

Gladstone Regional Council

Council Policy

Title	UNREASONABLE CUSTOMER CONDUCT
Policy Number	P-2022-08
Business Unit/s	FINANCE GOVERNANCE AND RISK CUSTOMER EXPERIENCE
Date of Adoption	
Resolution Number	
Review Date	
Date Repealed	

1.0 PURPOSE:

The purpose of this policy is to provide guidance and a consistent approach to managing unreasonable customer conduct.

2.0 SCOPE:

This policy applies to situations involving unreasonable customer conduct at Gladstone Regional Council.

3.0 RELATED LEGISLATION:

- *Criminal Code Act 1899*
- *Defamation Act 2005*
- *Human Rights Act 2019*
- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Police Powers and Responsibilities Act 2000*

4.0 RELATED DOCUMENTS:

- Complaint Management Policy
- Complaints Management Corporate Standard
- Code of Conduct Policy
- Compliance and Enforcement Policy
- Compliance and Enforcement Corporate Standard
- Councillor Conduct Code Policy
- DAART Program - Defence Against Armed Robbery Training and Personal Safety Awareness
- Managing Unreasonable Customer Conduct Practice Manual, 2nd Edition, NSW Ombudsman.
- Unreasonable Customer Conduct Corporate Standard

5.0 DEFINITIONS:

To assist in the interpretation of this policy the following definitions apply:

Term	Definition
Aggressive, Abusive and Offensive Conduct	includes, but is not limited to the making of rude, vulgar or offensive noises, expressions or gestures; verbal abuse of a personal or general nature; swearing, threatening or offensive behaviour and statements; assault and physical violence against a person or property
Assault	has the meaning given by the <i>Criminal Code Act 1899</i> (Section 245), which at the time of adoption of this policy was defined as: 245 Definition of assault (1) A person who strikes, touches, or moves, or otherwise applies force of any kind to, the person of another, either directly or indirectly, without the other person's consent, or with the other person's consent if the consent is obtained by fraud, or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without the other person's consent, under such circumstances that the person making the attempt or threat has actually or apparently a present ability to effect the person's purpose, is said to assault that other person, and the act is called an " assault ". (2) In this section— applies force includes the case of applying heat, light, electrical force, gas, odour, or any other substance or thing whatever if applied in such a degree as to cause injury or personal discomfort
Chief Executive Officer	means the person holding the position of Chief Executive Officer under the Local Government Act 2009 at Gladstone Regional Council
Complaint	means an expression of dissatisfaction, orally or in writing, about the action of Council or its officers or agents
Councillor	means a Councillor of Gladstone Regional Council as defined under the <i>Local Government Act 2009</i> (includes the Mayor)
Council Officer	means employees of Gladstone Regional Council
Council Contact Methods	means how a customer can enquire about and/or obtain information about the infrastructure and services provided by Council. These customer contact methods include but are not limited to in person via access points such as customer service counters or libraries, telephone, face-to-face meetings, electronically via email, fax, in writing via Australia Post or other public interaction mechanisms provided by Council Officers, Councillors and Volunteers
Customer	means a person who is provided with or seeks to access facilities or services from Council. The person can be a ratepayer, resident, visitor,

	business or organisation
Decision Maker	means a Council Officer/s assigned the task of reviewing Unreasonable Customer Conduct and deciding whether or not to impose access restrictions to Council Contact Methods
Physical Force	means power, violence, or pressure directed against another person's body or property
Property	means a thing or things belonging to someone; possessions collectively
Senior Council Officers	where the relevant Manager is not present, the next most senior employee reporting to the Manager on duty at the time
Unreasonable Customer Conduct (UCC)	means conduct which, because of its nature or frequency, raises health, safety, resource or equity issues. It includes conduct beyond that commonly demonstrated by customers when they bring a grievance to Council and includes the behaviours defined in Section 6.1 of this Policy
Volunteer	means a person who freely offers to provide their services to Gladstone Regional Council without being paid

6.0 POLICY STATEMENT:

6.1 DEFINING UNREASONABLE CUSTOMER CONDUCT

Council follows the [NSW Ombudsman's Unreasonable Customer Conduct - Practice Manual](#). The NSW Ombudsman categorises Unreasonable Customer Conduct into five broad categories for the purpose of developing frameworks to manage the conduct. These categories are listed below.

