

UNREASONABLE COMPLAINANT CONDUCT

Policy | Integrated Risk Management

To assist and support staff in managing any complainant conduct that negatively and unreasonably affects Singleton Council

Policy No:	POL/40008	Version:	5
Service Unit:	Governance		
Responsible Officer:	Coordinator Governance		
Responsible Director:	Director Organisation & Community Capacity		
Authorisation Date:	20 September 2021	Review Date:	20 September 2023
Minute No:	161/21		

Printing Disclaimer

If you are viewing a printed copy of this document it may not be current. Printed copies of this document are not controlled.

Before utilising a printed copy of this document, verify that it is the most current version by referencing Council's intranet.

Table of Contents

1	Background.....	4
1.1	Title of the Policy and Commencement Date.....	4
2	Purpose of the Policy.....	4
3	Objective	4
3.1	Objectives and Coverage of the Policy	4
4	Application	5
4.1	Application of this Policy	5
5	Definitions	5
5.1	Defining Unreasonable Complainant Conduct.....	5
5.1.1	Unreasonable complainant conduct.....	5
5.1.2	Unreasonable persistence	6
5.1.3	Unreasonable demands.....	6
5.1.4	Unreasonable lack of cooperation	6
5.1.5	Unreasonable arguments.....	7
5.1.6	Unreasonable behaviour	7
6	Principles/Body	8
6.1	Responding to and Managing UCC	8
6.1.1	Changing or restricting a complainant's access to our services	8
6.1.2	Who – limiting the complainant to a sole contact point	8
6.1.3	What – restricting the subject matter of communications that we will consider	9
6.1.4	When – limiting when and how a complainant can contact us.....	9
6.1.4.1	Writing only restrictions	10
6.1.5	Where – limiting face-to-face interviews to secure areas	10
6.1.5.1	Contact through a representative only	11
6.1.6	Completely terminating a complainant's access to our services.....	11
6.2	Alternative Dispute Resolution	11
6.2.1	Using alternative dispute resolution strategies to manage conflicts with complainants	11
6.3	Procedure to be followed when changing or restricting a complainant's access to our services	12
6.3.1	Consulting with relevant staff.....	12
6.3.2	Criteria to be considered.....	12
6.3.3	Providing a warning letter	13
6.3.4	Providing a notification letter.....	13
6.3.5	Notifying relevant staff about access changes/restrictions	14
6.3.6	Continued monitoring/oversight responsibilities.....	14
6.4	Appealing a decision to change or restrict access to our services	14
6.4.1	Right of appeal.....	14
6.5	Non-compliance with a change or restriction on access to our services	14
6.5.1	Recording and reporting incidents of non-compliance.....	14
6.6	Periodic reviews of all cases where this policy is applied	15
6.6.1	Period for review	15



6.6.2	Notifying the complainant of an upcoming review.....	15
6.6.3	Criteria to be considered during a review	15
6.6.4	Notifying a complainant of the outcome of a review	15
6.6.5	Recording the outcome of a review and notifying relevant staff	16
6.7	Managing Staff Stress	16
6.7.1	Staff reactions to stressful situations	16
6.7.2	Debriefing	16
6.8	Other Remedies	16
6.8.1	Compensation for injury.....	16
6.8.2	Compensation for damage to clothing or personal affects.....	17
6.8.3	Legal assistance	17
6.8.4	Threats outside the office or outside working hours	17
6.8.5	Escorts home.....	17
6.8.6	Telephone threats on home numbers	17
6.8.7	Other security measures.....	17
6.9	Training and Awareness	17
6.10	Ombudsman may request copies of our records	18
7	Relevant Legislation.....	18
8	Document Information	18
8.1	Related Documents.....	18
9	Responsible Officer / Policy Owner	18
10	Roles and Responsibilities	18
10.1	All staff.....	18
10.2	The Coordinator Governance.....	19
10.3	Senior managers	19
11	Approval	20
12	Monitoring	20
13	Review Date	20
14	Last Review Date	20
15	Record Keeping, Confidentiality and Privacy	20
16	Breaches and Sanctions	20
17	Document History.....	20
Appendix A - Individual Rights and Mutual Responsibilities of the Parties to a Complaint		
.....		21
Appendix B - Process Map – Unreasonable Complainant Conduct		25



1 Background

1.1 Title of the Policy and Commencement Date

The Unreasonable Complainant Conduct Policy takes effect upon adoption by Council.

