

# Unreasonable Complainant Conduct Guidelines

## Guidelines statement

The City of Whittlesea ('Council') is committed to being accessible and responsive to all complainants via all channels, regardless of if in person or through a digital customer channel. However, there are times where a complainants' conduct has a negative impact on the physical and/or mental health and wellbeing of our staff. Council will take proactive and decisive action to manage any unreasonable complainant conduct (UCC) that negatively affects staff, contractors, or the community, and will support our staff to do the same in accordance with these guidelines.

## Purpose

Receiving feedback or complaints from members of the community is an important part of Council reviewing and improving the services that it provides. Most members of the public provide feedback or make complaints in a reasonable and constructive manner. From time-to-time staff are required to deal with members of the public displaying unreasonable complainant conduct. The types of unreasonable complainant conduct staff may experience across our customer channels can be categorised as follows:

- **Unreasonable persistence** – continued, incessant and unrelenting conduct that has a disproportionate and unreasonable impact on our organisation, staff, and services.
- **Unreasonable demands** – any demands (express or implied) that are made by a complainant that have a disproportionate and unreasonable impact on our organisation, staff, and services.
- **Unreasonable lack of cooperation** – an unwillingness and/or inability to cooperate with our organisation, staff or complaints system that results in a disproportionate use of our services, time and/or resources.
- **Unreasonable arguments** – any arguments that are not based in reason or logic, that are incomprehensible, false, or inflammatory, trivial, defamatory, or offensive, or delirious and that disproportionately and unreasonably impact upon our organisation, staff, or service.
- **Unreasonable behaviours** – conduct that is unreasonable in all circumstances because it unreasonably compromises the health, safety and security of staff, other service users or the complainant themselves.

Council has an obligation to provide a safe workplace for all staff. Accordingly, Council must adopt and implement guidelines for the handling of unreasonable complainant conduct in a

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way that prevents or at a minimum limits staff exposure to unreasonable complainant behaviour.

The Unreasonable Complainant Conduct Guidelines will:

- Ensure that staff feel safe, confident and supported in taking action to manage unreasonable complainant conduct whilst acting fairly, consistently, impartially, and honestly.
- Support a tiered approach where any action taken by Council is proportionate to the unreasonable complainant conduct.
- Provide defined roles and responsibilities in relation to the management of unreasonable complainant conduct, including the appropriate channels for escalation.
- Promote awareness of the processes that are to be followed in relation to the management of unreasonable complainant conduct; and
- Provide for clear criteria that will be considered before it is determined to modify or restrict an unreasonable complainant's access to Council services.

## Scope

The guidelines apply to all staff in the management of unreasonable complainant conduct.

The guidelines apply where either the complaint escalation process has been fully explored or when a matter requires an immediate response to behaviour being exhibited. In the case of an emergency, staff should contact Victoria Police without delay, and then trigger the Unreasonable Complainant Conduct Guidelines when safe to do so.

If there is a cross over between Departments/Units (such as with MCH) these will need to be assessed on a case-by-case basis with Managers of each Department and the Chief Customer Officer.

## Alignment to Whittlesea 2040

The Unreasonable Complainant Conduct Guidelines primarily guides Council's work toward the following Goal as outlined in *Whittlesea 2040: A place for all: **High Performing Organisation***

We engage effectively with the community, to deliver efficient and effective services and initiatives, and to make decisions in the best interest of our community and deliver value to our community.

## Overarching Governance Principles

The development of this Policy considered the *Local Government Act 2020's* Overarching Governance Principles and the following were applied:

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Lawful	<input type="checkbox"/>	Community engagement	<input type="checkbox"/>	Financially viable	<input type="checkbox"/>
Best community outcome	<input type="checkbox"/>	Innovation & improvement	<input type="checkbox"/>	Consistent with government plans	<input type="checkbox"/>
Sustainable	<input type="checkbox"/>	Collaboration with government bodies	<input type="checkbox"/>	Transparent	<input checked="" type="checkbox"/>

Ensuring that our UCC Guidelines and Templates are clear and kept up to date supports Councils direction of ensuring decisions are transparent.

**Gender Equality, Climate Change, Human Rights and Child Safe Compliance** All City of Whittlesea policies comply with the *Victorian Charter of Human Rights and Responsibilities, Gender Equality Act, Climate Change Act* and the *Child Safe Standards*.

### Key linkages

All City of Whittlesea policies comply with the *Victorian Charter of Human Rights and Responsibilities*.

