

# Unreasonable Complainant Conduct Policy and Procedure

OPERATIONAL POLICY

OCTOBER 2021

Version: 2



City of  
Newcastle

# Table of Contents

<b>Part A – Preliminary</b> .....	<b>1</b>
1 Purpose .....	1
2 Principles .....	1
3 Scope .....	1
<b>Part B – Roles and Responsibilities</b> .....	<b>4</b>
4 All staff.....	4
5 Service Unit Managers.....	4
6 Public Officer .....	4
7 Directors .....	4
<b>Part C – Procedure</b> .....	<b>5</b>
8 Initial Response to Unreasonable Complainant Conduct.....	5
9 Informal Unreasonable Complainant Conduct management strategy.....	5
10 Formal Unreasonable Complainant Conduct management strategy.....	5
11 Limitation on access to CN .....	7
12 Right to appeal.....	8
13 Non-compliance with a change or restriction.....	8
14 Review of cases.....	8
<b>Annexure A – Definitions</b> .....	<b>9</b>
<b>Annexure B – Policy Authorisations</b> .....	<b>10</b>
<b>Annexure C – External agency contact details</b> .....	<b>11</b>
<b>Document Control</b> .....	<b>12</b>

# Part A – Preliminary

## 1 Purpose

- 1.1 City of Newcastle (CN) is committed to being accessible and responsive to customers. Most customers who raise an issue or complaint with CN do so reasonably and responsibly, even when they may be frustrated or angry about the topic of their complaint. The purpose of this Policy is to manage cases where Complainants behave in ways that are inappropriate and unacceptable. This Policy:
  - 1.1.1 Reiterates CN's commitment to the safety and wellbeing of its staff;
  - 1.1.2 Reiterates CN's zero tolerance toward harm or threats to its staff;
  - 1.1.3 Identifies behaviours CN may consider to be Unreasonable Complainant Conduct (UCC);
  - 1.1.4 Outlines the procedure that will be followed to record and report UCC; and
  - 1.1.5 Outlines the actions or decisions that may result from UCC.

## 2 Principles

- 2.1 This Policy provides:
  - 2.1.1 **Accountability and transparency** - A framework for managing UCC in a systematic and consistent manner that is transparent to both the Complainant and CN.
  - 2.1.2 **Prudence** - Acknowledging the need to appropriately use CN resources in the handling of UCC.
  - 2.1.3 **Objectivity** - CN's handling of UCC reports will include a review by a person independent from any staff member who may have been involved in instances relating to the UCC. This ensures that any conflicts of interest, whether actual or perceived, will be managed in accordance with relevant CN policies.

## 3 Scope

- 3.1 Unreasonable Complainant conduct 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 CN, our staff, other service users and Complainants or the Complainant themselves.
- 3.2 UCC can be divided into five categories of conduct:
  - 3.2.1 Unreasonable persistence
  - 3.2.2 Unreasonable demands
  - 3.2.3 Unreasonable lack of cooperation
  - 3.2.4 Unreasonable arguments
  - 3.2.5 Unreasonable behaviours

### Unreasonable persistence

- 3.3 Unreasonable persistence is continued, incessant and unrelenting conduct by a Complainant that has a disproportionate and unreasonable impact on CN, staff, services, time and/or resources. Examples include:
  - 3.3.1 An unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with.

- 3.3.2 Persistently demanding a review simply because it is available and without sufficient basis.
- 3.3.3 Pursuing and exhausting all available review options and refusing to accept further action cannot or will not be taken on their complaints.
- 3.3.4 Reframing a complaint in an effort to get it taken up again.
- 3.3.5 Bombarding CN and/or staff with phone calls, visits, letters, emails (including cc'd correspondence) despite receiving a response from CN on their matter or after being asked not to make further contact on the matter which CN considers closed.

#### **Unreasonable demands**

- 3.4 Unreasonable demands are demands made by a Complainant that have a disproportionate and unreasonable impact on CN, staff, services, time and/or resources. Examples include:
  - 3.4.1 Issuing instructions about how CN have/should handle their complaint, the priority it was/should be given, or the outcome that was/should be achieved.
  - 3.4.2 Repeatedly insisting on talking to a senior manager or the Chief Executive Officer (CEO) personally when it is not appropriate or warranted.
  - 3.4.3 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.
  - 3.4.4 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 there is no reasonable basis for expecting this.
- 3.5 Demanding services that are of a nature or scale that CN cannot provide when this has been explained to them repeatedly.