6.1.1 Unreasonable persistence

Unreasonable persistence includes:

- instances where a person will not accept Council's decision on a matter and the person has exhausted all appropriate avenues of internal review or appeal;
- sending excessive amounts of correspondence, or making numerous phone calls and/or visits raising the same issue/s with different Council Officers or Councillors;
- circumstances where a person or group is sending / making continuous complaints on a wide range of issues which places unreasonable demands on Council resources.

6.1.2 Unreasonable demands

Unreasonable demands are any demands (expressed or implied) that are made by a person insisting on outcomes that are unattainable, moving the goal posts, or demanding to have their complaints dealt with in particular ways.

6.1.3 Unreasonable lack of cooperation

Unreasonable lack of cooperation is an unwillingness and/or inability by a person to cooperate with Council, Council Officers, or the complaints system and processes that result in a disproportionate and unreasonable use of Council Contact Methods, time and/or

resources. This includes customers providing disorganised, excessive or irrelevant information, being unwilling to consider other valid viewpoints, or refusing to define their issues of complaint when they are capable of doing so.

6.1.4 Unreasonable arguments

Unreasonable arguments include customers seeking cause and effect arguments where there are clearly none, holding conspiracy theories unsupported by evidence, and irrationally interpreting facts or laws and refusing to accept other more reasonable interpretations.

6.1.5 Unreasonable behaviour

Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated a person may be – because it compromises the health, safety and security of others or the person himself / herself. This includes:

- (a) Aggressive, Abusive and Offensive Conduct (refer to definition); or
- (b) harassing or predatory behaviour towards Councillors, Council Officers, Volunteers or other customers.

6.2 OPTIONS TO MANAGE UNREASONABLE CUSTOMER CONDUCT

Unreasonable Customer Conduct will generally be managed by limiting or adapting the ways that Council interact with and/or delivers services to customers who engage in Unreasonable Customer Conduct. Council may adapt or restrict customer access to Council Contact Methods in some or all of the following ways depending on the circumstances:

1. Restrict who the customer has contact with
2. Limit what the customer can raise with Council
3. Restrict when the customer can have contact with Council
4. Limit the customer to writing only contact
5. Limit where the customer can make contact
6. Restrict contact through a representative only
7. Limit how the customer can make contact.

When dealing with Unreasonable Behaviour (Section 6.1.5), Council Officers are authorised to end a telephone call or in person contact where the customer engages in Aggressive, Abusive and Offensive Conduct.

Council Officers will not engage in Physical Force against a person unless it is reasonably necessary in self-defence. It is the role of the Queensland Police Service to exercise Physical Force against another person if required to maintain public safety, public order and/or for the protection of the rights and freedoms of other persons.

Physical Force against property is only authorised by warrant issued in accordance with Section 125 of the *Local Government Act 2009* or exercised in accordance with Council's other legislative powers and responsibilities (for example: impounding animals, vehicles, goods and materials).

6.2.1 Applying and Monitoring Restrictions and Limitations

Where a decision has been made to apply a restriction or limitation on a customer's access to

Council Contact Methods, the customer will be provided written notification of the decision and given an opportunity to request a review of the decision.

Where a decision is confirmed or a request for review is not received, the Decision Maker will monitor the customers contact with Council on an annual basis **as a minimum, or another period considered reasonable and relevant on a risk assessment basis**. The customer will be provided with an outcome of this monitoring and advised if the limitation/restriction is to continue, be amended or removed.

7.0 ATTACHMENTS:

Nil

8.0 REVIEW MECHANISM:

This policy will be reviewed when any of the following occur:

1. The related legislation or governing documents are amended or replaced; or
2. Other circumstances as determined by resolution of Council or the CEO; or
3. Three years from date of adoption.

TABLE OF AMENDMENTS			
Document History	Date	Council Resolution No.	Notes (including the prior Policy No, precise of change/s, etc)
Originally Approved	05 Sept 2017	G/17/3167	
Amendment 1	4 October 2022		
Amendment 2			
Amendment 3			

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CHIEF EXECUTIVE OFFICER