



Unreasonable Conduct by Customers Policy

POLICY OBJECTIVE

The objective of this policy is to provide customers and all Council staff the framework within which Goulburn Mulwaree Council (Council) will manage unreasonable conduct by customers ('UCC').

LEGISLATIVE PROVISIONS

Work Health and Safety Act 2011

POLICY STATEMENT

1. Introduction

Council is committed to being accessible and responsive to all customers who approach our office for assistance with a request for service, request for information or with a complaint.

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 requests we receive.

When customers behave unreasonably in their dealings with us, their conduct can significantly affect our success. As a result, Council will take proactive and decisive action to manage any conduct by customers that negatively and unreasonably affects us and will support our staff to do the same in accordance with this policy.

2. Objectives

2.1 Policy aims

This policy has been developed to assist all staff to better manage unreasonable conduct by customers ('UCC'). It aims to help staff:

- feel confident and supported in taking action to manage UCC
- act fairly, consistently, honestly and appropriately when responding to UCC
- understand their roles and responsibilities in relation to the management of UCC and how this policy will be used
- understand the types of circumstances when it may be appropriate to manage UCC using one or more of the following mechanisms:
 - the strategies provided in the Managing Unreasonable Complainant Conduct Practice Manual (3rd edition) including the strategies to change or restrict a customer's access to our services
 - alternative dispute resolution strategies to deal with conflicts involving customers and members of Council
 - legal instruments such as trespass laws/legislation to prevent a customer from coming onto our premises, and orders to protect specific staff from any actual or apprehended personal violence, intimidation or stalking
- understand the criteria we will consider before we decide to change or restrict a customer's access to our services
- be aware of the processes that will be followed to record and report UCC incidents and the procedures for consulting and notifying customers about any proposed actions or decisions to change or restrict their access to our services

- understand the procedures for reviewing decisions made under this policy, including specific timeframes for review.

3. Defining Unreasonable Conduct by Customers

3.1 Unreasonable conduct by customers

Most customers act reasonably and responsibly in their interactions with us, even when they are experiencing high levels of distress, frustration and anger about their request or complaint.

However, despite our best efforts to help them, in a very small number of cases some customers behave in ways that are inappropriate and unacceptable. They can be aggressive and verbally abusive towards our staff, threaten harm and violence or bombard our offices with unnecessary and excessive phone calls and emails. They may make inappropriate demands on our time and our resources or refuse to accept our decisions and recommendations in relation to their requests or complaints. When customers behave in these ways, we consider their conduct to be 'unreasonable'.

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

UCC can be divided into five categories of conduct:

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

3.2 Unreasonable persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a customer that has a disproportionate and unreasonable impact on Council, 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 (even when it is evident the customer does understand the information provided).
- Persistently demanding a review simply because it is available and without arguing or presenting a case for one.
- Targeting Council with multiple requests about a range of issues, whether related or not, which separately or together require an unreasonable allocation of Council resources.
- Pursuing and exhausting all available review options, even after we have explained that a review is not warranted, and refusing to accept we cannot or will not take further action on their request or complaint.
- Reframing a request or complaint in an effort to get it taken up again.
- Multiple and repeated phone calls, visits, letters, emails (including cc'd correspondence) after we have repeatedly asked them not to.
- Contacting different people within or outside Council to get a different outcome or a more sympathetic response to their request or complaint – this is known as internal and external 'forum shopping'.

3.3 Unreasonable demands

Unreasonable demands are any demands expressly made by a customer that have a disproportionate and unreasonable impact on Council, staff, services, time and/or resources.

Some examples of unreasonable demands include:

- Issuing instructions and making demands about how to handle their request or complaint, the priority it should be given, or the outcome that was/should be achieved.
- Insisting on talking to a Senior Manager, Director, the Chief Executive Officer or the Mayor personally when it is not appropriate or warranted.
- Emotional blackmail and manipulation resulting in intimidation, harassment, shaming, seduction or portraying themselves as being victimised when this is not the case.
- Insisting on outcomes that are not possible or appropriate in the circumstances, for example asking for someone to be sacked or prosecuted, or for an apology or compensation when there is no reasonable basis for this.
- Demanding services that are of a nature or scale that we cannot provide, even after we have explained to them repeatedly.
- Expecting responses to requests which separately or together require an unreasonable or unfair allocation of Council resources.