2 Purpose of the Policy

This policy has been developed to support the Complaint Handling Policy and is based upon the NSW Ombudsman's Unreasonable Complainant Conduct Model Policy.

Singleton Council is committed to being accessible and responsive to all complainants who approach our office for assistance and/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 complaints we receive.

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

3 Objective

3.1 Objectives and Coverage of the Policy

This policy has been developed to assist all staff members to better manage unreasonable complainant conduct ('UCC'). Its aim is to ensure that all staff:

- Feel confident and supported in taking action to manage UCC.
- Act fairly, consistently, honestly and appropriately when responding to UCC.
- Are aware of 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 by a Complaint Manual ('Manual') including the strategies to change or restrict a complainant's access to our services.
 - Alternative dispute resolution strategies to deal with conflicts involving complainants and members of our organisation.
 - Legal instruments such as trespass laws/legislation to prevent a complainant from coming onto our premises and orders to protect specific staff members from any actual or apprehended personal violence, intimidation or stalking.
- Have a clear understanding of the criteria that will be considered before we decide to change or restrict a complainant's access to our services.



- Are aware of the processes that will be followed to record and report UCC incidents as well as the procedures for consulting and notifying complainants about any proposed actions or decisions to change or restrict their access to our services.
- Are familiar with the procedures for reviewing decisions made under this policy, including specific timeframes for review.

4 Application

4.1 Application of this Policy

This policy applies to:

- all persons who have contact with Singleton Council
- all Singleton Council staff

5 Definitions

5.1 Defining Unreasonable Complainant Conduct

5.1.1 Unreasonable complainant conduct

Most complainants who come to our office act reasonably and responsibly in their interactions with us, even when they are experiencing high levels of distress, frustration and anger about their complaint. However, in a very small number of cases some complainants behave in ways that are inappropriate and unacceptable – despite our best efforts to help them. They are aggressive and verbally abusive towards our staff. They threaten harm and violence, bombard our offices with unnecessary and excessive phone calls and emails, make inappropriate demands on our time and our resources and refuse to accept our decisions and recommendations in relation to their complaints. When complainants behave in these ways we consider their conduct to be ‘unreasonable’.

Unreasonable complainant conduct (‘UCC’) is any behaviour by a current or former complainant which, because of its nature or frequency raises substantial health, safety, resource or equity issues for our organisation, our staff, other service users and complainants or the complainant himself/herself.

UCC can be divided into five categories of conduct:

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



5.1.2 Unreasonable persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a complainant that has a disproportionate and unreasonable impact on our organisation, 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.
- Persistently demanding a review simply because it is available and without arguing or presenting a case for one.
- Pursuing and exhausting all available review options when it is not warranted and refusing to accept further action cannot or will not be taken on their complaints.
- Reframing a complaint in an effort to get it taken up again.
- Bombarding our staff/organisation with phone calls, visits, letters, emails (including cc'd correspondence) after repeatedly being asked not to do so.
- Contacting different people within our organisation and/or externally to get a different outcome or more sympathetic response to their complaint – internal and external forum shopping.

5.1.3 Unreasonable demands

Unreasonable demands are any demands (express or implied) that are made by a complainant that have a disproportionate and unreasonable impact on our organisation, staff, services, time and/or resources. Some examples of unreasonable demands include:

- Issuing instructions and making demands about how we have/should handle their complaint, the priority it was/should be given, or the outcome that was/should be achieved.
- Insisting on talking to a senior manager or the General Manager personally when it is not appropriate or warranted.
- Emotional blackmail and manipulation with the intention to guilt trip, intimidate, harass, shame, seduce or portray themselves as being victimised – when this is not the case.
- Insisting on outcomes that are not possible or appropriate in the circumstances – eg for someone to be sacked or prosecuted, an apology and/or compensation when no reasonable basis for expecting this.
- Demanding services that are of a nature or scale that we cannot provide when this has been explained to them repeatedly.

