

Managing Unreasonable Conduct by Customers Policy and Procedure



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Statutory
Authority:

Local Government Act 1993 (Tas)
Personal Information Protection Act 2004 (Tas)
Right to Information Act 2009 (Tas)
Work Health and Safety Act 2012 (Tas)

1. Introduction from the General Manager

Kentish Council is a customer focused organisation and is committed to being accessible and responsive to all Customers who approach our office regardless of ethnic identity, national origin, religion, linguistic background, sex, gender expression, sexual orientation, physical ability or other cultural or personal factors. At the same time, the success of the Kentish Council's office depends on:

- (a) the ability to undertake work in the most effective and efficient way possible;
- (b) the health, safety and security of Council's Workers; and
- (c) Council's ability to allocate Council resources fairly and equitably across all complaints, enquiries and contact the Council receives.

The Kentish Council Customer Service Charter sets the standard for Council in dealing with Customers. Council recognises that from time to time, complaints and criticism of Council may be made by its Customers. Feedback and complaints are a legitimate and necessary part of the relationship between Council and the community. Feedback is a valuable means of reflecting on the operations and service delivery by Council and improving the quality and delivery of services by Council.

However, when Customers behave unreasonably, their conduct can significantly affect the efficient, effective and successful conduct of Council work. Kentish Council will act proactively and decisively to manage any customer conduct which negatively and unreasonably affects Council and will support its staff to do the same in accordance with this policy and procedure.

As General Manager appointed pursuant to section 61 of the *Local Government Act 1993 (Tas)*, I authorise and expect all Kentish Council staff to implement the strategies provided within this policy and procedure.

Jason Browne
General Manager

2. Objective

2.1. The objective of this policy is to:

- (a) assist Council staff in managing unreasonable, challenging and difficult Customer behaviour;
- (b) clearly establish and outline Council's expectations and standards of behaviour of its Customers;
- (c) acknowledge Council's statutory obligations pursuant to the *Work Health and Safety Act 2012* (Tas) to provide a psychologically safe workplace for Councillors and Workers;
- (d) provide Councillors and Workers with support and guidance when dealing with difficult and/or unreasonable Customer behaviour;
- (e) ensure any modification or change in access to Council's services is in the least restrictive ways possible, with a focus on managing the impacts of the Customers difficult or unreasonable behaviour;
- (f) ensure all Customers are treated fairly and equitably; and
- (g) ensure Council resources are used in an efficient, equitable and effective manner.

3. Definitions

3.1. For the purposes of this policy:

- (a) **Act** means the *Local Government Act 1993* (Tas).
- (b) **Council** means the Kentish Council.
- (c) **Customer** means any person or organisation who has dealings with the Council.
- (d) **Unreasonable Conduct** is any behaviour by a current or former Customer which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for Council, staff, other service users and Customers or the Customer themselves.
- (e) **Worker** is a person who carries out work in any capacity, whether indoors or outdoors, for the Council, including work as:
 - (i) an employee,
 - (ii) a contractor or subcontractor, or their employees;
 - (iii) an employee of a labour hire company who has been assigned to work for Council.
 - (iv) an outworker;

- (v) an apprentice or trainee;
- (vi) a student gaining work experience;
- (vii) a volunteer.

4. Purpose

4.1. The purpose of this policy is to:

- (a) clearly outline what unreasonable and/or difficult Customer behaviour or conduct is;
- (b) clearly outline the criteria the Council will consider when taking action pursuant to this policy, including any change or restriction on a Customer's access to Council's services;
- (c) provide guidance for Customers, Councillors and Workers on how the Council will manage difficult and/or unreasonable Customer behaviour;
- (d) ensure Councillors and Workers have an understanding of their roles and responsibilities in relation to the management of difficult and/or unreasonable Customer behaviour;
- (e) ensure Councillors and Workers are familiar with the practical application of this policy; and
- (f) assist Councillors and Workers to feel confident and supported when they encounter difficult or unreasonable customer behaviour and take appropriate action to manage any difficult and/or unreasonable Customer conduct.