3.4 Unreasonable lack of cooperation

Unreasonable lack of cooperation is when a customer is unwilling or unable to cooperate with Council, our staff, or our requests and complaints process resulting 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 complex or disorganised information without clearly defining the issue at hand or explaining how the material provided relates to their request or complaint where the customer is clearly capable of doing this.
- Providing little or no detail around their complaint or presenting information in 'drips and drabs'.
- Refusing to follow or accept our instructions, suggestions, or advice without a clear or justifiable reason for doing so.
- Arguing 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.

3.5 Unreasonable arguments

Unreasonable arguments include any arguments that are not based on any reason or logic, that are incomprehensible, false or inflammatory, trivial or delirious and that disproportionately and unreasonably impact upon Council, 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 customer to reject all other valid and contrary arguments
- are trivial when compared to the amount of time, resources and attention that the customer demands
- Are false, inflammatory or defamatory.

3.6 Unreasonable behaviour

Unreasonable behaviour is conduct that is unreasonable in all circumstances regardless of how stressed, angry or frustrated that a customer is because it unreasonably compromises the health, safety and security of our staff, other service users or the customer themselves.

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 face to face or phone contact or 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.

Council has a zero tolerance policy towards any harm, abuse or threats directed towards staff. Any conduct of this kind will be dealt with under this policy, Council's WHS Preventing and Responding to Workplace Aggression and Violence Procedure and in accordance with our duty of care and work health and safety responsibilities.

4. Responding to and Managing UCC

4.1 Changing or restricting a customer's access to our services

UCC incidents will generally be managed by limiting or adapting the ways that we interact with or deliver services to customers by restricting:

- **Who they have contact with** – for example, limiting a customer to a sole contact person/staff member in Council.
- **What they can raise with us** – for example, restricting the subject matter of communications that we will consider and respond to.
- **When they can have contact** – limiting a customer's contact with Council to a particular time, day, or length of time, or curbing the frequency of their contact with us.
- **Where they can make contact** – for example, limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office.
- **How they can make contact** – limiting or modifying the forms of contact that the customer 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 provision of services altogether.

When using the restrictions provided in this section, we recognise that discretion will need to be used to adapt them to suit a customer's personal circumstances, level of competency, literacy skills, and cultural background. In this regard, we also recognise that more than one strategy may be needed in individual cases to ensure their appropriateness and efficacy.

4.2 Who – limiting the customer to a sole contact point

Where a customer tries to forum shop internally within Council, changes their issues of request or complaint repeatedly, reframes their request or complaint, or raises an excessive number of requests or complaints, it may be appropriate to restrict their access to a single staff member (a sole contact point) who will exclusively manage their request(s) or complaint(s) and interactions with Council. This may ensure they are dealt with consistently and may minimise the incidence of misunderstandings, contradictions and manipulation.

Customers who are restricted to a sole contact person will, however be given the contact details of one additional staff member who they can contact if their primary contact is unavailable – for example if they go on leave or are otherwise unavailable for an extended period of time.

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

Where customers repeatedly send letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content or relate to a request/complaint that has already been comprehensively considered and/or reviewed (at least once) by Council, we may restrict the issues/subject matter the customer can raise with us or that we will respond to. For example, we may:

- Refuse to respond to correspondence that raises an issue that has already been dealt with, that raises a trivial issue, or is not supported by evidence. The customer will be advised that future correspondence of this kind will be read and filed without acknowledgement unless we decide that we need to pursue it further in which case, we may do so on our 'own motion'.
- Restrict the customer to one request/complaint or issue per month. Any attempts to circumvent this restriction, for example by raising multiple complaints/issues in the one letter/email may result in modifications or further restrictions being placed on their access.
- Return correspondence to the customer and require them to remove any inappropriate content before we will agree to consider its contents. We will also keep a copy of the inappropriate correspondence for our records to help identify repeat/further UCC incidents.

4.4 When – limiting when and how a customer can contact us

If a customer's contact with Council places an unreasonable demand on our time or resources 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 customer 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.