These guidelines have key linkages to the following documents:

- Wellbeing Policy [Activities - Corporate Management - Corporate Governance - Safety and Wellbeing - Policy.pdf - People & Culture Policies \(sharepoint.com\)](#)
- [Incident Management \(currently under review and will be added once completed\)](#)
- [Complaints Policy](#)
- [Complaints Handling Guidelines](#)
- Code of Conduct for Staff (2023) - [Code of Conduct for Staff \(2023\) \(sharepoint.com\)](#)
- [Occupational Health and Safety Act 2024](#)
- [Councils and complaints – a good practice guide](#), Victorian Ombudsman
- [Good practice guide: Managing complex complainant behaviour](#), Victorian Ombudsman

### Definitions

What is unreasonable complainant conduct?

“Unreasonable complainant conduct” refers to any behaviour by a current or former complainant which, because of its nature or its frequency, raises substantial wellbeing or safety concerns for our organisation, staff, other service users or the complainant themselves. It can also be in response to threats to damage and/or vandalise Council or third party owned assets and infrastructure.

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## Acronyms

ADR	Alternative Dispute Resolution
CCO	Chief Customer Officer
CEO	Chief Executive Officer
OCEO	Office of the Chief Executive Officer
UCC	Unreasonable Complainant Conduct

## Roles and Responsibilities

### Complainant

For this document, a complainant is the person making the complaint. The complainant is responsible for providing Council with the information needed to effectively investigate the complaint and determine an outcome.

### All Staff

All staff are responsible for familiarising themselves with these guidelines and following the processes outlined in the guidelines where appropriate.

Staff must report all unreasonable complainant conduct they experience or witness to their supervisor immediately and record the incident in the corporate Be Safe reporting system within one business day of the incident occurring.

Frontline staff are also responsible for the implementation and use of scripts provided to them by their Manager/Supervisor to respond to unreasonable complainant conduct.

### Customer Experience Department

The Customer Experience department is responsible for the development, implementation and amendments to the complaint handling framework, which includes the Unreasonable Complainant Conduct Guidelines, templates and processes.

The Customer Experience department is also responsible for maintaining the centralised list of unreasonable complainants who have either received a formal written warning about their unreasonable conduct from the CEO and/or delegated authority, or unreasonable complainants who have been informed by the CEO and/or delegated authority, that they have been placed on restricted access to Council staff, services and/or facilities.

### Unit Managers, Coordinators and Supervisors

Unit Managers, Coordinators and Supervisors are responsible for:

- Ensuring their staff are familiar with the Unreasonable Complainant Conduct Guidelines and support staff to implement the processes contained in the guidelines.

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This includes providing staff with appropriate training that focuses on the avoidance of escalating conflict.

- Reviewing incidents referred to them via the Be Safe reporting system and taking appropriate action with the impacted staff and possibly the complainant.
- Identifying, consulting, and implementing improvements identified because of a complaint.
- Reviewing and adding comments / further detail to the Be Safe report to ensure an accurate corporate record is maintained.
- Providing all information requested by the Chief Customer Officer or their delegate to the [cco@whittlesea.vic.gov.au](mailto:cco@whittlesea.vic.gov.au) inbox in a timely manner to support the independent investigation into the unreasonable complainant conduct.

### Directors & Managers

Directors and Managers are responsible for:

Supporting staff to implement the processes contained in these guidelines and ensuring the wellbeing of staff members throughout the process, including regular check ins and referral to Council's EAP.

They are responsible for ensuring that the complaint escalation processes have been explored, including a formal letter/email issued to the complainant advising that matter has been explored at length and Council considers the matter closed. This is required prior to requesting the Chief Customer Officer (CCO) investigate an unreasonable complainant conduct request, except for matters in relation to unreasonable argument or unreasonable behaviour which warrant an immediate investigation.

Considering the information provided in the Be Safe reporting system and determining if the complainants conduct requires intervention by the CEO to determine either a formal written warning notice or a reduction in access to Council services, staff, or locations. If so, the Manager will complete an Unreasonable Complainant Conduct (UCC) Template and forward to their Director for approval. Once approved the Director will send to the Chief Customer Officer:

- The UCC template must capture a summary of the Be Safe report(s) and include evidence of the unreasonable conduct plus recommendations for restrictions to be enforced.
- The UCC template will be considered and investigated by the Chief Customer Officer, who is then responsible for briefing the CEO with a recommendation for next steps.
- Pending the outcome of the CEO review, the Director and Manager are responsible for advising their team of the outcome and the Chief Customer Officer is responsible for notifying Managers, relevant teams and executive assistants of any warnings and/or restrictions that have been implemented.