5. Scope

5.1. This policy applies to all members of the public, Customers, Council employees and representatives, including:

- (a) the Mayor and Councillors;
- (b) all employees; and
- (c) all Workers.

5.2. This policy should be read in conjunction with the Council's *Customer Service Charter*:

https://www.kentish.tas.gov.au/data/assets/pdf_file/0023/406292/KL-GOVTOR003-Customer-Service-Charter-FINAL-v1.pdf

6. Policy – Customer Service Expectations

6.1. Council expects its Councillors and Workers at all times to:

- (a) treat Customers in a polite, respectful, civil and courteous manner;

- (b) act with integrity and honesty; and
- (c) respond to Customer enquiries in a prompt and efficient manner.

6.2. Council expects its Customers will treat Councillors and Workers in a polite, respectful, civil and courteous manner.

7. Policy - Standards of Behaviour

7.1. Council has obligations pursuant to the *Work, Health and Safety Act 2012* (Tas) to ensure it provides a safe workplace and protects the safety and wellbeing of its Workers (as defined within that legislation) and other persons in the workplace. Other persons at the workplace must also take reasonable care for their own health and safety, and to take reasonable care that their conduct does not adversely affect the health and safety of other persons.

7.2. Council has a zero-tolerance policy for negative, rude or offensive behaviour.

7.3. Council has committed to support the Local Government Association of Tasmania's '*Lift the Tone*' campaign: <https://www.lgat.tas.gov.au/lgat-advocacy/lift-the-tone>

7.4. Council expects its Councillors, Workers and Customers to behave in a polite and civil manner and be respectful of, and considerate towards one another, including but not limited to:

- (a) by behaving respectfully and professionally;
- (b) by not using offensive language or making derogatory or offensive comments or innuendo towards any person; and
- (c) by not behaving in an aggressive or hostile manner, including but not limited to making threats, shouting, speaking in a raised voice;

(collectively referred to as the '**Standards of Behaviour**').

7.5. The Standards of Behaviour apply to Customer interactions with Council Workers, including Council's outdoor Workers, which take place in or on Council owned property or buildings, or during the course of a Workers employment while they are in public, for example, on a footpath or in a park.

7.6. Council acknowledges that it is not unusual or unreasonable for a Customer to have expectations of service or standards which are beyond those Council can reasonably provide. Consequently, from time to time, Customers may become angry or frustrated. Such circumstances do not excuse or permit unreasonable customer conduct towards Council's Workers or Councillors.

7.7. A Customer may exhibit behaviour which is issue-related and not intended as a personal attack towards Workers or a Councillor including:

- (a) controlled anger;
- (b) controlled frustration; or

(c) controlled agitation.

- 7.8. When normal responses become uncontrolled, and the Customer becomes aggressive or unreasonable, the General Manager may declare the behaviour to be unreasonable or difficult in accordance with clause 10 of this policy.
- 7.9. Similarly, if a Customer continues to make persistent, repetitive, unrelenting or insatiable demands on Council's resources after Council has replied to a previous question or enquiry, the General Manager may declare the behaviour to be unreasonable or difficult in accordance with clause 10 of this policy.
- 7.10. Council does not accept, nor will it tolerate, Customer behaviour which poses a risk to the health and safety, including psychological safety, of its Councillors and Workers, including abuse, threats and aggressive, humiliating, bullying, intimidatory or violent behaviour.
- 7.11. This zero-tolerance policy applies to any direct or indirect harm caused to Council's Workers and Councillors, including but not limited to abusive and threatening behaviour or language and behaviour which is humiliating, bullying, aggressive, intimidatory or violent in nature.
- 7.12. Any physical acts of aggression, intimidation or violence or threats made against a Councillor or Worker will be reported to Tasmania Police.