For irrelevant, overly lengthy, disorganised or very frequent written correspondence we may also:

- Require the customer to clearly identify how the information or supporting materials they have sent to us relate to the central issues that we have identified in their request or complaint.
- Restrict the frequency with which customers can send emails or other written communications to Council.
- Restrict a customer to sending emails to a particular email account (e.g. Council's email address) or block their email access altogether and require that any further correspondence be sent through Australia Post only.

4.5 Writing only restrictions

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

- Australia Post only
- Email only to a specific staff email or our general Council email account
- Some other relevant form of written contact, where applicable.

If a customer's contact is restricted to writing only, the customer will be advised of the specific means that they can use to contact Council. If it is not appropriate for a customer to enter Council premises to hand deliver their written communication this will also be communicated to them.

Any communications that are received by Council in a manner that contravenes a 'writing only' restriction will either be returned to the customer or read and filed without acknowledgement.

4.6 Where – limiting face-to-face interviews

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

These restrictions may include:

- Restricting access to particular secured premises or areas of Council such as the reception area or secured room or facility.
- Restricting their ability to attend Council 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 Council premises on an 'appointment only' basis and only with specified staff. (for these meetings staff must always seek support and assistance of a colleague for added safety and security).
- Banning the customer from attending Council premises altogether and allowing some other form of contact – e.g. 'writing only' or 'telephone only' contact.

4.7 Contact through a representative only

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

If Council determines that the representative or support person may exacerbate the situation with the customer, the customer will be asked to nominate another person and we may assist them in this regard.

4.8 Completely terminating a customer's access to our services

In rare cases, and as a last resort when all other strategies have been considered, the Chief Executive Officer (CEO) may decide that it is necessary for Council to completely restrict a customer's contact or access to Council services.

A decision to have no further contact with a customer will only be made if it appears that the customer 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 or physical abuse, threats of harm, harassment, intimidation, stalking, assault.
- Damage to property while on our premises.
- Threats with a weapon or common office items that can be used to harm another person or themselves.
- Physically preventing a staff member from moving around freely either within their workspace or during an off-site visit – e.g. entrapping them in their home.
- Conduct that is otherwise unlawful.

In these cases the customer will be sent a letter notifying them that their access has been restricted. The Police may also be notified in these circumstances.

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

5. Alternative Dispute Resolution

5.1 Using alternative dispute resolution strategies to manage conflicts with customers

If Council determines that we cannot terminate our services to a customer in a particular case or that we or our staff bear some responsibility for causing or exacerbating their conduct, Council may consider using alternative dispute resolution strategies ('ADR') such as mediation and conciliation to resolve the conflict with the customer and attempt to rebuild our relationship with them.

However, we recognise that in UCC situations, ADR may not be an appropriate or effective strategy particularly if the customer is uncooperative or resistant to compromise. Therefore, each case will be assessed on its own facts to determine the appropriateness of this approach.

6. Appealing a Decision to Change or Restrict Access to Our Services

People who have their access changed or restricted are entitled to one appeal of a decision to change or restrict their access to our services. This review will be undertaken by a senior staff member who was not involved in the original decision to change or restrict the customer's access. This staff member will consider the customer's arguments and personal circumstances, including cultural background, along with all relevant records regarding the customer's past conduct. They will advise the customer of the outcome of their appeal by letter, which must be approved by the CEO.

If a customer continues to be dissatisfied after the appeal process, they may seek an external review from an oversight agency such as the Ombudsman. The Ombudsman may accept the review (in accordance with its administrative jurisdiction) to ensure that we have acted fairly, reasonably and consistently and have observed the principles of good administrative practice including, procedural fairness.

7. Periodic Reviews of All Cases Where This Policy is Applied

7.1 Period for review

All cases where this policy is used will be reviewed every 3 months or 6 months (depending on the nature of the service provided) and not more than 12 months after the service change or restriction was initially imposed or upheld.

7.2 Notifying the customer of an upcoming review

Council will invite customers to participate in the review process unless they determine that this invitation will provoke a negative response from the customer (i.e. further UCC). The invitation will be given and the review will be conducted in accordance with the customer's access restrictions.

7.3 Criteria to be considered during a review

When conducting a review Council will consider:

- Whether the customer has had any contact with the organisation during the restriction period.
- The customer's conduct during the restriction period.
- Any information or arguments put forward by the customer for review.
- Any other information that may be relevant in the circumstances.