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- Managers are responsible for their staff's wellbeing that includes promoting EAP as well as checking in to ensure they are okay.
- If required, Managers are responsible for contacting the Victorian Police immediately to report an issue. Once the Police have been contacted, the Manager must notify the CCO immediately.

### CEO

The CEO (or a nominated delegate) must decide on the imposition of restrictions, modifications, or suspension of access to Council services before they can take effect (exceptions may arise in extreme circumstances). Decisions to impose such restrictions may be made in consultation with the Executive Leadership Team where appropriate. The CEO will inform the complainant in writing of the restrictions, timeframes for the restrictions and avenues for appeal (using the 'Unreasonable Complainant Restrictions Notice' template)

The CEO is responsible for ensuring the timely notification of their decision to the Chief Customer Officer, so that communication to the complainant can be captured in the central repository and impacted departments and directorates are notified.

### Chief Customer Officer

The Chief Customer Officer is responsible for ensuring the timely notification of the CEO's decision to impacted departments and directorates, including the complainant's details and if applicable the restrictions applied. The Chief Customer Officer is also responsible for monitoring the shared inbox, [cco@whittlesea.vic.gov.au](mailto:cco@whittlesea.vic.gov.au) and advising relevant stakeholders, including the OCEO of any correspondence from complainants who have received either a formal warning or have been placed on restricted access to Council services, staff or sites.

As per the responsibilities of the Customer Experience department, the Chief Customer Officer must ensure timely and accurate information is reflected in the central repository and impacted stakeholders are notified in a timely manner. The Chief Customer Officer should also ensure the complainant's details are flagged in digital systems where possible to support frontline teams *i.e. Salesforce, telephony system*

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## Process for handling Unreasonable Complainant Conduct

The process outlined below and summarised in Figure 1 should be followed.

**If at any stage of the process you have immediate concerns for the physical safety of yourself, your colleagues, members of the public, or Council premises or assets advise your manager who will then notify contact the Victorian police immediately.**

**The Manager is to advise the CCO of the situation immediately. The CCO will then notify the CEO of what has taken place.**

### 1. Inform the complainant that their conduct is unreasonable and explain why

A complainant may be exhibiting unreasonable conduct which they do not recognise as unreasonable or that they may not themselves find offensive. When advised that their conduct is unreasonable, usually complainants will modify their behaviour.

If for example the unreasonable complainant is swearing or abusive, advise them that this language is unreasonable and that you feel threatened and are not able to assist them if they continue to engage in this conduct. If the complainant continues with the conduct and the exchange is being made face-to-face or over the phone, advise that they are to return to the offices or to call back once they have ceased engaging in the conduct. Where the unreasonable conduct occurs in writing, do not respond until you have notified your Manager/Supervisor.

### 2. Notify your supervisor of the unreasonable conduct and complete a report in Be Safe

As the complainant is likely to contact you, a customer facing team or a member of your team, you must notify your supervisor of the conduct immediately, especially where threats have been made.

Complete a Be Safe report to document the incident. The Be Safe system has notification paths in place according to the staff members position in the organisation. The incident will be communicated to the staff members direct Supervisor, Director, CEO, Chief Customer Officer, and the Risk Management Team.

The Supervisor shall inform other customer facing teams of the incident based on the likelihood of the team being impacted by future contact from the unreasonable complainant.

### 3. If the unreasonable conduct continues, the relevant Manager will meet to discuss all Be Safe reports and determine if completion of the UCC template is to be proposed to the Manager and Director

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4. The relevant Director and/or Manager must decide if the UCC template is justified and if so, complete the required information fields and submit to the Chief Customer Officer. Notes must also be added to the relevant Be Safe report.

If a department or departments are being contacted by a complainant continuing to display unreasonable conduct or if the conduct is serious in nature, the relevant department/s are to meet to discuss the issues and determine next steps. Further escalation may be required, which means involving the Director and Manager in the discussion. If the Director and Manager agree that a management plan for the unreasonable complainant is required, they shall summarise the Be Safe reports using the Unreasonable Complainant Conduct (UCC) template and provide recommendations to the Chief Customer Officer and the CEO for the development of an Unreasonable Complainant Conduct (UCC) Management Plan. The Be Safe reports shall be updated accordingly to ensure ongoing accurate corporate records.