5.1.4 Unreasonable lack of cooperation

Unreasonable lack of cooperation is an unwillingness and/or inability by a complainant to cooperate with our organisation, staff, or complaints system and processes that result 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 comprehensive and/or disorganised information without clearly defining any issues of complaint or explaining how they relate to the



core issues being complained about – only where the complainant is clearly capable of doing this.

- Providing little or no detail with a 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 frequently and/or with extreme intensity 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, misquoting others, and so forth.

5.1.5 Unreasonable arguments

Unreasonable arguments include any arguments that are not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or delirious and that disproportionately and unreasonably impact upon our organisation, staff, services, time, and/or resources. 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 complainant to reject all other valid and contrary arguments
- are trivial when compared to the amount of time, resources and attention that the complainant demands
- are false, inflammatory or defamatory.

5.1.6 Unreasonable behaviour

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

All staff should note that Singleton Council has a zero tolerance policy towards any harm, abuse or threats directed towards them. Any conduct of this kind will be dealt with under this policy and in accordance with our duty of care and Work Health and Safety responsibilities.



6 Principles/Body

6.1 Responding to and Managing UCC

6.1.1 Changing or restricting a complainant's access to our services

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

- **Who they have contact with** – eg limiting a complainant to a sole contact person/staff member in our organisation.
- **What they can raise with us** – eg restricting the subject matter of communications that we will consider and respond to.
- **When they can have contact** – eg limiting a complainant's contact with our organisation to a particular time, day, or length of time, or curbing the frequency of their contact with us.
- **Where they can make contact** – eg limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office.
- **How they can make contact** – eg limiting or modifying the forms of contact that the complainant 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 our 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 complainant's personal circumstances, level of competency, literacy skills, etc. In this regard, we also recognise that more than one strategy may need to be used in individual cases to ensure their appropriateness and efficacy.

6.1.2 Who – limiting the complainant to a sole contact point

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

To avoid staff 'burn out' the sole contact officer's supervisor will provide them with regular support and guidance – as needed. Also, the Coordinator Governance will review the arrangement every six months to ensure that the officer is managing/coping with the arrangement.

Complainants 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 – eg they go on leave or are otherwise unavailable for an extended period of time.



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

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

- Refuse to respond to correspondence that raises an issue that has already been dealt with comprehensively, that raises a trivial issue, or is not supported by clear/any evidence. The complainant 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 complainant to one complaint/issue per month. Any attempts to circumvent this restriction, for example by raising multiple complaints/issues in the one complaint letter may result in modifications or further restrictions being placed on their access.
- Return correspondence to the complainant and require them to remove any inappropriate content before we will agree to consider its contents. A copy of the inappropriate correspondence will also be made and kept for our records to identify repeat/further UCC incidents.

6.1.4 When – limiting when and how a complainant can contact us

If a complainant's telephone, written or face-to-face contact with our organisation places an unreasonable demand on our time or resources because it is overly lengthy (eg disorganised and voluminous correspondence) 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 complainant 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. For example:
 - Telephone calls may be limited to 10 minutes at a time and will be politely terminated at the end of that time period.
 - Lengthy written communications may be restricted to a maximum of five typed or written pages, single sided, font size 12 or it will be sent back to the complainant to be organised and summarised – This option is only appropriate in cases where the complainant is capable of summarising the information and refuses to do so.
 - Limiting face-to-face interviews to a maximum of 30 minutes.
- Limiting the frequency of their telephone calls, written correspondence or face-to-face interviews. Depending on the natures of the service(s) provided we may limit:
 - Telephone calls to one every month.
 - Written communications to one every month.
 - Face-to-face interviews to one every month.



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

- Require the complainant 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 complaint.
- Restrict the frequency with which complainants can send emails or other written communications to our office.
- Restrict a complainant to sending emails to a particular email account (eg the organisation's main email account) or block their email access altogether and require that any further correspondence be sent through Australia Post only.

6.1.4.1 **Writing only restrictions**

When a complainant 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 office email account
- Fax only to a specific fax number
- Some other relevant form of written contact, where applicable.