Sometimes a customer may not have a reason to contact Council during their restriction period. As a result, a review decision that is based primarily on the fact that the customer has not contacted Council during their restriction period may not be an accurate representation of their level of compliance/reformed behaviour. This should be taken into consideration, in relevant situations.

7.4 Notifying a customer of the outcome of a review

Council will notify the customer of the outcome of their review using the appropriate/relevant method of communication as well as a written letter explaining the outcome.

8. Roles and Responsibilities

8.1 All staff

All staff are responsible for familiarising themselves with this policy and associated procedure as well as the Individual Rights and Mutual Responsibilities of the Parties to a Complaint in Appendix A. Staff are also encouraged to explain the contents of this document to all customers particularly those who engage in UCC or exhibit the early warning signs for UCC.

Staff are responsible for recording and reporting all UCC incidents they experience or witness (as appropriate) to their Business Manager within 24 hours of the incident occurring and ensuring details of contacts are recorded.

While effective application of this policy relies on all staff identifying and reporting UCC incidents, it must be emphasised that any strategies that effectively change or restrict a customer's access to our services must be considered at the Executive level as provided in the procedure.

8.2 The Business Manager Governance

The Business Manager Governance, in consultation with relevant staff, has the responsibility and authority to provide advice to the Executive, on changing or restricting a customer's access to Council. The Business Manager Governance is also responsible for the following:

- Ensure that all relevant staff members are trained to deal with UCC.
- Support staff to apply the strategies in the policy and associated procedure.
- Record, monitor and review all cases where this policy is applied to ensure consistency, transparency and accountability for the application of this policy.
- Manage and keep a file record of all cases where this policy is applied.

8.3 Senior Managers

All senior managers are responsible for supporting staff to apply the strategies in this policy. Senior managers are also responsible for ensuring compliance with the UCC Procedure and ensuring that all relevant staff are trained to deal with UCC.

8.4 Chief Executive Officer

The CEO will approve any decision to completely terminate a customer's contact or access to Council.

9. Training and Awareness

Council is committed to ensuring that all staff are aware of and know how to use this policy. All staff who deal with customers in the course of their work will also receive appropriate training and information on using this policy and on managing UCC on a regular basis.

10. Supporting Documents and Policies

This policy is compliant with and supported by the following documents:

- Managing unreasonable conduct by complainants Model Policy 2021 – NSW Ombudsman
- Managing unreasonable customer conduct practice manual 2021 – NSW Ombudsman
- Complaint Handling Policy
- Work Health and Safety Policy
- Code of Conduct
- WHS Preventing and Responding to Workplace Aggression and Violence

| Version | Council Meeting Date | Resolution | Adoption Date | Effective From |
|---|----------------------|------------|-----------------|------------------|
| 1 | 2 October 2018 | 2018/408 | 2 October 2018 | 9 November 2018 |
| 2 | 4 October 2022 | 2022/362 | 4 October 2022 | 1 November 2022 |
| 3 | 17 October 2023 | 2023/253 | 17 October 2023 | 15 November 2023 |
| | | | | |
| All policies can be reviewed or revoked by resolution of Council at anytime. | | | | |

DIRECTORATE: Executive Services

BUSINESS UNIT: Governance

Appendix A

Individual Rights and Mutual Responsibilities of the Parties to a Complaint

In order for Goulburn Mulwaree Council (Council) to ensure that all complaints are dealt with fairly, efficiently and effectively and that work health and safety standards and duty of care obligations are adhered to, the following rights and responsibilities must be observed and respected by all of the parties to the complaint process.

