



# Unreasonable Requests for Service, Information and Complaints Policy

<b>Reference Number:</b>	2.30
<b>Type:</b>	Council Policy
<b>Category:</b>	Corporate Governance
<b>Relevant Community Plan Outcome</b>	<ul style="list-style-type: none"> <li>• Be bold and innovative in our practices, leadership and decision making.</li> <li>• Practise transparent and accountable governance.</li> </ul>
<b>Responsible Officer(s):</b>	General Manager City Services
<b>First Issued/Approved:</b>	September 2018
<b>Minutes Reference:</b>	CoS 1/07/2019, Item 3.32
<b>Last Reviewed:</b>	July 2019
<b>Next Review Due:</b>	July 2021
<b>Applicable Legislation:</b>	Local Government Act 1999 Freedom of Information Act 1991
<b>Related Policies:</b>	Customer Experience Policy Internal Review of Council Decision Policy Council Members Code of Conduct Staff Member Code of Conduct
<b>Related Procedures:</b>	Unreasonable Complainant Procedure
<b>References</b>	NSW Ombudsman’s Managing Unreasonable Complainant Conduct Practice Manual

## 1. Purpose

This policy establishes a framework for how the City of Charles Sturt (“the Council”) will respond to customer requests for service and information, and specifically the approach to be adopted when managing unreasonable requests for service, information and complaints by a customer who is dissatisfied with a process, product or service offered or provided by the Council.

The Council:

- is committed to ensuring individual and community expectations in response to requests for service and requests for information are met;
- strives to ensure that such requests are responsibly managed in a way to appropriately manage the limited resources, both human and financial, available to the Council and that public funds are appropriately managed and utilised;

- welcomes complaints as a form of feedback and will use them to assist in identifying service improvement opportunities;
- values integrity, responsible management, fairness and equity, and will continue to strive to maintain the highest standards in its dealings with its customers while meeting the needs of the community;
- is committed to identifying, investigating and wherever possible resolving complaints and grievances;
- considers that principles of economy, efficiency, effectiveness, fairness, impartiality and responsiveness should underpin Council service delivery and
- recognises the importance of transparency in decision making and the need to provide a fair and objective procedure for the review of all decisions and services provided.

The considerations articulated above are of utmost importance in the Council's endeavours to retain the trust, confidence and support of its community.

## 2. Scope

The objective of this policy is to establish clear guidelines and procedures for handling unreasonable requests for services, information and complaints in the interests of improving service delivery and to:

- improve customer service through effective management of complaints;
- facilitate the management of requests for service and requests for information;
- facilitate the resolution of complaints in a timely manner;
- ensure that a customer understands what the Council can and cannot do and, will and will not do;
- ensure resolution processes in relation to complaints are equitable, transparent and accountable;
- prevent the Council's limited resources being utilised towards malicious, frivolous, unreasonable, persistent or vexatious requests or complaints;
- outline the considerations to be taken into account in determining whether a request or complaint is frivolous, malicious or vexatious; and
- define what constitutes unreasonable complainant conduct, to outline the options available to Council to manage unreasonable complainant conduct and the circumstances in which it is appropriate to implement these options.

This policy applies to complaints made to the Council except for complaints involving the following issues:

- complaints related to competitive neutrality;
- allegations of a breach of conflict of interest obligations by an elected member or employee - refer to the Council Member Code of Conduct and the Staff member Code of Conduct;
- internal staff complaints – refer to various human resources policies; and/or

- any matters before a Court, Tribunal, South Australia Police, a Minister of the Crown, a South Australian or Federal Government Department, the Office for Public Integrity or the South Australian Ombudsman.

The Council has obligations under work, health and safety legislation to provide a safe working environment. Council is mindful of the stress that dealing with difficult customers can place on Council staff, as such management will always provide support to staff when dealing with difficult customers.

Nothing in this policy is intended to prevent a person from lodging a complaint with an external authority (such as SAPOL, the Office for Public Integrity, the Office of Local Government or the Ombudsman).

