

# Managing Unreasonable Conduct by Customers

<b>Policy Type: Council Policy</b> <b>Policy Owner: Chief Executive Officer</b>	<b>Policy No. CP- 107</b> <b>Last Review Date: July 2018</b>
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## Policy Objectives

To provide principles and guidance as the basis for a fair, equitable and transparent mechanism for dealing with unreasonable conduct by customers that will achieve an effective balance between:

- meeting the genuine needs of customers fairly and equitably,
- providing a safe working environment for staff, volunteers and Elected Members, and
- ensuring that City resources are used efficiently, effectively and equitably to manage the City's responsibilities to discharge its statutory functions and represent the interests of all persons in the District.

## Policy Scope

This policy applies to:

- All situations involving interactions between people working on behalf of the City of Melville and individual customers engaging in unreasonable conduct as defined.

## Policy Statement

The City of Melville is committed to being accessible and responsive to all customers who approach the City for assistance, raising legitimate and important concerns, enquiries or requests and to ensuring the equitable allocation of the City's resources across all the enquiries, requests, concerns and complaints received.

The Council and the Administration are also committed to ensuring the health, safety and security of its employees and all visitors to its facilities.

The Council, the City Administration and the City's customers have a shared responsibility to ensure that the City's resources are used efficiently, effectively and equitably to achieve a net public benefit for the community as a whole.

Customer satisfaction is an aspiration and measurable priority for the City of Melville. However, at times the expectations or demands of a person may exceed the City's ability to deliver.

Most customers, including most complainants, act reasonably and responsibly in their interactions with the City, even when they are experiencing high levels of distress, frustration or anger about their complaint.

However, in a very small number of cases customers behave in ways that are inappropriate and unacceptable. They may be aggressive, verbally abusive or threaten harm to Elected Members, staff and volunteers, bombard staff with unnecessary and excessive phone calls and emails, make inappropriate demands on staff time and City resources and refuse to accept decisions, explanations and recommendations even after exhausting all internal and external review processes. When customers behave in these ways their conduct is considered to be 'unreasonable'.

It is acknowledged that whatever standard of professional and positive customer service the City achieves, there will always be a small percentage of customers whose issues cannot be dealt with to their satisfaction and who choose to engage in unreasonable conduct in their efforts to obtain their desired outcome.

Although the percentage of customers who behave this way is very small, they consume a disproportionate amount of the City's time and resources, and cause serious stress to staff and witnesses. In these situations the City will take steps to manage conduct causing disruption to the work of the City and excessive diversion of resources, or that puts at risk the health, safety and wellbeing of staff, volunteers and Elected Members. Dealing with unreasonable conduct by customers is a recognised source of staff stress in the public sector in Australia and internationally.

However, even when a person's behaviour may be unreasonable, their complaint or concern should be impartially assessed on its merits and if valid, must be handled appropriately and in accordance with the City's adopted Complaint Management Policies and Procedures.

This policy has drawn extensively on guidance relating to dealing with unreasonable conduct that has been published by other government integrity agencies, particularly the Australasian Parliamentary Ombudsman Project on Managing Unreasonable Complainant Conduct that has been led by the NSW Ombudsman's Office since 2006. These strategies have been adopted internationally and have been reinforced in the recently published Victorian Ombudsman's Good Practice Guide to Dealing with Challenging Behaviour.

### Policy Outcomes

Equity and Fairness	Ensuring all customer complaints and concerns are dealt with equitably and fairly and resources are allocated on the basis of genuine need and merit.
Efficiency	Improving overall efficiency by having an appropriate process and allocating sufficient time and resources to deal with unreasonable conduct.
Health and Safety	Complying with work health and safety requirements and duty of care obligations associated with managing the impacts of unreasonable conduct on staff health, safety and security, and implementing measures to mitigate or control those risks.
Transparency	Publishing clear expectations for interactions between customers and staff, including definitions of unreasonable conduct and the consequences that will be applied when such conduct is encountered.

## Guiding Principles

- All members of the community have the right to ask questions about the City and the services it provides, express opinions about the City and the City's services and lodge complaints about the City and the City's services.
- All members of staff, volunteers and Elected Members have the right to be treated with respect and courtesy by members of the community.
- The right of customers to ask questions, express opinions and lodge complaints is not unqualified and the City may, and in some cases is legally obligated to, take action when faced with unreasonable conduct.
- It is the City's responsibility to eliminate or reduce risks to mental and physical health and safety under Occupational Safety and Health legislation. .
- It is the City's responsibility to ensure that its resources are allocated efficiently, effectively and equitably.
- A fundamental consideration when dealing with unreasonable conduct is to minimise excessive diversion of resources to the personal benefit of individuals at the expense of other customers of the City's services or to the detriment of the City's capacity to undertake its statutory functions.
- The City's responses to unreasonable conduct will be reasonable and proportionate to the nature of the conduct and its impact on the City's staff and resources, and will have due regard to the person's personal circumstances.
- If as a last resort a person's access to the City's services must be limited to protect the City's staff and resources, this decision will be made at a senior level and the person will be informed about the limits, the reasons for the decision and the options for review.
- Nothing in this policy limits the capacity and legal requirement of the City to take immediate appropriate action where the unreasonable conduct involves an imminent and readily apparent threat to the mental or physical health or well-being of Elected Members, employees, volunteers, contractors or other service users or in the case of failure to obey a lawful instruction.