#### **Unreasonable lack of cooperation**

- 3.6 Unreasonable lack of cooperation is an unwillingness and/or inability by a Complainant to cooperate with CN, staff, or CN's complaints system and processes that results in a disproportionate and unreasonable use of CN services, time and/or resources. Examples include:
  - 3.6.1 Sending a stream of correspondence and/or disorganised information without clearly defining any issues of complaint or the core issues being complained about.
  - 3.6.2 Refusing to follow or accept CN instructions, suggestions, or advice without a clear or justifiable reason for doing so.
  - 3.6.3 Arguing frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments and explanations.

#### **Unreasonable arguments**

- 3.7 Unreasonable arguments include any arguments that are not based in reason or logic and therefore unreasonably impact CN staff time and resources. Arguments are unreasonable when they:
  - 3.7.1 Fail to follow a logical sequence.
  - 3.7.2 Are not supported by any evidence and/or are based on conspiracy theories.
  - 3.7.3 Lead a Complainant to reject all other valid and contrary arguments.
  - 3.7.4 Are trivial when compared to the amount of time, resources and attention that the Complainant demands.
  - 3.7.5 Are false, inflammatory or defamatory.

## **Unreasonable behaviour**

- 3.8 Unreasonable behaviour includes conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated a Complainant is – because it unreasonably compromises the health, safety and security of our staff, other service users or the Complainant himself/herself. Examples include:
  - 3.8.1 Acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks.
  - 3.8.2 Harassment or intimidation.
  - 3.8.3 Rude, confronting and threatening correspondence.
- 3.9 Criminal behaviour
  - 3.9.1 Physical violence or threats of physical violence.
  - 3.9.2 Threats of harm to self or third parties, threats with a weapon or threats to damage property including bomb threats.
  - 3.9.3 Stalking.
- 3.10 Conduct of this nature will be dealt with under this Policy and in conjunction with the Model Guidelines for Managing and Responding to Threats, Aggressive Behaviour and Violence from Members of the Public (NSW Ombudsman) and may involve CN referring a matter to Police.

## **Part B – Roles and Responsibilities**

### **4 All staff**

- 4.1 Staff are responsible for reporting UCC incidents they experience or witness to their Supervisor within 24 hours of the incident.

### **5 Service Unit Managers**

- 5.1 Service Unit Managers must ensure satisfactory service has been provided to the Complainant and that informal strategies to manage UCC as per Section 9 have been implemented, where appropriate, prior to referring to the formal measures in this Policy.
- 5.2 In consultation with the Public Officer, Service Unit Managers will determine if this Policy applies to a Complainant and action the procedure in this Policy.
- 5.3 Service Unit Managers are responsible for making recommendations to the Public Officer on implementation of measures in this Policy to manage UCC.
- 5.4 Service Unit Managers are responsible for providing affected staff with the opportunity to debrief and express their concerns either formally or informally. Managers will also ensure that staff are offered professional counselling services such as through the Employee Assistance Program (EAP), if necessary, and are provided assistance and support where serious matters are referred to Police.

### **6 Public Officer**

- 6.1 The Public Officer is responsible for determining if a Complainant's conduct is unreasonable under the terms of this Policy.
- 6.2 The Public Officer has the authority to change or restrict a Complainant's access as identified in this Policy.
- 6.3 The Public Officer is responsible for reviewing cases where this Policy is applied and advising the Complainant of outcomes.
- 6.4 The Public Officer has the authority to modify restrictions, impose further restrictions or extend restrictions on the Complainant's access to CN services.

### **7 Directors**

- 7.1 Directors may conduct a review of a decision to change or restrict access to CN services under Section 12 where they were not involved in the original decision.