### 3. Policy Application

#### **Complaints and Requests for Service**

Council's Customer Experience Policy details how a customer can make a complaint or request a new service or improvement to an existing service. The policy also details how Council will respond to these complaints and requests.

#### **Malicious, Frivolous or Vexatious Complaints or Requests for Service**

If Council or the Chief Executive Officer (CEO) determines that a request is malicious, frivolous, or vexatious, this is grounds to dismiss the request and not take any further action in relation to it.

A determination that a request is malicious, frivolous and/or unreasonable, must take into account:

- any similar requests previously made by the person (i.e. about the same service);
- the response and outcome to previous requests made by the person (if any);
- whether the service is capable of being provided by or required to be provided by the Council;
- the outcomes sought by the person; and
- the resources required to provide the service (to ensure that it is not an unreasonable diversion of public resources).

A decision to take no further action in respect of a request that is malicious, frivolous, and/or unreasonable will be communicated to the person making the request in writing.

A person that persists in making the same or similar requests for service will be treated as a complainant under this policy and may be managed and dealt with under the provisions for dealing with unreasonable complainant conduct

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#### **Requests for Information**

##### **Making a Request for Information**

### *Freedom of Information (FOI)*

Any request for information that falls under the provisions of the Freedom of Information Act 1991 must be made in accordance with and will be managed in accordance with the provisions of that Act. Customers wishing to request information under FOI must fill out the relevant application form. Fees and charges are associated with these FOI requests.

### *Other Requests*

Under the Local Government Act, Council is required to make certain information and documents publicly available. Such information and documents are ordinarily available on the Council's website, or otherwise may be available for inspection free of charge at the Civic Centre, or a copy provided upon request and upon payment of any applicable fee (as detailed in Council's Fees and Charges Register).

Certain information and documents may be ordered to be kept confidential by the Council pursuant to Section 90 and 91 of the *Local Government Act 1999*. Any request for information that falls within this category will be refused and the customer making the request will be notified, within 5 calendar days, of the reason for the refusal of the request. Requests for confidential information made under the Freedom of Information Act will be dealt with in line with that Act.

Any other request for information will be received and considered on its merits, and at the absolute discretion of the CEO, the request may be granted in part or in full and access provided to the documents or information, or a copy provided upon payment of any applicable fee or cost.

Request for information can be made in the following ways:

- in writing by letter sent to 72 Woodville Road, Woodville, South Australia 5011; or
- verbally to Council staff; or
- by email or other electronic methods established by Council.

In some cases, it may not be possible for the Council to progress a verbal request until the customer has particularised his/her concerns in writing. If this is the case, the customer making the request will be advised accordingly.

### Malicious, Frivolous or Vexatious Requests For Information

If Council or the Chief Executive Officer determines that a request is malicious, frivolous, or vexatious, this is grounds to dismiss the request and not take any further action in relation to it. A determination that a request is malicious, frivolous and/or unreasonable, must take into account:

- any similar requests previously made by the person (i.e. about the same or similar information or documents);
- the response and outcome to previous requests made by the person (if any); and
- the resources required to provide the information (to ensure that it is not an unreasonable diversion of public resources).

A decision to take no further action in respect of a request that is malicious, frivolous, and/or unreasonable will be communicated to the person making the request in writing.

A person that persists in making the same or similar requests for service will be treated as a complainant under this policy and may be managed and dealt with under the provisions for dealing with unreasonable complainant conduct.

