correspondence) or affects the health safety and security of our staff because it involves behaviour that is persistently rude, threatening, abusive or aggressive, we may limit when and/or how the complainant can interact with us. This may include:

- Limiting their telephone calls or face-to-face interviews to a particular time of the day or days of the week.
- Limiting the length or duration of telephone calls, written correspondence or face-to-face interviews.
- Limiting the frequency of their telephone calls, written correspondence or face-to-face interviews.

We may also:

- Require the complainant to revise their request so it is clear and concise in order for employees to perform an effective review.
- Require the complainant to clearly identify how the information or supporting materials they have supplied relate to the central issues that we have identified in their complaint.
- Restrict a complaint to sending e-mails to a particular e-mail account (e.g. the organisations main e-mail account or a designated account) or block their e-mail access altogether and require that any further correspondence be sent through Australia Post only.

When a complainant is restricted to 'writing only' they may be restricted to written communications through:

- Australia Post only
- Email only to a specific staff email or light@light.sa.gov.au

If a complainant's contact is restricted to 'writing only', Council will clearly identify the specific means that the complainant can use to contact our office. If it is not suitable for a complainant to enter our premises to hand deliver their written communication, this will be communicated to them as well.

Any communications that are received by our office in a manner that contravenes a 'write only' restriction will either be returned to the complainant or read and filed without acknowledgement.

Where – limiting face-to-face interviews to secure areas

If a complainant is violent or overtly aggressive, unreasonably disruptive, threatening or demanding or makes frequent unannounced visits to our premises, we may consider restricting our face-to-face contact with them. These restrictions may include:

- Restricting access to secured premises or areas of the office – such as the reception area or secured room/facility.
- Restricting their ability to attend our premises to specified times of the day and/or days of the week only – for example, when additional security is available or to times/days that are less busy.
- Allowing them to attend our office on an 'appointment only' basis and only with a specified employee. Note – during these meetings staff should always seek support and assistance of a colleague for added safety and security.
- Banning the complainant from attending our premises altogether and allowing some other form of contact – e.g. 'writing only' or 'telephone only' contact.

In cases where we cannot completely restrict our contact with a complainant and their conduct is particularly difficult to manage, we may also restrict their contact to contact through a support person or representative only. The support person may be nominated by the complainant but must be approved by Council's management.

When assessing a representative/support persons suitability, Council's management will consider factors like: the nominated representative/support person's competency and literacy skills, demeanour/behaviour and relationship with the complainant.

Terminating a complainant's access to our services

In rare cases, and as a last resort when all other strategies have been considered and/or attempted, Council's management may decide that it is necessary for our organisation to completely restrict a complainant's contact/access to our services.

A decision to have no further contact with a complainant will only be made if it appears that the complainant is unlikely to modify their conduct and/or their conduct poses a significant risk for our staff or other parties because it involves one or more of the following types of conduct:

- Acts of aggression, verbal and/or physical abuse, threats of harm, harassment, intimidation, stalking, assault.
- Damage to property while on Council premises.
- Threats with a weapon or common office items that can be used to harm another person or themselves.
- Physically preventing an employee from moving around freely either within their office or during an off-site visit – e.g. entrapping them in their home.
- Conduct that is otherwise unlawful.

In these cases, the complainant will be sent a letter notifying them that their access has been restricted as outlined in the related procedure.

A complainant's access to our services and our premises may also be restricted (directly or indirectly) using the legal mechanisms such as trespass laws/legislation or legal orders to protect members of our staff from personal violence, intimidation or stalking by a complainant.

5. Matters where unreasonable complainant procedures will not be applied

Unreasonable complainant procedures will not be applied where a person has a legal right to take a particular course of action, for example:

- To apply for the review of a Council decision under Section 270 of the *Local Government Act 1999*;
- To take action available under the *Development Act 1993*, *Planning, Development and Infrastructure Act 2016* or the *Expiation of Offences Act 1996*.
- To make a deputation request to be heard by the Council under the *Local Government Act 1999* and associated Regulations; or
- To apply for access to information under the *Freedom of Information Act 1999*.

The above pieces of legislation have their own refusal to access appeal processes for unreasonable complaints.

History

- Policy was adopted at the Ordinary Council meeting held on 24 March 2020, Minute Reference GAP9.3.1/2020 Page 2020/39.