



**POLICY:
UNREASONABLE COMPLAINANT CONDUCT
MANAGEMENT SYSTEM**

STATUS:	ADOPTED
COUNCIL MEETING DATE:	21 October 2008
MEETING MINUTE:	684
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ISSUED BY:	Executive Services
INQUIRIES:	Executive Officer

OBJECTIVES

Blue Mountains City Council (BMCC) is committed to ensuring that unreasonable complainants are managed in a manner that is appropriate to the requirement of the complainant while providing a safe workplace for its staff and effective management of Council resources. Council aims to promote itself as an ethical and customer service oriented organisation with accountable methods for dealing with unreasonable complainants.

This policy and the accompanying procedures is based on the '*Unreasonable complainant conduct: interim practice manual*' published in August 2008 through a joint project of the Australian Parliamentary Ombudsman.

In accord with that manual (pp2) it is recognised that:

- Dealing with difficult complainants is core business;
- This work requires proper priority and adequate resources;
- Support is required for front line and complaint handling staff in the form of support, encouragement, guidance, training and direction to minimise avoidance of complainants;
- Unreasonable complainant conduct should be managed by responding appropriately to observable conduct not perceptions of motives or psychological states;
- There are a range of reasonable and appropriate management strategies available to manage different types of observable unreasonable conduct;
- This is management of the 'complaints about issues' not the original management of the issue.

The BMCC Policy framework, through the provision of unreasonable complaints management processes, aims to minimise:

- The adverse impacts of unreasonable complainant conduct on resources, processes and performance of complaint handlers;
- Staff stress;
- The possible detriment to the complainants whose conduct is unreasonable but who may have a valid issue; and
- Significant inconsistency in complaint handling procedures.

BACKGROUND

BMCC is committed to providing a quality service to the public and all customers, irrespective of nature or method, should be serviced as follows:

- Treat individuals courteously, attentively and sensitively;
- Give information and advice clearly and with a level of complexity appropriate to the situation;
- Allow customers a voice and listen to their views;
- Ensure members of the public receive their full entitlements;
- Follow fair procedures;
- Act impartially;
- Make decisions based on merit;
- Maintain confidentiality and privacy of personal information; and
- Use resources efficiently and effectively.

The Council has endorsed these standards as it can often be difficult for customers to properly communicate their concerns, problems or needs as they are unaware of the:

- Council role in the community;
- The issues management process of the Council;
- How long an issue takes to resolve;
- What is it we expect of the resident raising the issue; and
- What the responsibilities of the Council are in relation to issues management.

In some cases it may simply be that a customer finds it difficult to complain.

The consequence of this lack of knowledge, understanding or poor conflict management style can be that staff in turn may find it hard to understand customer's concerns, problems, needs and preferred communication style. Sometimes these difficulties are manifested in unreasonable demands on the Council in the form of persistent, habitual, angry, aggressive or harassing behaviour towards staff.

POLICY STATEMENT

This Policy and the associated procedures is adapted from the '*Unreasonable complainant conduct: interim practice manual*' published in August 2008 through a joint project of the Australian Parliamentary Ombudsman to provide BMCC staff with guidance on how to effectively manage difficult complainants within this Council.

The Policy and associated procedures outlines An Unreasonable Complaint Management System for BMCC.

UNREASONABLE COMPLAINT MANAGEMENT SYSTEM

The unreasonable complaint management system is a set of processes to manage the Council responsibility in mediating and delivering outcomes for unreasonable complainants.

Understanding roles and responsibilities

The Council's specific responsibilities include:

- Dealing with complaints professionally, efficiently and impartially;
- Keep complainants informed of the progress and outcome of enquiries;
- Provide clear reasons for it's decisions; and
- Treat complainants with courtesy and respect.

The Complainants responsibilities are to:

- Clearly identify the issues of complaint, or ask for help from the Council staff to do this;
- Give the Council all of the available information in support of the complaint in an organised format at the time of making the complaint;
- Co-operate with the Council enquiries or investigations; and
- Treat the Council staff with courtesy and respect.

Complaint handler's responsibilities are to operate within this policy framework at all times throughout the unreasonable complaint management system. Key responsibilities include:

- Ensuring equity and fairness;
- Recognising the obligations of the Council;
- Adopting appropriate role;
- Exercising ownership and control;
- Managing expectations;
- Focusing on observable conduct eg unreasonable persistence, demands, lack of co-operation, arguments and behaviour;
- Responding consistently;
- Maintaining Council commitment;
- Recognising when appropriate to escalate the unreasonable complainant through the organisation; and
- Recording relevant information to the TRIM file and Pathway production system.

Identifying Unreasonable Complainants

Most public sector agencies will, at some time, deal with a small number of customers who are unreasonable. Unreasonable complainants are those who either:

- Will not accept the outcomes of a review of their general complaint outcomes and request further resource in the hope of achieving their outcome;
- Those who display aggressive, rude or harassing behaviour towards staff; or
- Those who by virtue of the number of information or service requests to the organisation are creating an unreasonable burden on the organisation.

The three broad categories of unreasonable complainants are in accord with the '*Unreasonable complainant conduct: interim practice manual*' (pp2) where 'unreasonableness' refers to 'conduct that goes beyond the norm of situational stress that many complainants experience' (pp2).