### **Unreasonable Complainant Conduct**

Occasionally a complainant may engage in unreasonable complainant conduct. A complainant's conduct is unreasonable if it has unacceptable consequences for the Council, the Council Officers who may be involved in managing his/her complaint(s) and/or any other person. Unreasonable complainant conduct includes, but is not limited to:

- a) *Using unreasonable persistence* by:
  - persisting with a complaint with the Council even though it has been comprehensively considered and the Council has notified the complainant of and provided reasons for its position in respect of that complaint; and/or
  - even where all avenues of internal review have been exhausted, showing an inability to accept the Council's decision in respect of the complaint.
- b) *Using unreasonable demands* by insisting on outcomes that are unattainable, (e.g. demanding outcomes that are beyond the Council's power to deliver and/or demanding unreasonable outcomes that the Council is not in a position to deliver). Other examples include insisting on a 'moral' outcome, (e.g. justice in the community interest, when really a personal interest is at stake) and demanding an apology and/or compensation when no reasonable basis for expecting such an outcome exists.
- c) *Using unreasonable arguments* including making irrational assertions that are not based on fact and/or insisting that a particular solution is the only correct one, without consideration for valid contrary or alternative arguments.
- d) *Using unreasonable behaviour* including:
  - confrontational behaviour that shows a lack of respect for others and otherwise constitutes rude and/or aggressive conduct;
  - making threats (whether implied or express) or including inappropriate, offensive, or abusive content in or associated with a complaint;
  - continuing with a complaint which is not supported by any evidence and is unsubstantiated;
  - making a frivolous or vexatious complaint or a complaint about a matter that is beyond the Council's jurisdiction or outside of the Council's control;
  - otherwise making excessive demands on Council's resources, including by making frequent and numerous complaints to the Council that are suggestive of a compulsive course of conduct that is, objectively, without basis other than to complain and consume resources; and/or

- alleging bias and/or corruption on the part of the Council in connection with his/her complaint to third parties simply because the Council's decision was not what the complainant desired or expected.
- e) *Using unreasonable lack of cooperation* including by:
- sending excessive amounts of correspondence and large quantities of information which is not organised, sorted, classified or summarised, where the complainant is clearly capable of doing this;
  - displaying unhelpful behaviours (e.g. withholding information, acting dishonestly, misquoting others);
  - refusing to define the issue(s) subject of his/her complaint; and/or
  - remaining resistant to any reasonable explanation that counters the complainant's views.

Unreasonable complainant conduct does not arise if a complainant makes a complaint to an external authority.

Where the Council determines that a complainant has engaged in unreasonable complainant conduct the Council may choose to deal with the complainant in accordance with this Policy.

#### 4. Definitions

Key Term – Acronym	Definition
Complaint	A <b>complaint</b> is made when a customer: <ul style="list-style-type: none"> <li>• expresses or infers dissatisfaction with a product or service delivered by the organisation which has, or should have, been received that has failed to reach the standard stated, implied or expected. This may include decisions of Council, its policies, procedures, charges, employees, agents or the quality of Council services; and/or</li> <li>• forms and notifies the Council of his/her belief that the Council has failed to act upon a request for service within reasonable timeframe.</li> </ul>
Complaint Resolution	A complaint is resolved when a customer is satisfied that the Council has made its best attempt to address and resolve the issues raised by the complainant. It is possible that a customer may not be completely satisfied with the outcome, but the complaint is taken to have been resolved where the customer accepts the outcome and does not seek to escalate the complaint any further.
Complainant	A customer who is dissatisfied with the service delivery of the Council or the handling of a request for information.
Council	Means the elected member body representing the City of Charles Sturt community (and includes a delegate).