5. The Chief Customer Officer will discuss the request with the CEO and determine next steps. If restrictions are imposed the CEO will notify the complainant in writing of restrictions imposed on them under the UCC Management Plan and of consequences if conduct continues.

In developing the UCC Management Plan the following should be considered, at a minimum:

- The circumstances giving rise to the conduct
- The impact of the conduct on the organisation, staff, or services
- The complainant's responsiveness to warnings or requests to stop
- The actions taken and the approach of the staff member/s involved.

The UCC Management Plan should address:

- Who the complainant is to have contact with?  
It may be appropriate to restrict access to the Chief Customer Officer or a nominated person within the Customer Experience department who exclusively manages the complainant's interactions with Council. Such arrangements should be reviewed regularly to ensure the sole contact is managing with the arrangement.
- What can the complainant raise?  
It may be appropriate to refuse to respond to correspondence relating to a particular issue that has already been addressed or to restrict the unreasonable complainant to raising one complaint/issue a month in writing.
- When can the complainant contact Council?  
This may include imposing restrictions such as:
  - Limiting what time and days the complainant can contact Council
  - Placing limits on the duration of telephone calls and the length of written communication

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- Limiting the frequency of contact
- How can the complainant make contact?  
This may include limiting when the unreasonable complainant is able to attend Council premises, for example they may be allowed to attend on a 'by appointment only' basis.

This may include imposing writing only restrictions such as by email only to [cco@whittlesea.vic.gov.au](mailto:cco@whittlesea.vic.gov.au) or by post.

Where the conduct of the unreasonable complainant is particularly difficult to manage, contact may be restricted to contact through a support person or representative only (nominated by the complainant but approved by the CEO).

- The obligations of Council under the *Charter of Human Rights and Responsibilities*

The complainant is to be advised of the restrictions that have been imposed on them contacting Council in a timely manner and should be advised of their right to appeal the restrictions placed on them, this must include an internal right of appeal and an external right of appeal to the Victorian Ombudsman. The letter should also include:

- Details of the unreasonable conduct incident or behaviours
- An explanation as to why the conduct is problematic
- Details of the potential changes to access to services if the behaviour continues
- A statement of the standard of behaviour Council expects from the complainant
- The contact details for who the complainant can contact about the letter.

Where the UCC Management Plan has been implemented, a copy of the plan should be circulated to those officers likely to be contacted by the complainant to advise of the restrictions imposed. Any information provided to officers should be restricted to the information required to handle contact from the unreasonable complainant in a manner consistent with these guidelines and the relevant management plan, other personal information relating to the complainant should not be circulated.

Any breaches of contact restrictions imposed or any further incidents of unreasonable conduct by the complainant are to be recorded in a Be Safe report.

6. If the unreasonable behaviour continues or there is non-compliance with the plan, impacted staff shall complete the Be Safe report. The relevant Manager and Director will liaise with the Chief Customer Officer and the CEO to consider further actions and next

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steps *i.e.* extending restrictions to services or seeking support from third parties such as Victorian Police.

7. The CEO will inform the unreasonable complainant in writing of any further restrictions imposed, changes to the length of restrictions and their right of appeal.
  - a. If the contact restrictions imposed as part of the UCC Management Plan do not prevent or sufficiently alleviate the unreasonable complainant conduct, then restrictions to access Council services should be considered. Such restrictions should only be imposed once the complainant has been warned of the potential for changes to be made to their service access, except in cases of overt aggression, violence, assault, or other unlawful conduct in which a warning is not required.

In contemplating the imposition of these restrictions, consideration should also be had to the level of responsibility staff bear for causing or contributing to the unreasonable complainant's conduct. These restrictions should be used as a last resort and should only be utilised where the complainant conduct involved:

- Acts of aggression, verbal and/or physical abuse, threats of harm, harassment, intimidation, stalking or assault or
- Damage to Council property; or
- Conduct that is otherwise unlawful.

Any restrictions or modifications to service access require the consent of the CEO unless there are urgent circumstances where consent is not practicable in which case two Directors may provide consent for the:

- Suspension of access to Council premises; or
- Modification or reduction in Council services; or
- Suspension of access to Council services.