8. Policy – Managing Customer Behaviour

- 8.1. Councillors and Workers are expected to respond to the Customer's needs professionally, and to make attempts to efficiently resolve an issue, complaint or enquiry.
- 8.2. When dealing with Customer behaviour which is becoming angry, frustrated, or agitated, Councillors or Workers should:
 - (a) make reasonable efforts to calm the Customer without inflaming the situation;
 - (b) whenever possible, focus on the issue at hand rather than taking offence to the Customer's anger or frustration;
 - (c) remain calm, professional, and courteous;
 - (d) consider seeking advice or assistance from other Workers or a supervisor who may be better equipped to resolve the situation; and
 - (e) consider scheduling a later meeting with the Customer (if appropriate) to allow time for further information to be obtained.
- 8.3. If a Councillor or Worker feels uncomfortable with, or offended by, the behaviour or conduct of a Customer, they should seek the support and assistance of their immediate team leader and/or manager.

9. Policy - Difficult and Unreasonable Customer Behaviour

There are various types of difficult and unreasonable Customer behaviour, including but not limited to:

9.1. Unreasonable Persistence

- (a) Unreasonable persistence is continued, incessant and unrelenting conduct by a Customer which has a disproportionate and unreasonable impact on the Council, Workers, services, time or resources.
- (b) For example:
 - (i) an unwillingness or inability to accept reasonable and logical explanations, including final decisions which have been comprehensively considered and dealt with;
 - (ii) persistently demanding a decision be reviewed simply because a review is available and without arguing or presenting a case for one;
 - (iii) pursuing and exhausting all available review options, even after receiving an explanation that a review is not warranted – and refusing to accept that the Council cannot or will not take further action;
 - (iv) reframing a complaint in an effort to get it taken up again;
 - (v) multiple and repeated telephone calls, in person visits, letters and emails (including copied correspondence) after the Council has requested this cease; and
 - (vi) contacting different people, within or outside, the Council seeking a different outcome or a more sympathetic response to their enquiry, complaint or concern.

9.2. Unreasonable Demands

- (a) Unreasonable demands are any demands expressly made by a Customer which have a disproportionate and unreasonable impact on the Council, Workers, services, time or resources.
- (b) For example:
 - (i) issuing instructions and making demands about how to handle their complaint or enquiry, the priority it should be given or the outcome to be achieved;
 - (ii) insisting on talking to the General Manager or department Managers personally when not appropriate or warranted and this has been explained to the Customer;
 - (iii) portraying themselves as being victimised when this is not the case;

- (iv) insisting on outcomes which are not possible or appropriate in the circumstances; and
- (v) demanding services of a nature or scale Council cannot provide, even after the Council has explained this.

9.3. Unreasonable Lack of Cooperation

- (a) Unreasonable lack of cooperation is when a Customer is unwilling or unable to cooperate with the Council, Council staff or the accepted complaints process – resulting in a disproportionate and unreasonable use of the Council's services, time or resources.
- (b) For example:
 - (i) sending the Council a constant stream of complex or disorganised information and correspondence without clearly defining the issue at hand or explaining how the material provided relates to their complaint or enquiry;
 - (ii) providing little or no detail around their complaint or enquiry or providing piecemeal information;
 - (iii) refusing to follow or accept instructions, suggestions or advice without a clear or justifiable reason for doing so;
 - (iv) arguing that a particular solution is the correct one in the face of valid contrary arguments and explanations; and
 - (v) unhelpful behaviour such as withholding information, acting dishonestly and misquoting others.

9.4. Unreasonable Arguments

- (a) Unreasonable arguments include any arguments which:
 - (i) are not based on any reason or logic;
 - (ii) are incomprehensible, false or inflammatory, trivial or delirious;
 - (iii) which disproportionately and unreasonably impact upon the Council, the staff, services, time or resources;
 - (iv) relate to the legitimacy of the Council's legislative authority; and
 - (v) relate to claims customers are not subject to the laws of Tasmania.
- (b) Arguments are unreasonable when they:
 - (i) fail to follow a logical sequence the Customer is able to explain to staff;

- (ii) are not supported by any evidence or are based on conspiracy theories;
- (iii) lead a Customer to reject all other valid and contrary arguments;
- (iv) are trivial when compared to the amount of time, resources and attention the Customer demands; and
- (v) are false, inflammatory or defamatory.