If a complainant's contact is restricted to 'writing only', the Coordinator Governance will clearly identify the specific means that the complainant can use to contact our office (eg Australia Post only). Also if it is not suitable for a complainant to enter our premises to hand deliver their written communication, this must be communicated to them as well.

Any communications that are received by our office in a manner that contravenes a 'write only' restriction will either be returned to the complainant or read and filed without acknowledgement.

6.1.5 **Where – limiting face-to-face interviews to secure areas**

If a complainant is violent or overtly aggressive, unreasonably disruptive, threatening or demanding or makes frequent unannounced visits to our 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 the office – such as the reception area or secured room/facility.
- Restricting their ability to attend our 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 our office on an 'appointment only' basis and only with specified staff. Note – during these meetings staff should always seek support and assistance of a colleague for added safety and security.
- Banning the complainant from attending our premises altogether and allowing some other form of contact – eg 'writing only' or 'telephone only' contact.



6.1.5.1 **Contact through a representative only**

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

When assessing a representative/support person's suitability, the Coordinator Governance should consider factors like: the nominated representative/support person's competency and literacy skills, demeanour/behaviour and relationship with the complainant. If the Coordinator Governance determines that the representative/support person may exacerbate the situation with the complainant the complainant will be asked to nominate another person or we may assist them in this regard.

6.1.6 **Completely terminating a complainant's access to our services**

In rare cases, and as a last resort when all other strategies have been considered and/or attempted, the General Manager may decide that it is necessary for our organisation to completely restrict a complainant's contact/access to our services.

A decision to have no further contact with a complainant will only be made if it appears that the complainant 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 and/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 office or during an off-site visit – eg entrapping them in their home.
- Conduct that is otherwise unlawful.

In these cases, the complainant will be sent a letter notifying them that their access has been restricted.

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

6.2 **Alternative Dispute Resolution**

6.2.1 **Using alternative dispute resolution strategies to manage conflicts with complainants**

If the General Manager determines that we cannot terminate our services to a complainant in a particular case or that we/our staff bear some responsibility for causing or exacerbating their conduct, they may consider using alternative dispute resolution strategies ('ADR') such as mediation and conciliation to resolve the conflict with the complainant and attempt to rebuild our relationship with them. If ADR is considered to be an appropriate option in a particular case, the ADR will be conducted by an independent third party to ensure transparency and impartiality.



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

6.3 Procedure to be followed when changing or restricting a complainant's access to our services

6.3.1 Consulting with relevant staff

When the Coordinator Governance receives an UCC incident form from a staff member they will contact the staff member to discuss the incident. They will discuss:

- The circumstances that gave rise to the UCC/incident.
- The impact of the complainant's conduct on our organisation, relevant staff, our time, resources, etc.
- The complainant's responsiveness to the staff member's warnings/requests to stop the behaviour.
- The actions the staff member has taken to manage the complainant's conduct, if any.
- The suggestions made by relevant staff on ways that the situation could be managed.

6.3.2 Criteria to be considered

Following consultation with relevant staff the Coordinator Governance will search the UCC Register for information about the complainant's prior conduct and history with our organisation. They will also consider the following criteria:

- Whether the conduct in question involved overt anger, aggression, violence or assault (which is unacceptable in all circumstances).
- Whether the complainant's case has merit.
- The likelihood that the complainant will modify their unreasonable conduct if they are given a formal warning about their conduct.
- Whether changing or restricting access to our services will be effective in managing the complainant's behaviour.
- Whether changing or restricting access to our services will affect the complainant's ability to meet their obligations, such as reporting obligations.
- Whether changing or restricting access to our services will have an undue impact on the complainant's welfare, livelihood or dependents etc.
- Whether the complainant's personal circumstances have contributed to the behaviour? For example, the complainant is a vulnerable person who is under significant stress as a result of one or more of the following:
 - homelessness
 - physical disability
 - illiteracy or other language or communication barrier
 - mental or other illness



- personal crises
- substance or alcohol abuse.
- Whether the complainant's response/ conduct in the circumstances was moderately disproportionate, grossly disproportionate or not at all disproportionate.
- Whether there any statutory provisions that would limit the types of limitations that can be put on the complainant's contact/access to our services.