Individual rights¹

Customers have the right:

- to make a complaint and to express their opinions in ways that are reasonable, lawful and appropriate, regardless of cultural background, national origin, sex, sexual orientation, gender expression, disability or other cultural or personal characteristics²1F
- to a reasonable explanation of Council's complaints policy/procedures, including details of the confidentiality, secrecy or privacy rights or obligations that may apply
- to a fair and impartial assessment and, where appropriate, investigation of their complaint based on the merits of the case³
- to a fair hearing⁴
- to a timely response
- to be informed in at least general terms about the actions taken and outcome of their complaint⁵
- to have decisions that affect them explained to them
- to at least one right of review of the decision on the complaint⁶
- to be treated with courtesy and respect
- to communicate valid concerns and views without fear of reprisal or other unreasonable response.⁷

Staff have the right:

- to determine whether, and if so how, a complaint will be dealt with
- to finalise matters on the basis of outcomes they consider to be satisfactory in the circumstances⁸
- to expect honesty, cooperation and reasonable assistance from customers
- to expect honesty, cooperation and reasonable assistance from Council and people within jurisdiction who are the subject of a complaint
- to be treated with courtesy and respect
- to a safe and healthy working environment⁹
- to modify, curtail or decline service (if appropriate) in response to unacceptable behaviour by a customer.¹⁰

¹ The word 'rights' is not used here in the sense of legally enforceable rights (although some are), but in the sense of guarantees of certain standards of service and behaviour that a complaint handling system should be designed to provide to each of the parties to a complaint.

² Differences of opinion are normal: people perceive things differently, feel things differently and want different things. People have a right to their own opinions, provided those opinions are expressed in acceptable terms and in appropriate forums.

³ While degrees of independence will vary between complaint handlers, all should assess complaints fairly and as impartially as possible, based on a documented process and the merits of the case.

⁴ The 'right to be heard' refers to the opportunity to put a case to the complaint handler/decision-maker. This right can be modified, curtailed or lost due to unacceptable behaviour, and is subject to the complaint handler's right to determine how a complaint will be dealt with.

⁵ Provided this will not prejudice on-going or reasonably anticipated investigations or disciplinary/criminal proceedings.

⁶ Such a right of review can be provided internally to Council, for example by a person not connected to the original decision.

⁷ Provided the concerns are communicated in the ways set out in relevant legislation, policies and/or procedures established for the making of such complaints/allegations/disclosures/etc.

⁸ Some complaints cannot be resolved to the customer's satisfaction, whether due to unreasonable expectations or the particular facts and circumstances of the complaint [see also footnote 25].

⁹ See for example WH&S laws and the common law duty of care on employers.

¹⁰ Unacceptable behaviour includes verbal and physical abuse, intimidation, threats, etc.

Subjects of a complaint have the right:

- to a fair and impartial assessment and, where appropriate, investigation of the allegations made against them
- to be treated with courtesy and respect by staff of Council
- to be informed (at an appropriate time) about the substance of the allegations made against them that are being investigated¹¹
- to be informed about the substance of any proposed adverse comment or decision
- to be given a reasonable opportunity to put their case during the course of any investigation and before any final decision is made¹²
- to be told the outcome of any investigation into allegations about their conduct, including the reasons for any decision or recommendation that may be detrimental to them
- to be protected from harassment by disgruntled customers acting unreasonably.

Mutual Responsibilities

Customers are responsible for:

- treating staff of Council with courtesy and respect
- clearly identifying to the best of their ability the issues of complaint, or asking for help from the staff of Council to assist them in doing so
- providing Council, to the best of their ability with all the relevant information available to them at the time of making the complaint
- being honest in all communications with Council
- informing Council of any other action they have taken in relation to their complaint¹³
- cooperating to the best of their ability with the staff who are assigned to assess/ investigate/resolve/determine or otherwise deal with their complaint.

If customers do not meet their responsibilities, Council may consider placing limitations or conditions on their ability to communicate with staff or access certain services.

Council has a zero tolerance policy in relation to any harm, abuse or threats directed towards its staff. Any conduct of this kind may result in a refusal to take any further action on a complaint or to have further dealings with the customer.¹⁴ Any such conduct of a criminal nature will be reported to police and in certain cases legal action may also be considered.

¹¹ Other than where there is an overriding public interest in curtailing the right, for example where to do so could reasonably create a serious risk to personal safety, to significant public funds, or to the integrity of an investigation into a serious issue. Any such notifications or opportunities should be given as required by law or may be timed so as not to prejudice that or any related investigation.

¹² Depending on the circumstances of the case and the seriousness of the possible outcomes for the person concerned, a reasonable opportunity to put their case, or to show cause, might involve a face to face discussion, a written submission, a hearing before the investigator or decision maker, or any combination of the above.

¹³ For example, whether they have made a similar complaint to another relevant person or body or have relevant legal proceedings on foot.