9.5. Unreasonable Behaviour

- (a) Unreasonable behaviour is conduct that is unreasonable in all circumstances (regardless of how stressed, angry or frustrated a Customer is) because it unreasonably compromises the health, safety and security of the Council's staff, other service users or the Customer themselves.
- (b) For example:
 - (i) acts of aggression;
 - (ii) verbal abuse;
 - (iii) derogatory, racist or grossly defamatory remarks;
 - (iv) harassment, intimidation or physical violence;
 - (v) rude, confronting or threatening correspondence;
 - (vi) threats of harm to self or third parties, including threats including a weapon or object, threats to a Workers employment status, threats to damage property and bomb threats;
 - (vii) stalking in person or online; and
 - (viii) emotional manipulation.

10. **Procedure - Responding to and Managing Difficult or Unreasonable Customer Conduct**

10.1. Operational Responses

(a) Written Communications

- (i) Where a Council Worker receives inappropriate written communication from a Customer, the Worker will send a written notification to the Customer advising of the issue and requesting they refrain from using the inappropriate content in future written correspondence with Council. The Customer will be advised that should further inappropriate communication be received from them, Council will not respond other than to address:

- 10.1.a.i.1. a matter of public safety;
- 10.1.a.i.2. a criminal act; or
- 10.1.a.i.3. a failure by Council to comply with a legal duty or obligation.

- (ii) Council may internally redirect correspondence from the intended recipient for the purpose of protecting the psychosocial safety of Councillors and Workers if the contents are in breach of this policy.

(b) Telephone Communication

- (i) Where a Customer uses inappropriate language during a telephone call with Council, the Customer will be warned that unless the Customer is prepared to speak in a different way and cease using inappropriate language, the call may be terminated.
- (ii) If the Customer continues to use inappropriate language, the call may be terminated.
- (iii) Prior to disconnecting the call, it is to be made clear to the Customer that they may call back when they are prepared to speak in a different way.

(c) Face-to-Face Communication

- (i) If during a face-to-face interaction with a Worker, a Customer behaves inappropriately or demonstrates Unreasonable Conduct, the Customer may be told that unless they are prepared to speak or behave in an appropriate manner, the meeting or interaction will be terminated and the Customer will be requested to immediately leave the Council premises or the vicinity of Council's Worker if the face-to-face interaction occurs outdoors.
- (ii) If after receiving the warning the Customer continues to use inappropriate language or behaviour, the meeting or interaction will be terminated. Council's worker may direct the customer to immediately leave the Council premises or area where the Council Worker is.
- (iii) Where a Customer refuses to leave the Council premises after being requested to do so, Police assistance will be requested.
- (iv) Where a Customer refuses to leave the area where the Council Worker is, the Council Worker is to remove themselves from the area.

10.2. Declaration of Difficult or Unreasonable Customer and Limitations on Access – General Manager's Response

- (a) If the General Manager is of the opinion that all reasonable and appropriate avenues for internal review or appeal in the resolution of a Customer's issue or grievance have been exhausted but the Customer continues to write, telephone, email and/or visit the Council in person, the General Manager may write to the Customer restating the Council's position on the issue and advise that Council will:
 - (i) not accept any further phone calls from the Customer; or
 - (ii) not schedule any further meetings with the Customer; or
 - (iii) require all communication to be put by the Customer to the Council in writing, and acknowledging that the Council will continue to receive, read and file correspondence received but may not acknowledge or otherwise respond unless:
 - 10.2.a.iii.1. the Customer provides significant new information relating to their complaint or concern; or
 - 10.2.a.iii.2. the Customer raises new issues which in the General Manager's opinion warrant fresh investigation and/or action.
- (b) If a Customer's conduct breaches this policy and continues unabated despite requests to the Customer for the inappropriate conduct or behaviour to cease, the General Manager may declare that Customer to be an Unreasonable Customer and place restrictions and conditions as appropriate on the Customer's interactions with the Council. For example:
 - (i) by limiting who the Customer has contact with;
 - (ii) by limiting the subject matter of communications;
 - (iii) by limiting when a Customer may have contact with Council;
 - (iv) by limiting the means in which a Customer may have contact with Council; and
 - (v) where appropriate, authorising a complete ban on all communications and access to Council's services.
- (c) Prior to declaring a Customer as a Difficult or Unreasonable Customer, the General Manager will:
 - (i) Consider whether:
 - 10.2.c.i.1. full access to Council may compromise Council's work, health and safety obligations as an employer;