Once the Coordinator Governance has considered these factors they will decide on the appropriate course of action. They may suggest formal or informal options for dealing with the complainant's conduct which may include one or more of the strategies provided in the Manual and this policy.

6.3.3 Providing a warning letter

Unless a complainant's conduct poses a substantial risk to the health and safety of staff or other third parties, the Coordinator Governance will provide them with a written warning about their conduct in the first instance.

The warning letter will:

- Specify the date, time and location of the UCC incident.
- Explain why the complainant's conduct/ UCC incident is problematic.
- List the types of access changes and/or restrictions that may be imposed if the behaviour continues. (Note: not every possible restriction should be listed only those that are most relevant).
- Provide clear and full reasons for the warning being given
- Include an attachment of the organisation's ground rules and / or briefly state the standard of behaviour that is expected of the complainant. See **Appendix A**.
- Provide the name and contact details of the staff member who they can contact about the letter.
- Be signed by the General Manager or relevant Director.

6.3.4 Providing a notification letter

If a complainant's conduct continues after they have been given a written warning or in extreme cases of overt aggression, violence, assault or other unlawful/unacceptable conduct the Coordinator Governance has the discretion to send a notification letter immediately restricting the complainant's access to our services (without prior written warning).

This notification letter will:

- Specify the date, time and location of the UCC incident(s).
- Explain why the complainant's conduct/UCC incident(s) is problematic.
- Identify the change and/or restriction that will be imposed and what it means for the complainant.
- Provide clear and full reasons for this restriction.
- Specify the duration of the change or restriction imposed, which will not exceed 12 months.
- Indicate a time period for review.



- Provide the name and contact details of the senior officer who they can contact about the letter and/or request a review of the decision.
- Be signed by the General Manager or relevant Director.

6.3.5 Notifying relevant staff about access changes/restrictions

The Coordinator Governance will notify relevant staff about any decisions to change or restrict a complainant's access to our services, in particular Customer Service staff in cases where a complainant is prohibited from entering our premises.

The Coordinator Governance will also update the UCC Register with a record outlining the nature of the restrictions imposed and their duration.

6.3.6 Continued monitoring/oversight responsibilities

Once a complainant has been issued with a warning letter or notification letter the Coordinator Governance will review the complainant's record/restriction every three months, on request by a staff member, or following any further incidents of UCC that involve the particular complainant to ensure that they are complying with the restrictions/the arrangement is working.

If the Coordinator Governance determines that the restrictions have been ineffective in managing the complainant's conduct or are otherwise inappropriate they may decide to modify the restrictions, impose further restrictions or terminate the complainant's access to our services altogether.

6.4 Appealing a decision to change or restrict access to our services

6.4.1 Right of appeal

Complainants are entitled to one appeal of a decision to change/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 complainant's access. This staff member will consider the complainant's arguments along with all relevant records regarding the complainant's past conduct. They will advise the complainant of the outcome of their appeal by letter which must be signed off by the General Manager. The staff member will then refer any materials/records relating to the appeal to the Coordinator Governance to be kept in the appropriate file.

If a complainant 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.

6.5 Non-compliance with a change or restriction on access to our services

6.5.1 Recording and reporting incidents of non-compliance

All staff members are responsible for recording and reporting all incidents of non-compliance by complainants. This should be recorded in a file note in CM and a copy forwarded to the Coordinator Governance who will decide whether any action needs to be taken to modify or further restrict the complainant's access to our services.



6.6 Periodic reviews of all cases where this policy is applied

6.6.1 Period for review

All UCC cases where this policy is applied will be reviewed every three months or six 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 continued/upheld.

6.6.2 Notifying the complainant of an upcoming review

The Coordinator Governance will invite all complainants to participate in the review process unless they determine that this invitation will provoke a negative response from the complainant (ie further UCC). The invitation will be given and the review will be conducted in accordance with the complainant's access restrictions (eg if contact has been restricted to writing only then the invitation to participate will be done in writing).

6.6.3 Criteria to be considered during a review

When conducting a review, the Coordinator Governance will consider:

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

The Coordinator Governance may also consult any staff members who have had contact with the complainant during the restriction period.