## Part C – Procedure

### 8 Initial Response to Unreasonable Complainant Conduct

- 8.1 If a CN staff member believes a Complainant is exhibiting UCC (not including violence or threats of violence), the CN staff member must:
  - 8.1.1 Advise the Complainant that the Complainant's conduct is unreasonable and that should it continue or occur again the interaction will cease.
  - 8.1.2 Cease their interaction with the Complainant.
  - 8.1.3 Make a record of the suspected UCC and provide it to their Supervisor.
- 8.2 If the UCC includes **violence or threats of violence** (including against property):
  - 8.2.1 The CN staff member must immediately:
    - (a) Cease their interaction with the Complainant.
    - (b) Make a record of the UCC and provide it to the Supervisor.
  - 8.2.2 The Supervisor must:
    - (a) Inform a Service Unit Manager of the UCC.
    - (b) Report the threat to Police.

### 9 Informal Unreasonable Complainant Conduct management strategy

- 9.1 The Supervisor and the CN staff member may manage the UCC by formulating and implementing an informal Unreasonable Complainant Conduct management strategy.
- 9.2 An informal management strategy must include:
  - 9.2.1 The CN staff member documenting all interactions with the Complainant and maintaining a file of those records.
  - 9.2.2 The CN staff member informing the Supervisor of any further UCC.
  - 9.2.3 The Supervisor providing background support and advice to the CN staff member.
  - 9.2.4 The Supervisor providing the CN staff member with the authority to handle the Complaint.
  - 9.2.5 The Unreasonable Complainant Conduct being referred to a Service Unit Manager if the Supervisor determines that the conduct requires a formal management strategy.
- 9.3 The informal management strategy must not limit or restrict the Complainant's access to CN.

### 10 Formal Unreasonable Complainant Conduct management strategy

- 10.1 A Service Unit Manager may determine that the UCC requires a formal management strategy, which may include the following:
  - 10.1.1 If the UCC is categorised as unreasonable persistence, the preferred management strategies are about saying "no". These include:
    - (a) Reiterating CN's final decision.

- (b) Informing the Complainant that they are provided one opportunity for review, which shall occur only if the Service Unit Manager is satisfied that the Complainant has made a case for review.

10.1.2 If the UCC is categorised as unreasonable demands, the preferred management strategies are about setting limits. These include:

- (a) Clearly informing the Complainant about how CN intends to deal with the Complaint.
- (b) Clarifying the limitations of the Complaint handling process.
- (c) Avoiding being drawn into hypothesising, conspiracy theories, unproductive argument and personal attacks.
- (d) Responding only to correspondence addressed directly to CN and not responding where CN is copied into the correspondence.
- (e) Ceasing interactions that are unproductive.
- (f) Avoiding taking actions that CN would not normally take simply to appease the Complainant.

10.1.3 If the UCC is categorised as unreasonable non-cooperation, the preferred management strategies are about setting conditions. These include:

- (a) Informing the Complainant that CN will only consider the Complaint if the Complainant is cooperative.
- (b) Requiring the Complainant to organise or summarise the information that they have provided before CN considers the Complaint.
- (c) Requiring the Complainant to define their Complaint.
- (d) Informing the Complainant that CN will not consider the Complaint until all the information has been provided.
- (e) If the Complainant has willfully misled CN or otherwise been untruthful about a Complaint, informing the Complainant that contact with CN regarding the Complaint will cease as a result of the behaviour.

10.1.4 If the UCC is categorised as unreasonable arguments, the preferred management strategy is to inform the Complainant that CN will not investigate their Complaint or continue to investigate their Complaint. If the Complainant is making unreasonable arguments together with reasonable arguments, the Complainant should be advised that the portion of the Complainant's arguments that are unreasonable will not be dealt with by CN.

10.1.5 If the UCC is categorised as unreasonable behaviour, the preferred management strategies are about informing the Complainant that their behaviour is unacceptable and setting conditions for future interactions. These include:

- (a) Returning letters that contain inappropriate language and requesting that the Complainant reframe their concerns in more appropriate language.
- (b) Immediately ceasing interactions if the Complainant displays unreasonable behaviour.
- (c) Informing Complainants that they must display appropriate behaviours in all interactions with CN for CN to continue to consider their Complaint.

10.1.6 Any other management strategy deemed appropriate by the Service Unit Manager including strategies set out in NSW Ombudsman's Managing Unreasonable Complainant Conduct Manual.