Key Term – Acronym	Definition
Chief Executive Officer	Refers to the Chief Executive Officer of the City of Charles Sturt and includes a person acting in the office of the Chief Executive Officer (and includes a delegate).
Customer	A general term for a person/s (and/or organisation) who live, work, study, own property, conduct private or government business, visit or use the services, facilities and public spaces and places of the City of Charles Sturt.
Internal Review of a Council Decision	When a customer seeks a review of a decision made by the Council, an employee of the Council, or persons acting on behalf of the Council. These are dealt with under the Council's Internal Review of Council Decisions Policy.
Frivolous complaint or request	A complaint or request that lacks substance or merit or is otherwise trivial in nature.
Malicious complaint or request	A complaint or request that is motivated by improper, vicious, or mischievous purposes.
Persistent	A person is persistent if he/she refuses to give up or let go of an issue and/or is obstinate and/or continues to raise an issue notwithstanding the Council having reasonably communicated its position to the person in respect of that issue.
Request for information	A request for information or documents held by the Council, which may fall into one of four categories: <ol style="list-style-type: none"> <li>1. Requests for access to information or documents pursuant to the <i>Freedom of Information Act 1991</i>;</li> <li>2. Requests for access to information or documents that are made publicly available by the Council, whether under the provisions of the <i>Local Government Act 1999</i>, other statutory obligations, or at the discretion of the Council;</li> <li>3. Requests for access to information or documents to information or documents that have been ordered as confidential by the Council pursuant to Section 91 of the <i>Local Government Act 1999</i>;</li> <li>4. Requests for access to other information or documents, that do not fall into any of the above categories.</li> </ol>
Request for service	Is a request that the Council provide a particular service. A request for improvement of a service will be treated in the same manner as a complaint for the purposes of this policy.
Unreasonable complainant conduct	Any behaviour by a current or former complainant which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the parties to a complaint.

Key Term – Acronym	Definition
Vexatious Complaint	<p>A complaint or request is a complaint or request that is made to harass, annoy, delay or cause detriment or trouble to the Council or a third party. A complaint may be considered vexatious if:</p> <ul style="list-style-type: none"> <li>• it comprises false allegations, and cannot possibly succeed;</li> <li>• there is an absence of any reasonable grounds for lodging the complaint; and/or</li> <li>• the complainant does not have sufficient interest in the matters the subject of the complaint.</li> </ul>



# Unreasonable Complainant Procedure

Reference Number:	18/265173
Classification	Internal - Procedure
First Issued/Approved:	September 2018
Review Frequency:	2 Years
Last Reviewed:	July 2019
Next Review Due:	July 2021
Responsible Officer(s):	General Manager City Services
Council File Reference:	B2039
Applicable Legislation:	<i>Local Government Act 1999 (Section 270)</i>
Relevant Policies:	Customer Experience Policy Internal Review of Council Decision Policy Council Member Code of Conduct Policy Staff Member Code of Conduct Unreasonable Requests for Service, Information and Complaints Policy
Related Procedures:	Nil

## 1. Purpose

If Council or the Chief Executive Officer determines that a complaint is malicious, frivolous, or vexatious, this is grounds to dismiss the complaint and not take any further action in relation to it.

A determination that a complaint is malicious, frivolous and/or unreasonable, must take into account:

- any similar complaints previously made by the complainant (i.e. about the same subject matter);
- the response and outcome to previous complaints made by the complainant (if any);
- whether the complaint has merit and/or is capable of being substantiated based on the information provided;
- the outcomes sought by the complainant; and
- the resources required to address the complaint (to ensure that it is not an unreasonable diversion of public resources).

A decision to take no further action in respect of a complaint that is malicious, frivolous, and/or unreasonable will be communicated to the complainant in writing.

## 2. Dealing with Unreasonable Complainant Conduct

The Council is entitled to expect that members of the public who have a complaint will behave in an acceptable manner that demonstrates respect towards Council staff. The table set out in **Appendix A** to this procedure sets out the manner in which Council staff may deal with unreasonable complainant conduct.

In certain circumstances the Council or Chief Executive Officer may limit communication between the Council and a complainant in relation to complaints. Such limitations may be imposed on a complainant whose behaviour:

- constitutes unreasonable complainant conduct; and/or
- gives rise to a risk to the safety and/or welfare of Council staff and/or other persons and/or may reasonably be considered to be an excessive drain on Council resources.

Where the Council or Chief Executive Officer imposes limitations on a complainant, notification will be made to the complainant in writing, specifying the limits, and the reasons for their imposition.

The options available in imposing limitations upon communication for the purposes of managing unreasonable complainant conduct are set out below. In making a decision to pursue one or more of these options in respect of a complainant, the Council or the Chief Executive Officer will have regard to the following:

- the number of complaints made to the Council by the complainant and the period within which they have been made;
- the nature of and outcome of any previous complaints made by the complainant to the Council;
- the costs incurred by the Council (if any) in having addressed the complaints previously made by the complainant;
- the principles of equity and procedural fairness; and
- any other matters that the Council or the Chief Executive Officer deems fit.