Note – Sometimes a complainant may not have a reason to contact our office during their restriction period. As a result, a review decision that is based primarily on the fact that the complainant has not contacted our organisation during their restriction period (apparent compliance with our restriction) may not be an accurate representation of their level of compliance/reformed behaviour. This should be taken into consideration, in relevant situations.

6.6.4 Notifying a complainant of the outcome of a review

The Coordinator Governance will notify the complainant of the outcome of their review using the appropriate/relevant method of communication as well as a written letter explaining the outcome, as applicable. The review letter will:

- Briefly explain the review process.
- Identify the factors that have been taken into account during the review.
- Explain the decision/outcome of the review and the reasons for it.

If the outcome of the review is to maintain or modify the restriction the review letter will **also**:

- Indicate the nature of the new or continued restriction.
- State the duration of the new restriction period.
- Provide the name and contact details of the Coordinator Governance who the complainant can contact to discuss the letter.



- Be signed by the General Manager or relevant Director.

6.6.5 Recording the outcome of a review and notifying relevant staff

Like all other decisions made under this policy, the Coordinator Governance is responsible for keeping a record of the outcome of the review, updating the UCC Register and notifying all relevant staff of the outcome of the review including if the restriction has been withdrawn.

See Parts 10.2 and 6.3.5.

6.7 Managing Staff Stress

6.7.1 Staff reactions to stressful situations

Dealing with complainants who are demanding, abusive, aggressive or violent can be extremely stressful and at times distressing or even frightening for all our staff – both experienced and inexperienced. It is perfectly normal to get upset or experience stress when dealing with difficult situations.

As an organisation, we have a responsibility to support staff members who experience stress as a result of situations arising at work and we will do our best to provide staff with debriefing and counselling opportunities, when needed. However, to do this we also need help of all Singleton Council staff to identify stressful incidents and situations. As a result, all staff have a responsibility to notify relevant supervisors/senior managers of UCC incidents and any stressful incidents that they believe require management involvement.

6.7.2 Debriefing

Debriefing means talking things through following a difficult or stressful incident. It is an important way of 'off-loading' or dealing with stress. Many staff members naturally do this with colleagues after a difficult telephone call, but debriefing can also be done with a supervisor or senior manager or as a team following a significant incident. We encourage all staff to engage in an appropriate level of debriefing, when necessary.

Staff may also access an external professional service on a needs basis. All staff can access the Employee Assistance Program – a free, confidential counselling service. To make an appointment call: 1300 687 327. Information about this service is available on the Intranet or from People & Culture.

6.8 Other Remedies

6.8.1 Compensation for injury

Any staff member who suffers injury as a result of aggressive behaviour from complainants is entitled to make a workers' compensation claim. People & Culture will assist wherever possible in processing claims. If you are the victim of an assault, they may also be able to apply to the Victim's Compensation Tribunal for compensation.



6.8.2 Compensation for damage to clothing or personal effects

Where damage is suffered to clothing or personal effects as a result of aggression by a complainant, compensation may be sought by staff. A written application should be lodged with the Integrated Risk Management Team detailing the circumstances and the value of the loss.

6.8.3 Legal assistance

If a staff member is physically attacked or is a victim of employment generated harassment, and the police do not lay charges, the General Manager will consider providing reasonable legal assistance if the staff member wishes to take civil action. This will be at the discretion of the General Manager.

6.8.4 Threats outside the office or outside working hours

Where threats are directed at a particular staff member and it appears those threats may be carried out outside normal working hours or outside the office, the staff member will receive the support of Council. Requests for such assistance should be made to the Coordinator Governance.

6.8.5 Escorts home

When a staff member fears for their safety following a threat from a complainant, another staff member may accompany them home or Council can meet the cost of the staff member going home in a taxi. Ask the Coordinator Governance for more information.

6.8.6 Telephone threats on home numbers

If a staff member or their family have been harassed by telephone at their home and they believe it is connected with their employment they may apply to have Council meet the cost of having their telephone number changed and/or made silent. The staff member should also contact their telephone carrier, as they may provide an interception/monitoring service.

If assistance is approved, Council will meet the cost incurred for a period up to 12 months. Once approval is given, the staff member is responsible for making the necessary arrangements and will be reimbursed after producing a paid account.