- 10.2 If a Service Unit Manager determines to implement a formal Unreasonable Complainant Conduct management strategy, the Service Unit Manager must inform the Complainant in writing that:
- 10.2.1 Their conduct constitutes UCC and the reasons why.
  - 10.2.2 CN has determined to implement a management strategy to deal with their UCC and detailed information about the management strategy.

## **11 Limitation on access to CN**

- 11.1 The Public Officer may determine that the UCC requires CN to limit the Complainant's access to CN by one or more of the following:
- 11.1.1 Limiting the frequency and/or duration of the Complainant's contact with CN.
  - 11.1.2 Limiting the Complainant's contact with CN to only specified CN staff members;
  - 11.1.3 Limiting the number of issues the Complainant may raise with CN during a specified period;
  - 11.1.4 Limiting the Complainant's access to CN on a specific issue if all appropriate avenues of review or appeal have been exhausted by informing the Complainant that:
    - (a) CN will not interact with the Complainant regarding that specific issue; and
    - (b) All correspondence dealing with that specific issue will be received, read and filed but only acknowledged or responded to if it provides significant new information about that specific issue;
  - 11.1.5 Limiting the forms in which the Complainant may contact CN. For example, limiting the contact to written correspondence with a direction not to enter CN premises and not to contact CN staff by telephone or any other means; and/or
  - 11.1.6 Any other limitation which the Public Officer considers reasonable and appropriate subject to legislative requirements.
- 11.2 The Public Officer may determine to refuse access to CN if the UCC involves:
- 11.2.1 Consistent abuse or threats to CN officers or members of the public at CN premises;
  - 11.2.2 Damage to CN's property;
  - 11.2.3 Physical violence; and/or
  - 11.2.4 Production of a weapon.
- 11.3 Before determining to limit or restrict access to CN, the Public Officer must consider that:
- 11.3.1 Members of the public have a right to access CN to seek advice, help and services.
  - 11.3.2 Members of the public have a right to raise their concerns and have them addressed and a member of the public should not unconditionally be deprived of that right.
  - 11.3.3 Complaints are a legitimate and necessary part of the relationship between CN and our community.
  - 11.3.4 CN's obligation to use resources efficiently and effectively
  - 11.3.5 Any justifiable concerns for the physical or mental wellbeing of CN officers.
- 11.4 If the Public Officer determines to change or restrict a Complainant's access to CN, the Public Officer must inform the Complainant in writing that:

- 11.4.1 Their conduct constitutes Unreasonable Complainant Conduct.
- 11.4.2 CN has determined to place limitations on their access to CN to manage their UCC and detailed information about limitations.
- 11.4.3 The duration of the change or restriction imposed, which will not exceed 12 months.
- 11.4.4 The limitations on the Complainant's access to CN will be reviewed in line with the relevant restriction period, at which time:
  - (a) The limitations may be extended if the Complainant has exhibited further UCC;
  - (b) The limitations may be extended if the UCC involved violence or threats of violence (including against property) or gave rise to justifiable concerns for the physical or mental wellbeing of CN officers; or
  - (c) The limitations may be removed.
- 11.5 The Public Officer will record this decision on CN's Unreasonable Complainant Conduct register.

## 12 Right to appeal

- 12.1 Unreasonable Complainants are entitled to one request to appeal a decision to change/restrict their access to CN. The review of the appeal will be undertaken by staff independent of the original decision.
- 12.2 If a Complainant continues to be dissatisfied after the appeal process, they will be advised to seek an external review from an oversight agency such as the Ombudsman. Contact details for external agencies can be found at **Annexure C**.

## 13 Non-compliance with a change or restriction

- 13.1 Non-compliance may result in further action or restrictions on the Complainant's access to CN.

## 14 Review of cases

- 14.1 Restrictions imposed under this Policy will be reviewed in line with the relevant restriction period and not more than 12 months after the service change or restriction was initially imposed, continued or upheld.
- 14.2 The Public Officer will consider:
  - 14.2.1 Whether the Complainant has had any contact with CN during the restriction period.
  - 14.2.2 The Complainant's conduct during the restriction period.
  - 14.2.3 Any other information that may be relevant in the circumstances.
- 14.3 The Complainant will be notified of the outcome of the review in writing.