In determining to impose modifications or suspensions on access to Council Services, the following will be considered:

- Any statutory provisions that impact on the ability to modify or suspend access to services provided
- Whether the conduct involved overt anger, aggression, violence, or assault
- Whether the complainant's case has merit (*i.e.* there is a legitimate grievance)
- The likelihood that the complainant will modify their behaviour if given a formal or further warning

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- Whether changing or restricting access to service will have an undue impact on the complainant's welfare, livelihood, or dependents
- Whether, to the best of Council's knowledge, the personal circumstances of the complainant have impacted on the behaviour (e.g. substance abuse, mental illness, or a language barrier)
- The extent to which the conduct was disproportionate

The imposition of such restrictions should be advised to the unreasonable complainant in writing, taking into consideration any reasonable adjustments required by the complainant. The notification letter is to include:

- The date, time, and location of the unreasonable conduct incident/s
- An explanation of why the conduct is problematic
- The restrictions being imposed and an explanation of what this means for the complainant
- The duration of the restriction/s imposed
- A time period for review
- Contact details of a senior officer the complainant can contact about the letter
- Process of appealing the restrictions
- Statement regarding consideration of Council's obligations under *Charter of Human Rights and Responsibilities*.

#### b. Alternative Dispute Resolution (ADR)

If the CEO and Director determine it is not possible/justified to terminate access to Council Services or that staff bear some responsibility for causing or exacerbating the unreasonable complainant's conduct, then ADR should be considered. This may include mediation or conciliation and should be conducted by an independent third party. The appropriateness of ADR will depend on the conduct of the complainant and the circumstances of their conduct.

8. Any restrictions imposed are to be reviewed by the Director and Manager at the request of the Chief Customer Officer 3 weeks prior to the restrictions end date (unless the matter has also been referred to Victoria Police, at which time the restrictions will align with Court proceedings and decisions) and amended as relevant. The outcome of the review will be communicated in writing with the complainant.

The Chief Customer Officer will liaise with the relevant Director and Manager to review restrictions imposed on an unreasonable complainant to determine if they are still required or if the restrictions should be adjusted. A review may be required earlier where the complainant has engaged in further unreasonable complainant conduct. The

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complainant is to be notified of the outcome of each review, regardless of whether any changes to any restrictions imposed have been made. The notification to the complainant should include an explanation of the review process, the factors taken into consideration and the reason for the decision made.

In reviewing restrictions imposed, the following will be considered:

- Whether the complainant has had any contact with Council during the restriction period
- The conduct of the complainant during the restriction period
- The information contained in the submission made by the complainant (if one was made).

If the unreasonable complainant acts in breach of the restrictions imposed, then Council should consider the legal avenues available for addressing the conduct including trespass laws or legal orders.

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### Diagram 1. Flowchart of the Unreasonable Complainant Conduct process



### Right of Appeal

A complainant has a right to appeal a decision made by Council to modify or restrict their ability to contact Council or to access services provided by Council.

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Where the appeal relates to conditions imposed on contacting Council as part of the Unreasonable Complainant Conduct Management Plan, the review should be undertaken by either a member of the Executive who was not involved in the original decision or the Chief Customer Officer.

The review is to take into consideration any arguments put forward by the complainant and any records of the behaviour that formed the basis of the decision to modify or restrict the complainant's ability to contact Council, including the Be Safe reports. This may also include interviewing staff affected by the unreasonable complainant conduct.

Where a decision has been made to restrict or suspend access to Council services, approval is to be sought from three members of Council's Executive Leadership Team and/or Senior Leadership Team who were not involved in the original decision to restrict or suspend access to services.

When the complainant is advised of the outcome of the appeal process, they must be advised of their right to seek further external appeal by the Victorian Ombudsman.

All reviews undertaken must be documented in detail and all reasoning recorded in writing and attached to the Be Safe reporting system and sent to the Chief Customer Officer to be kept in centralised repository.

#### **Supporting Staff affected by Unreasonable Complainant Conduct**

It is important to recognise that unreasonable complainant conduct is upsetting, and that different staff will react differently to the same type of conduct. Following any incident of unreasonable or hostile conduct, staff should be encouraged to debrief with their direct Supervisor or someone else that they feel comfortable talking to.

Staff should also be encouraged to contact the Employee Assistance Program. Staff have a right to expect a safe working environment and are not expected to tolerate abusive or aggressive conduct. Where an injury is sustained because of unreasonable complainant conduct, staff may be eligible to make a workers' compensation claim.

Where unreasonable complainant conduct is targeted against a specific staff member, Council will provide further support to the individual to assist in addressing the conduct.

Those staff who investigate any unreasonable complainant conduct, Council will provide support for debriefing and managing any impact these investigations cause.

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