Applications for reimbursement must be approved by the relevant Director.

6.8.7 Other security measures

If other security measures are necessary, Council will give consideration to providing all reasonable support to ensure the safety and welfare of the staff member.

6.9 Training and Awareness

Singleton Council is committed to ensuring that all staff are aware of and know how to use this policy. Staff who deal with complainants 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 in particular, on induction.



6.10 Ombudsman may request copies of our records

Singleton Council will keep records of all cases where this policy is applied, including a record of the total number of cases where it is used every year. This data may be requested by the Ombudsman to conduct an overall audit and review in accordance with its administrative functions and/or to inform its work on UCC.

7 Relevant Legislation

- *Government Information (Public Access) Act, 2009.*
- *Local Government Act, 1993.*
- *Public Interest Disclosures Act, 1994.*
- *Ombudsman Act, 1974.*
- *Independent Commission Against Corruption Act, 1988.*

8 Document Information

Related documents and reference information in this section provides a single reference point to develop and maintain site compliance information.

8.1 Related Documents

Related documents, listed in the table below, are internal documents directly related to or referenced from this document.

Number	Title
17/26843	Templates – Governance – Unreasonable Complainant Conduct
17/26855	Managing Unreasonable Conduct by a Complainant – 2021 (A Manual for Frontline Staff, Supervisors and Senior Managers by the NSW Ombudsman)
POL/9008	Integrated Risk Management Policy
POL/40007	Complaint Handling Policy

9 Responsible Officer / Policy Owner

Ownership of this policy rests with the Coordinator Governance.

10 Roles and Responsibilities

10.1 All staff

All staff are responsible for familiarising themselves with this policy 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 complainants particularly those who engage in UCC or exhibit the early warning signs for UCC.



Staff are encouraged and authorised to use the strategies and scripts provided in Part 2 of the Manual to manage UCC, in particular:

- Strategies and script ideas for managing unreasonable persistence.
- Strategies and script ideas for managing unreasonable demands.
- Strategies and script ideas for managing unreasonable lack of cooperation.
- Strategies and script ideas for managing unreasonable arguments.
- Strategies and script ideas for managing unreasonable behaviours.

However, it must be emphasised that any strategies that effectively change or restrict a complainant's access to our services must be considered at the senior management level or higher as provided in this policy.

Staff are also responsible for recording and reporting all UCC incidents they experience or witness (as appropriate) to the Coordinator Governance within 24 hours of the incident occurring, using the UCC incident form. A file note of the incident should also be recorded in Council's records management system.

10.2 The Coordinator Governance

The Coordinator Governance, in consultation with relevant staff, has the responsibility and authority to change or restrict a complainant's access to our services in the circumstances identified in this policy. When doing so they will take into account the criteria in Part 6.3.2 and will aim to impose any service changes/restrictions in the least restrictive ways possible. Their aim, when taking such actions will not be to punish the complainant, but rather to manage the impacts of their behaviour.

When applying this policy, the Coordinator Governance will also aim to keep at least one open line of communication with a complainant. However, we do recognise that in extreme situations all forms of contact may need to be restricted for some time to ensure the health and safety and security of our staff and/or third parties.

The Coordinator Governance is also responsible for recording, monitoring and reviewing all cases where this policy is applied to ensure consistency, transparency and accountability for the application of this policy. They will also manage and keep a file record of all cases where this policy is applied.

10.3 Senior managers

All senior managers are responsible for supporting staff to apply the strategies in this policy, as well as those in the Manual. Senior managers are also responsible for ensuring compliance with the procedures identified in this policy and ensuring that all staff members are trained to deal with UCC – including on induction.

Following UCC and/or stressful interaction with a complainant, senior managers are responsible for providing affected staff members with the opportunity to debrief and vent their concerns either formally or informally. Senior managers will also ensure that staff are provided with proper support and assistance including medical and/or police assistance and support through programs such as the Employee Assistance Program (EAP), if necessary.

Depending on the circumstances senior managers may also be responsible for arranging other forms of support for staff which are detailed in Part 6.8 of this policy.



11 Approval

As per cover sheet.

12 Monitoring

This policy will be monitored by the Coordinator Governance to ensure compliance.