Managing general complaints well from the outset

Specific strategies may include:

- Decline complaints that contain unreasonable arguments;
- Decline 'trivial' complaints on the basis of limited resources, no value being added;
- Send an acknowledgement letter of the unreasonable complaint outlining process for managing;
- Where possible and appropriate ring the complainants to ascertain understanding of the issues of their complaint and maintain telephone contact where appropriate and possible;
- Reality test the complainants expectations or outcome requirements;
- Clarify the Council process for complaints management;

- Keep complainant informed throughout process;
- It is unlikely the complainant will appreciate the outcome so ring and discuss, if appropriate, before sending the final letter;
- Demonstrate empathy; and
- When an initial complaint is received identify that the complainant has the potential to become an unreasonable complainant.

Managing complaints as soon as unreasonable conduct manifests

Specific strategies may include:

- Escalate and discuss with the person responsible for supervising unreasonable complainants;
- Make a plan to manage the complaint and the complainant's interaction with our agency;
- Inform the complainant of the process and adhere to the process;
- Ensure the complainant has the opportunity to clarify the complaint where it is not clear;
- Test and reframe the complainant's expectations where possible by telephone;
- Redefine/reassert key issues and stick to them;
- Ensure that the complainant understands the Council follows policy and process in terms of complaint handling;
- Avoid sympathy for experience unrelated to the complaint, premature opinions or comments on past matters;
- If empathy is appropriate empathise;
- Avoid hypothesising or taking actions that would not normally be undertaken;
- Return to the complainant correspondence containing personal abuse, inflammatory statements or material intended to intimidate (unless there is evidence of a criminal offence*). Ask for the material to be reframed before the complaint can proceed;
- End phone calls that are unproductive, abusive or confronting;
- Require complainants to organise or summarise large quantities of disorganised information before action is taken;
- Where issue are too general or vague request clarification and detail; and
- Where information is being provided in dribs and drabs require all information to be supplied prior to commencing due process.

* Note: In the case of a criminal offence refer to Serious and Substantial Complaints Policy, June 2008

Managing chronic ongoing difficult conduct

Specific strategies may include those above and in particular:

- Escalate and discuss with your Manager;
- Involve the Executive Officer in supervising unreasonable complainants;
- Undertake a data analysis of last three months to support any future management plan eg how many requests, type of requests, manner of requests, resources applied to requests;
- Implement, where appropriate, the Communications Management Plan (CMP) for the complainant and their ongoing information and service provision requests;
- The CMP can include:
 - Centralising contact with an objective third party within the organisation
 - All contact in writing and only respond to written requests
 - A prioritisation plan for requests;

- Inform the complainant of the CMP in writing and ask for them to raise any issues with the plan in a suitable timeframe;
- Place the CMP and letter on file;
- Inform the organisation of the CMP particularly Customer Service;
- End the Council involvement where wilful, misleading or untruthful conduct is discovered;
- As a last resort, enforce some form of limited exclusion from contact with the Council; and
- Whenever writing to inform the complainant of the outcome, be precise about the reasons for the decision.

In these instances, you should note:

- The complainant may not be the only audience for your written plan; and
- The complainant must be provided with a right of reply period to review any plan.

Right to a review of the plan

Where a CMP is implemented specific review strategies may include:

- Provide for only one review unless a substantive new issue is raised;
- A pre-condition for review is the complainant providing details of how the Council has erred in their judgement as well as providing new information which supports that view;
- Attempt to give review decisions by telephone where appropriate in order to avoid further correspondence (make a file note); and
- If the decision is required in writing then have the Executive Officer sign the correspondence.

During the review you should be alert to:

- Instances where there is merely a reframing of the original complaint; and
- Informing the complainant at all times that Council process is being followed.

Recording of complaints

Key activities include:

- From the outset ensure that all correspondence is logged to the residential TRIM file for that complainant;
- Once the complaint is deemed unreasonable complainant behaviour escalate the issue and ensure that the correspondence is not only on the residential TRIM file but saved into the Unreasonable Complainant [Year] TRIM file; and
- Escalate in writing to the Executive Officer for management, preferably in writing – this should also be placed on file.

Managing serious aggression, anger, threats and harm

Front Counter staff, if feeling threatened by events, need to:

- If unable to diffuse the situation, cease the contact;
- Ring the duress alarm;
- Ensure safety of members of the public;
- Retreat to the safe area;
- Call the police;
- Escalate to the Executive Officer; and
- Managers need to provide debriefing, counselling and follow-up to any issues that arose during the course of events and provide a file note.

Field staff, if feeling threatened by events, need to:

- If unable to diffuse the situation, cease the contact and retreat to lockable vehicles;
- Ring the police (if required) and escalate to their Manager;
- Manager needs to escalate to Executive Officer; and
- Managers need to provide debriefing, counselling and follow-up to any issues that arose during the course of events and provide a file note.

RELEVANT LEGISLATION AND GUIDELINES

Council will manage unreasonable complainants within the requirements of:

- Unreasonable complainant conduct: interim practice manual 2007;
- Apologies, a practical guide – NSW Ombudsman 2007;
- The Complaint Handler’s Toolkit - NSW Ombudsman 2004;
- Occupational Health and Safety Act 2000;
- Privacy and Personal Information Protection Act 1998;
- Local Government Act 1993; and
- Anti-Discrimination Act 1977.

RELEVANT COUNCIL DOCUMENTS

- Serious and Substantial Complaints Policy 2008
- Grievance Policy/Protocol 2008
- Delegations of Authority 2008
- Access to Information Policy 2007
- Customer First Service Charter 2006
- Code of Conduct 2004

ATTACHMENT 1

Unreasonable Complainant Management System Workflow

UNREASONABLE COMPLAINANT MANAGEMENT SYSTEM (UCMS)