¹⁴ Other than in circumstances where the organisation is obliged to have an ongoing relationship with the customer.

Staff are responsible for:

- providing reasonable assistance to customers who need help to make a complaint and, where appropriate, during the complaint process
- dealing with all complaints, customers and people or organisations the subject of complaint professionally, fairly and impartially
- giving customers or their advocates a reasonable opportunity to explain their complaint, subject to the circumstances of the case and the conduct of the customer
- giving people or organisations the subject of complaint a reasonable opportunity to put their case during the course of any investigation and before any final decision is made¹⁵
- informing people or organisations the subject of investigation, at an appropriate time, about the substance of the allegations made against them¹⁶ and the substance of any proposed adverse comment or decision that they may need to answer or address¹⁷
- keeping customers informed of the actions taken and the outcome of their complaints¹⁸
- giving customers explanations that are clear and appropriate to their circumstances, and adequately explaining the basis of any decisions that affect them
- treating customers and any people who are the subject of complaint with courtesy and respect at all times and in all circumstances
- taking all reasonable and practical steps to ensure that customers¹⁹ are not subjected to any detrimental action in reprisal for making their complaint²⁰
- giving adequate warning of the consequences of unacceptable behaviour.

If Council fails to comply with these responsibilities, customers may complain to the Chief Executive Officer via Council's Complaints Coordinator or to the NSW Ombudsman.

Subjects of a complaint are responsible for:

- cooperating with the staff of Council who are assigned to handle the complaint, particularly where they are exercising a lawful power in relation to a person or body within their jurisdiction²¹
- providing all relevant information in their possession to Council or its authorised staff when required to do so by a properly authorised direction or notice
- being honest in all communications with Council and its staff
- treating the staff of Council with courtesy and respect at all times and in all circumstances
- refraining from taking any detrimental action against the customer²² in reprisal for them making the complaint.²³

If subjects of a complaint fail to comply with these responsibilities, action may be taken under relevant laws or codes of conduct

¹⁵ See footnote 11.

¹⁶ Other than where an allegation is so lacking in merit that it can be dismissed at the outset.

¹⁷ See footnote 11.

¹⁸ See footnote 5.

¹⁹ Customers' include whistleblowers/people who make internal disclosures.

²⁰ Complaints' includes disclosures made by whistleblowers/people who make internal disclosures.

²¹ This does not include any obligation to incriminate themselves in relation to criminal or disciplinary proceedings, unless otherwise provided by statute.

²² See footnote 19.

²³ See footnote 20.

Council is responsible for:

- maintaining an appropriate and effective complaint handling system in place for receiving, assessing, handling, recording and reviewing complaints
- making decisions about how all complaints will be dealt with
- ensuring that all complaints are dealt with professionally, fairly and impartially²⁴
- ensuring that staff treat all parties to a complaint with courtesy and respect
- ensuring that the assessment and any inquiry into the investigation of a complaint is based on sound reasoning and logically probative information and evidence
- finalising complaints on the basis of outcomes that Council, or its responsible staff, consider to be satisfactory in the circumstances²⁵
- implementing reasonable and appropriate policies/procedures/practices to ensure that customers²⁶ are not subjected to any detrimental action in reprisal for making a complaint²⁷, including maintaining separate complaint files and other operational files relating to the issues raised by individuals who make complaints
- adequately considering any confidentiality, secrecy or privacy obligations or responsibilities that may arise in the handling of complaints and the conduct of investigations.

If Council fails to comply with these responsibilities, customers may complain to the Chief Executive Officer via Council's Complaints Coordinator or to the NSW Ombudsman.

²⁴ See footnote 3.

²⁵ Once made, complaints are effectively 'owned' by the complaint handler who is entitled to decide (subject to any statutory provisions that may apply) whether, and if so how, each complaint will be dealt with, who will be the case officer/investigator/decision-maker/etc, the resources and priority given to actioning the matter, the powers that will be exercised, the methodology used, the outcome of the matter, etc. Outcomes arising out of a complaint may be considered by the complaint handler to be satisfactory whether or not the customers, any subjects of complaint or the organisation concerned agrees with or is satisfied with that outcome.

²⁶ See footnote 19.

²⁷ See footnote 20.