13 Review Date

This policy, once adopted, is to remain in force until it is reviewed by Council. This policy is to be reviewed approximately every two (2) years to ensure that it meets legislative requirements.

14 Last Review Date

This policy was last reviewed on 17 June 2019.

15 Record Keeping, Confidentiality and Privacy

This policy is to be made available for public viewing as required under the *Government Information (Public Access) 2009, NSW*.

16 Breaches and Sanctions

Any breaches of this Policy will be referred to the General Manager for appropriate action.

17 Document History

The below table provides a summary of changes and amendments to this document.

Version.	Date Amended	Author	Comments (e.g. reasons for review)
5	11/08/2021	L Bourke	<ul style="list-style-type: none"> Biennial review. Updated relevant Directorates, Business Units and position titles. Updated dates as required. Deleted process map from related documents and included in policy as Appendix B. Added Document History.



Appendix A - Individual Rights and Mutual Responsibilities of the Parties to a Complaint

Appendix A

Individual Rights and Mutual Responsibilities of the Parties to a Complaint

In order for Singleton 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

Complainants have the right:

- to make a complaint and to express their opinions in ways that are reasonable, lawful and appropriate²
- to a reasonable explanation of the organisation's complaints procedure, including details of the confidentiality, secrecy and/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 be given reasons that explain decisions affecting 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 complainants
- to expect honesty, cooperation and reasonable assistance from organisations 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 complainant.¹⁰

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 Singleton 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 complainants acting unreasonably.

Mutual responsibilities

Complainants are responsible for:

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

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

Singleton 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 complainant.¹⁴ Any such conduct of a criminal nature will be reported to police and in certain cases legal action may also be considered.

Staff are responsible for:

- providing reasonable assistance to complainants who need help to make a complaint and, where appropriate, during the complaint process
- dealing with all complaints, complainants and people or organisations the subject of complaint professionally, fairly and impartially
- giving complainants or their advocates a reasonable opportunity to explain their complaint, subject to the circumstances of the case and the conduct of the complainant
- 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 complainants informed of the actions taken and the outcome of their complaints¹⁸
- giving complainants reasons that are clear and appropriate to their circumstances and adequately explaining the basis of any decisions that affect them
- treating complainants and any people the subject of complaint with courtesy and respect at all times and in all circumstances
- taking all reasonable and practical steps to ensure that complainants¹⁹ are not subjected to any detrimental action in reprisal for making their complaint²⁰
- giving adequate warning of the consequences of unacceptable behaviour.

If Singleton Council or its staff fail to comply with these responsibilities, complainants may complain to the NSW Ombudsman.

Subjects of a complaint are responsible for:

- cooperating with the staff of Singleton 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 Singleton Council or its authorised staff when required to do so by a properly authorised direction or notice
- being honest in all communications with Singleton Council and its staff
- treating the staff of Singleton Council with courtesy and respect at all times and in all circumstances
- refraining from taking any detrimental action against the complainant²² 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 and/or codes of conduct.



Singleton Council is responsible for:

- having an appropriate and effective complaint handling system in place for receiving, assessing, handling, recording and reviewing complaints
- 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 the organisation, or its responsible staff, consider to be satisfactory in the circumstances²⁵
- implementing reasonable and appropriate policies/procedures/practices to ensure that complainants²⁶ 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
- giving adequate consideration to any confidentiality, secrecy and/or privacy obligations or responsibilities that may arise in the handling of complaints and the conduct of investigations.

If Singleton Council fails to comply with these responsibilities, complainants may complain to the NSW Ombudsman.



ENDNOTES

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 the organisation, 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 complainant's satisfaction, whether due to unreasonable expectations or the particular facts and circumstances of the complaint [see also Endnote 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.

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 at foot.

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

¹⁵ See Endnote 11.

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

¹⁷ See Endnote 11.

¹⁸ See Endnote 5.

¹⁹ 'Complainants' 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 Endnote 19.

²³ See Endnote 20.

²⁴ See Endnote 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 complainants, any subjects of complaint or the organisation concerned agrees with or is satisfied with that outcome.

²⁶ See Endnote 19.

²⁷ See Endnote 20.