- 10.2.c.i.2. full access to Council may compromise any statutory obligations to which Council is required to comply with;
 - 10.2.c.i.3. full access to Council is likely to unnecessarily exhaust Council resources, whether through excessive contact or use of services;
 - 10.2.c.i.4. full access to Council may encourage or allow harmful behaviour; and
 - 10.2.c.i.5. Consider the criteria listed in Schedule 1 to this Policy.
- (ii) Send a **Warning Letter** to the Customer advising of Council's concerns regarding the Customer's behaviour and requesting they refrain from behaving in such a manner in the future. The Warning Letter will:
- 10.2.c.ii.1. Specify the date, time and location of any Unreasonable Conduct Incidents;
 - 10.2.c.ii.2. Explain why the Customer's conduct is problematic;
 - 10.2.c.ii.3. List the types of access changes or restrictions which may be imposed on the Customer if the Unreasonable Conduct continues;
 - 10.2.c.ii.4. Provide a copy of this Policy to the Customer; and
 - 10.2.c.ii.5. Provide the name and contact details of the staff member who the Customer can contact about the letter.
- (d) Should the Customer's behaviour continue after they have been given a Warning Letter, or their conduct poses a substantial risk to the health and safety of Workers or other third parties or in cases of overt violence, aggression, assault or other unlawful/unacceptable conduct, the General Manager has the discretion to send a **Final Notification Letter** immediately restricting the Customer's access to Council's services.
- (e) The Final Notification Letter will:
- (i) Specify the date, time and location of any Unreasonable Conduct Incidents;
 - (ii) Explain why the Customer's conduct is problematic;
 - (iii) Identify the changes or restriction(s) being imposed on the Customer and what that means in practical terms;
 - (iv) Provide clear reasons for the restriction(s);
 - (v) Specify the duration of change(s) or restriction(s) being imposed;

- (vi) Provide a time period for the Customer to request a review by Council;
 - (vii) Provide a copy of this Policy to the Customer; and
 - (viii) Provide the name and contact details of the staff member who the Customer can contact about the letter or request a review of the decision.
- (f) The General Manager may impose conditions and restrictions on a Customer's conduct and engagement with Council if they engage in Unreasonable Conduct, including but not limited to:
- (i) Nominating a single point of contact within Council to deal with all contact with the Customer; and
 - (ii) Restricting the Customer's method of communication, for example to written communication, telephone communication or by pre-arranged meeting in person only.
- (g) A Customer's access to Council services and premises may also be restricted (directly and indirectly) by the use of legal mechanisms like trespass law and other legislation or legal processes for the protection of Councillors, Council staff and Workers.

10.3. Notifying Workers of Access Changes or Restrictions

- (a) The General Manager, or their delegate, will notify relevant staff about any decisions to change or restrict a Customer's access to Council's services, in particular Customer Service Officers and any security staff in cases where a Customer is prohibited from entering Council premises.
- (b) The General Manager, or their delegate, will ensure the Council's internal safety management system accurately documents the restriction(s) or conditions imposed on the Customer.

10.4. Continued Monitoring

- (a) Once a Customer has been issued with a Warning Letter or Final Notification Letter, the General Manager or their delegate will review the Customer's record/restrictions every three (3) months, or otherwise as requested by a Worker or following any additional Unreasonable Conduct incidents to ensure the Customer is complying with the terms of the restriction(s) or conditions and to ensure the restriction(s) is fit for purpose.
- (b) If the General Manager, or their delegate, determines that the restriction(s) or condition(s) have been ineffective in managing the Customer's behaviour or conduct or are otherwise inappropriate, the General Manager may decide to:
 - (i) modify the restriction(s); or

- (ii) impose further restriction(s); or
- (iii) terminate the Customer's access to Council's services altogether.