## Implementation

The Policy will be implemented through a set of management strategies including operational policies, procedures, staff training and support, public information and reporting mechanisms.

The operational framework to manage unreasonable conduct will specify a series of responses and consequences proportionate to the severity of the conduct and its impact on the City's operations. In implementing this Policy, the City will focus on the conduct rather than the person and separate the management of their conduct from the management of their issue.

Only senior management may impose sanctions that manage the impact of unreasonable conduct by changing or restricting the customer's access to services or staff. This decision will be made in accordance with clearly defined policies and procedures, having due regard to the person's personal circumstances, and will be clearly documented. These restrictions will be reviewed at appropriate intervals not exceeding 12 months.

Customers may appeal a decision to change or restrict their access, and the subsequent review must be undertaken by a senior manager not involved in the original decision. A customer dissatisfied with the outcome of the internal review may seek an external review from the WA Ombudsman or other applicable oversight agency.

### Reporting to the Council

Annually, at the first Governance Committee meeting held within two months after the close of the relevant financial year, the Chief Executive Officer will report to the Committee, in a report intended for review by the Council, the application of the Policy listing the number of customers to whom the Policy has been applied, the nature of the unreasonable conduct, the action taken or limits imposed, the number of reviews undertaken and their outcomes.

Monthly, through existing communication mechanisms, the Chief Executive Officer will provide information on the application of the policy.

### Review

The incidences of unreasonable conduct experienced by the City will be monitored and after 12 months, the CEO will review the effectiveness of the Policy.

### **Definitions:**

**Behaviour** means the way a person acts or conducts themselves towards others.

**Customer** means any external person or organisation that the City has dealings with.”

**Person** or any word or expression descriptive of a person includes a public body, company, or association or body of persons, corporate or unincorporate.

**Unreasonable Conduct** – is any behaviour which, because of its nature or frequency raises substantial health, safety, resource or equity issues for the City’s Elected Members, employees, volunteers, contractors and other service users. It is grouped into five categories:

Type of Conduct	Definition	Examples
Unreasonable persistence	Continued, incessant and unrelenting conduct by an individual or group that has a disproportionate and unreasonable impact on the City’s staff, services, time and/or resources.	<ul style="list-style-type: none"> <li>• Bombarding the City with calls, emails, visits or information when not warranted.</li> <li>• Reframing an old complaint so it looks like there are new issues.</li> <li>• Refusing to accept the decision after the complaint or concern has been investigated and the outcome explained.</li> <li>• Contacting different officers seeking a different answer.</li> </ul>
Unreasonable demands	Demands (express or implied) that are made by an individual or group and that have a disproportionate and unreasonable impact on Council staff, services time and/or resources.	<ul style="list-style-type: none"> <li>• Insisting on an immediate response or priority that is not warranted.</li> <li>• Demanding information that they are not entitled to get.</li> <li>• Insisting that a senior person deal with their matter when that is not warranted.</li> <li>• Instructing the organisation how to handle the issue.</li> </ul>
Unreasonable lack of cooperation	Unwillingness and/or inability by a complainant to cooperate with our organisation, staff or the complaints system and processes that result in a disproportionate and unreasonable use of the City’s services, time and/or resources.	<ul style="list-style-type: none"> <li>• Providing little or no information to support the request.</li> <li>• Refusing to comply with reasonable requests for information.</li> <li>• Sending voluminous amounts of unnecessary information.</li> </ul>
Unreasonable arguments	Arguments that are not based on reason or logic, that are incomprehensible, false or inflammatory, trivial or malicious and that disproportionately and unreasonably impact upon the City’s staff, services, time and/or resources.	<ul style="list-style-type: none"> <li>• Insisting on the importance of minor issues.</li> <li>• Making unsubstantiated allegations e.g. bias, corruption or conflict of interest.</li> <li>• Insisting on “cause and effect” without evidence.</li> </ul>
Unreasonable behaviour	Conduct that is unreasonable and unacceptable in all circumstances by the normal standards of society, regardless of how stressed, angry or frustrated a person is, because it unreasonably compromises the health, safety and security of all involved parties.	<ul style="list-style-type: none"> <li>• Verbal abuse.</li> <li>• Aggressive or intimidatory behaviour.</li> <li>• Harassment.</li> <li>• Making threats.</li> </ul>

## References that may be applicable to this Policy

Legislative Requirements:

*Equal Opportunity Act 1984*  
*Local Government Act 1995*  
*Occupational Safety and Health Act 1984*

Procedures, Process Maps, Work Instructions:

Other Plans, Frameworks, and Documents Applicable to Policy:

Internal

- OP-027 Code of Conduct (Employees)
- CP-101 Complaints Management Policy

External

- Ombudsman Western Australia – Managing Unreasonable Complainant Conduct
- Ombudsman New South Wales - Managing Unreasonable Complainant Conduct Practice Manual 2nd Edition
- Ombudsman New South Wales - Managing Unreasonable Complainant Conduct – a model policy and procedure
- Victorian Ombudsman – Good Practice Guide to Dealing with Challenging Behaviour

Delegated Authority No:

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### Origin/Authority

Ordinary Meeting of Council

17 July 2018

### Item No.

M18/5627

### Reviews