The Council is aware of the legitimate right of members of the public to access Council information under the *Freedom of Information Act 1991*. Any limitations imposed on a complainant under this policy will not impede these statutory rights, however unreasonable customer conduct may contribute to a request being denied under 18 (2a) of the Act.

### **2.1 Requiring communication in writing**

The Council and/or the Chief Executive Officer may:

- request that a complainant provide all complaints in writing; and/or
- decline to respond to any further communication from the complainant unless it is in writing.

### **2.2 Not replying to correspondence**

Where, following a written response to a complaint, the Council or Chief Executive Officer receives further complaints from the same complainant that detail the same or substantially similar matters, the Council or

Chief Executive Officer or Council nominated person (under 2.4) may inform the complainant that it will not provide a substantive response to any similar complaints.

In these instances, the complainant will be notified of any alternative recourse that may be available to him/her (such as making a complaint to the Ombudsman).

### **2.3 Unreasonable telephone communication**

In some circumstances it may be appropriate for a Council Officer to inform a complainant that they will no longer deal with his/her complaints over the telephone, and to terminate the call. This will only be done in exceptional circumstances where the complainant is using unreasonable behaviour as described above.

Where a complainant repeatedly telephones a Council employee, or employs insulting, threatening or abusive language, they will be requested to limit their communications to written correspondence. This will be communicated to the complainant in writing.

### **2.4 Limiting all contact to a nominated person**

Where a complainant is making the same or a substantially similar complaint or multiple complaints to numerous Council officers, the Council or Chief Executive Officer may nominate a particular officer to deal with the complainant.

Notification will be made in writing to the complainant of the name and contact details of the officer who will respond to his/her complaints and specify that no other officer will respond to complaints made by the complainant.

### **2.5 Restrictions following repeat unreasonable complainant conduct**

In addition to implementing any of the options specified above, where a complainant repeatedly engages in unreasonable complainant conduct the Council or Chief Executive Officer may:

- inform the complainant that any further complaints will not be acknowledged unless they detail significant new information or new issues which in the opinion of the Council warrant action; and/or
- restrict the times and days that a complaint may be accepted from a complainant by refusing to respond to any complaint from him/her that is received outside the times and other than in the manner notified to the complainant.

This action will only be taken as a last resort; with this decision taken by the Council or Chief Executive Officer after all other avenues have been exhausted, and where the complainant is making unacceptable demands on the Council's complaint handling resources.

In some instances, it may be appropriate for Council management to seek legal advice with respect to the implications of a suspected malicious, frivolous and/or vexatious complaint and/or regarding unreasonable complainant conduct. A decision to seek legal advice will be made by the Chief Executive Officer.

#### *Notice before action*

Before pursuing action in relation to a complainant under 2.5, the Council or Chief Executive Officer will write to the complainant to notify him/her of the action that the Council proposes to take and the reasons why and, will invite comments from the complainant within a specified period (that is not less than 21 days) as to

why such action should not be taken. Submissions by the complainant will be taken into account before determining whether to proceed with the proposed action.

#### *Review of action*

Where a decision is made pursuant to item 2.5, , the Council will review the appropriateness of any restrictions imposed on the complainant every 12 months. If, following a review, the Council considers that the restrictions imposed on the complainant are no longer necessary taking into account the complainant's conduct in the 12 months prior, the Council will:

- revoke the restrictions; and
- notify the complainant of its decision in writing accordingly.

### **3. Review**

This policy shall be reviewed at least every 24 months or more frequently if legislation or Council needs changes to the content.