11. Procedure - Reporting

- 11.1. All instances of unreasonable conduct are to be documented and recorded in Council's internal Safety Management system with an Incident Report being completed. This responsibility rests with all staff members.
- 11.2. Once an Unreasonable Conduct Incident Report has been recorded, Council's Executive Management Team will review the Incident Report and determine what, if any, further steps to take pursuant to this policy.
- 11.3. If the General Manager determines it appropriate to place restrictions upon a Customer's access to Council, the General Manager will provide an information report to the Councillors as soon as possible advising of the relevant circumstances.

12. Procedure - Right to Appeal

- 12.1. Customers who have had their access changed or restricted pursuant to this policy are entitled to request one internal appeal of the decision.
- 12.2. The internal appeal will be undertaken by a senior member of staff who was not involved with the original decision (**'Appeal Officer'**).
- 12.3. The Appeal Officer will consider all relevant factors and advise the Customer of the outcome of their appeal by letter. The Appeal Officer will then refer all materials relied upon to the General Manager to be kept in the appropriate file.
- 12.4. If a Customer is dissatisfied with the review decision, they are entitled to request an external review of the decision by the Ombudsman Tasmania..

13. Procedure – Periodic Review of Restrictions and Conditions

- 13.1. When conducting a review of any restriction(s) or condition(s) imposed pursuant to this policy, the General Manager or their delegate, will consider:
 - (a) whether the Customer had any contact with the Council during the restriction period;
 - (b) the Customer's conduct during the restriction period;
 - (c) any information or arguments put forward by the Customer for review; and
 - (d) any other information which may be relevant in the circumstances.
- 13.2. When conducting a review of any restrictions(s) or conditions, the General Manager or their delegate may consult with any staff or Workers who have had contact with the Customer during the restriction period.

13.3. Following a periodic review or the cessation of the restriction period, the General Manager or their delegate may decide to:

- (a) maintain the restriction(s) or condition(s);
- (b) modify the restriction(s) or condition(s);
- (c) increase the duration of the restriction(s) or condition(s).

13.4. The General Manager, or their delegate, will tell the Customer the outcome of the review and provide a written letter explaining the outcome, including advising the nature of any new, continued or modified restriction(s) and the ongoing status of the restriction(s) or conditions on the Customer.

14. Policy Review Cycle

14.1. This policy and procedure will be reviewed by Council's General Manager and Manager – Corporate and Business Services every three (3) years.

15. Associated Documents

15.1. Strategic Plan Reference

Area	1	Governance
Program	1.2	Governance
Objective	1.2	Provide consistent, accountable, transparent and effective governance
Strategy	1.2.9	Ensure Council information meets community and stakeholder interests, is accessible, easy to understand and complies with legislative requirements

15.2. Other Associated Documents

- (a) Customer Service Charter
- (b) Code of Conduct (Staff)

SCHEDULE 1

Criteria to be Considered

When considering whether to change or restrict a Customer's access pursuant to clause 10.2(c)10.2(a), the General Manager, or their delegate, will consider the following criteria:

- (1) Whether the conduct in question involved overt anger, aggression, violence, or assault (which is unacceptable in all circumstances and which Council has zero-tolerance for)?
- (2) Whether the Customer's case has merit?
- (3) Whether the Customer will modify their unreasonable conduct if they are given a formal warning about their conduct?
- (4) Whether changing or restricting access to Council services will be effecting in safeguarding the health, safety and wellbeing of Council's Workers and Councillors?
- (5) Whether changing or restricting access to Council services will be effective in managing the Customer's Unreasonable Conduct?
- (6) Whether changing or restricting access to Council services will effect the Customer's ability to meet their obligations, for example their reporting obligations?
- (7) Whether changing or restricting the Customer's access to Council services will have an undue impact on the Customer's welfare, livelihood, or dependents?
- (8) Whether the Customers personal circumstances have contributed to their behaviour? For example, the Customer's cultural background may mean their standards of communication differ to Council's standards.
- (9) Whether the Customer's response or conduct was moderately disproportionate, grossly disproportionate or not at all proportionate to in the circumstances?
- (10) Whether there are any statutory provisions which would limit the types of limitations to be applied to a Customer's contact with, or access to, Council's services?