# Annexure A – Definitions

**Appeal** means to formally request that a decision be changed.

**CEO** means the Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993*.

**City of Newcastle (CN)** means Newcastle City Council.

**Complainant** means the person initiating the Complaint.

**Council** means the Elected Council.

**Public Officer** means CN's public officer appointed under Chapter 11 of the Local Government Act 1993

**Review** means a periodic re-examination of UCC restrictions imposed on a Complainant.

**Unreasonable Complainant (UC)** means a Complainant whose conduct is deemed unreasonable by officers delegated under this Policy.

**Unreasonable Complainant Conduct (UCC)** 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 our organisation, our staff, other service users and Complainants or the Complainant themselves.

**Unreasonable persistence** means continued, incessant and unrelenting conduct by a Complainant that has a disproportionate and unreasonable impact on our organisation, staff, services, time and/or resources.

**Unreasonable demands** means 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.

**Unreasonable lack of cooperation** means unwillingness and/or inability by a Complainant to cooperate with our organisation, staff, or our complaints system and processes that results in a disproportionate and unreasonable use of our services, time and/or resources.

**Unreasonable arguments** means 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.

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

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

## Annexure B – Policy Authorisations

Function:	Position Title / Number:
Authority to change or restrict a Complainant's access to CN services in accordance with this Policy.	P30025 – Manager Legal (as Public Officer)
Authority to review a decision to change/restrict access to CN services in accordance with this Policy.	P20674 – Director City Wide Services P20675 – Director Strategy and Engagement P20676 – Director Governance and Chief Financial Officer P30051 – Director People and Culture P60299 – Director and Interim Chief Information Officer P90001 – Director Infrastructure and Property

## Annexure C – External agency contact details

Customers are welcome to seek advice or lodge complaints with external agencies. Find below some relevant contact details:

### Office of Local Government

*Street Address*

5 O'Keeffe Avenue  
NOWRA NSW 2541

*Postal Address*

Locked Bag 3015  
NOWRA NSW 2541

P 02 4428 4100

TTY 02 4428 4209

E [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

W [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)

### NSW Ombudsman

Level 24, 580 George Street  
SYDNEY NSW 2000

P 02 9286 1000

E [nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)

W [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

### Independent Commission Against Corruption

Level 7, 255 Elizabeth Street  
SYDNEY NSW 2000

P 02 8281 5999

F 02 9264 5364

TTY 02 8281 5773

E [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)

W [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

# Document Control

Policy title	Unreasonable Complainant Conduct Policy and Procedure
Policy owner	Manager Customer Experience
Policy expert/writer	Legal / Customer Experience
Associated Procedure title (if applicable)	Nil.
Procedure owner (if applicable)	Nil.
Prepared by	Legal / Customer Experience
Approved by	CEO
Date approved	12/10/2021
Policy approval form reference	ECM 7147783
Commencement date	12/10/2021
Next revision date (date policy will be revised)	12/10/2024
Termination date	24/08/2026
Version	2
Category	Administration
Keywords	Conduct, customers, complaints, grievance, unreasonable
Details of previous versions	Administration Update - Termination date extended from 12/10/2025 to 24/08/2026 – approved by CEO – ECM 12816737  This Policy supersedes the Managing Unreasonable Complainant Conduct Policy (2010) – ECM 3931048
Legislative amendments	Nil.
Relevant strategic direction	Open and Collaborative Leadership
Relevant strategy	Nil.
Relevant legislation (reference specific sections)	This Policy supports CN's compliance with the following legislation:  Local Government Act 1993

Other related policies/ documents/ strategies	<p>Code of Conduct Policy for Staff</p> <p>Effective Complaint Handling Guidelines - NSW Ombudsman (2017)</p> <p>Model Guidelines - Managing and Responding to Threats, Aggressive Behaviour and Violence from Members of the Public (2014)</p> <p>Managing Unreasonable Complainant Conduct Model Policy - NSW Ombudsman (2021)</p> <p>Managing Unreasonable Conduct by a Complainant Manual - NSW Ombudsman (2021)</p>
Related forms	Unreasonable Complainant Conduct Form (Internal)
Required on website	Yes
Authorisations	Functions authorised under this Policy at Annexure B