## Appendix A

Types of conduct	Examples of complainant conduct	Strategies for dealing with conduct
Unreasonable persistence	<ul style="list-style-type: none"> <li>• refusing to accept that a complaint is closed</li> <li>• continuing to phone or contact after a matter is closed</li> <li>• re-framing an old complaint</li> <li>• being unable to accept the final decision</li> <li>• persisting in interpreting the policy or the law in a way that is not in accordance with the accepted views on the subject</li> </ul>	<ul style="list-style-type: none"> <li>• be prepared to say 'no'</li> <li>• it may be appropriate to advise the complainant that the issue will not be investigated further</li> <li>• communicate clearly if an unproductive telephone call is to be ended</li> <li>• provide one internal review only</li> <li>• adopt, when appropriate, a firm position of no further contact or correspondence</li> <li>• do not allow the complainant to re-frame the complaint to keep the matter alive unless there are significant new issues</li> <li>• make it clear that the decision of Ombudsman SA is final or in the case of external reviews under the FOI Act advise the complainant of their appeal rights</li> </ul>
Unreasonable demands	<ul style="list-style-type: none"> <li>• insisting on outcomes that are unattainable or not possible</li> <li>• demanding assistance with issues that are out of the Council's jurisdiction</li> <li>• demanding a remedy that is impractical, disproportionate or unavailable</li> <li>• insisting that more time be taken on the matter than is justifiable</li> <li>• wanting revenge</li> <li>• making unreasonable demands on the resources of the Council</li> <li>• wanting unreasonable regular and lengthy contact with the Council</li> <li>• showing reactions or demanding action that is out of proportion with the significance of the issue</li> </ul>	<ul style="list-style-type: none"> <li>• set limits on what will be done i.e. what issues will be investigated, by whom, how communication will happen etc.</li> <li>• be clear with the complainant in advance as to what the Council will do, and the limits</li> <li>• end telephone calls that are unproductive, with a warning</li> <li>• may need to limit contact to written communications only</li> </ul>

Unreasonable lack of cooperation	<ul style="list-style-type: none"> <li>• poor or confused definition of the complaint</li> <li>• providing a large quantity of unnecessary material / information</li> <li>• unhelpful behavior</li> <li>• failing to provide requested information or documents within the given timeframe</li> <li>• dishonestly presenting the facts</li> <li>• constantly re-defining a complaint</li> <li>• focusing on principles rather than substantive issues</li> </ul>	<ul style="list-style-type: none"> <li>• staff need to set limits before proceeding with the matter</li> <li>• require complainants to clarify and summarise information they have provided before proceeding with the matter</li> <li>• require complainants to clearly define what their issues are before the complaint will be looked at</li> <li>• refuse to deal with the matter if it is found that the complainant has been willfully misleading or untruthful in a significant way</li> </ul>
Unreasonable arguments	<ul style="list-style-type: none"> <li>• exaggerating issues</li> <li>• holding irrational beliefs</li> <li>• refusing to consider alternative views</li> <li>• being obsessed with irrelevant or trivial points</li> <li>• having a conspiracy theory that is not supported by any evidence</li> </ul>	<ul style="list-style-type: none"> <li>• decline or discontinue the matter</li> <li>• if unreasonable issues are mixed with reasonable issues, ensure that they are clearly identified and separated and only deal with the reasonable ones</li> </ul>
Unreasonable behavior	<ul style="list-style-type: none"> <li>• displaying confronting behavior</li> <li>• being rude</li> <li>• being aggressive</li> <li>• making threats of self-harm</li> <li>• making threats of harm / violence to others</li> </ul>	<ul style="list-style-type: none"> <li>• staff will not tolerate unreasonable behavior</li> <li>• complainant is to be told that threats are unacceptable and may be reported to police</li> <li>• rude correspondence will not be responded to, complainant is asked to reframe their complaint in more moderate terms</li> <li>• if a complainant is behaving unreasonably in a telephone conversation he or she should be warned that their conduct is unacceptable and that if the behavior persists the call will be terminated</li> <li>• telephone calls are to be ended if the complainant continues to behave unreasonably after being warned, the Chief Executive or Mayor is to be advised of this action</li> <li>• meetings are to be ended if the complainant continues to behave unreasonably after being warned. The Chief Executive or Mayor is to be advised of this action.</li> </ul>