

Managing Complex and Unreasonable Customer Behaviour Policy



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APPROVAL	Chief Executive Officer Council <i>Signature:</i>  <i>Date: 24 June 2024</i>
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POLICY OWNER	Manager, Customer Experience and Corporate Performance

REVISION RECORD	Version	Revision Description
30 June 2018	1	
24 June 2024	2	Incorporated Victorian Ombudsman recommended practice as per 'Good Practice Guide: Managing Complex Complainant Behaviour' (Feb 2022).

1. Purpose

The purpose of this policy is to outline how Kingston City Council manages instances of complex and unreasonable customer behaviour in ways that are fair and balance the interest of customers, council officers, our organisation and members of the public.

This policy guides Council's management of complex and unreasonable customer behaviour to ensure that we are providing an accessible, responsive service to customers within a safe and healthy workplace that uses resources efficiently and fairly.

1.1 Policy Statement

Kingston Council recognises that customers who behave unreasonably are very few in number, however their behavior can have a significantly disproportionate negative effect on Council's resource and efficiency levels, and the productivity, safety and wellbeing of its staff. This policy seeks to manage this risk while balancing the on-going rights of customers to appropriate service levels and responsiveness on unrelated matters.

2. Scope

This policy covers complex and unreasonable customer behaviour across the full range of Council services and via all customer channels, including but not limited to face to face, telephone, mail, email, letters, and social media.

This policy has been developed to allow:

- The community to understand how complex and unreasonable customer may be managed
- To support staff members to manage complex and unreasonable customer behaviour through:
 - Acting fairly, consistently, honestly and appropriately when responding to complex or unreasonable behaviour.
 - Being aware of their roles and responsibilities in relation to the management of complex and unreasonable customer behaviour and how this policy will be used.

3. Definitions

Unreasonable Customer Behaviour Behaviour which, because of its nature or frequency, raises substantial health, safety, resource or equity issues.

Victorian Ombudsman 2021

Complex Customer Behaviour 'Complex behaviour' is any behaviour officers find challenging.

Victorian Ombudsman 2022

4. Governance Principles and Council Plan alignment

This policy aligns with guidance provided by the Victorian Ombudsman via Good Practice Guide – Councils and Complaints (2021) and Good Practice Guide: Managing Complex Complainant Behaviour (2022)

4.1 Governance Principles

Principle (i) - the transparency of Council decisions, actions and information is to be ensured.

4.2 Council Plan Alignment

Strategic Direction: Well-governed – the Council will be collaborative, accountable, transparent, responsive, well-informed and efficient.

Strategy: Hold ourselves to the highest standard of governance and integrity.

5. Managing Complex and Unreasonable Customer Behaviour

Kingston City Council encounters a spectrum of complex behaviour, from slightly confronting to clearly unreasonable, and our responses will be graduated through a stage approach.

Council Officers can deal with most types of complex behaviour using prevention and responding strategies as detailed in Stage One and Stage Two.

Stage Three and Stage Four are applied when behaviour becomes unreasonable due to nature or frequency and raises health, safety, resource or equity issues for Kingston City Council, our officers and other service users.

5.1 Stage One – Prevent

Kingston City Council aims to prevent complex behaviour becoming a problem, where possible, by practising good complaint handling. Our Complaint Resolution Policy (2024) details how we respond to complaints.

5.2 Stage Two – Respond

5.2.1 Diffusing Emotional Behaviour

Officers will respond to angry or emotional behaviour in the first instance by attempting to defuse the situation. This involves the following sequence of actions:

- Taking control of their own response. At times officers may need to take a break so they can collect themselves. If this is not possible and the matter is not urgent, officers can arrange to speak with the person again at another time.
- Giving the person reasonable time to express themselves and acknowledging what they are saying and how they feel.
- When the person's feelings are under control enough to speak about the complaint, refocusing the discussion on the complaint.
- Problem solving using good complaint handling techniques.
- Seeking support from a line Manager to debrief when required

5.2.2 Behaviour associated with a possible disability

Where complex behaviour may be a symptom or manifestation of a disability, officers need to consider Kingston City Council's obligations under the Charter of *Human Rights and Responsibilities Act 2006* (Vic) and the *Equal Opportunity Act 2010* (Vic).

5.2.3 Responding to threats of suicide

Kingston City Council does not expect officers to provide crisis support or counselling to people who talk about suicide. Our role is to check if the person is serious and connect them with people or services that can help. If a person makes statements about harming themselves, officers will:

1. Ask the person clearly and directly if they are thinking about suicide.
2. Explain that they are concerned and want to make sure the person is safe.
3. Alert a manager, who will decide what action to take.

If the person's safety is at risk or they need immediate help, the manager will contact Victoria Police on 000. In other cases, the manager will consider whether to:

- encourage the person to speak with someone they trust, or
- offer information about contacting Lifeline (13 11 14), the Suicide Call Back Service (1300 659 467), SuicideLine Victoria (1300 651 251) or Kids Helpline (1800 55 1800).

Managers will check on the welfare of affected officers following a threat of suicide and ensure support is available.

5.3 Stage Three - Manage

If a person's behaviour becomes unreasonable, appropriate and proportionate strategies for managing the behaviour will be determined by a review panel. The strategies will depend on the behaviour type of involved, including:

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

If a person's behaviour becomes unreasonable, officers must apply appropriate and proportionate strategies for managing the behaviour that will depend on the behaviour type involved. Behaviour types and strategies may include:

5.3.1 Behaviour Type: Unreasonable persistence

<p>Unreasonable persistence is an attempt to raise issues that have been comprehensively dealt with through continued, incessant and unrelenting conduct by a customer that result in a disproportionate and unreasonable impact on Council staff, services, time and/or resources.</p>	
<p>Examples of unreasonable persistence include:</p> <ul style="list-style-type: none"> • bombarding officers with calls or visits that are not warranted • contacting different officers seeking a different answer • reframing an old complaint so it looks like there are new issues • refusing to accept the decision after we have investigated the 	<p>Strategies for manage unreasonable persistence are centered around saying no and may include:</p> <ul style="list-style-type: none"> • asking the person to stop calling or visiting • setting time limits for discussions transferring the person back to the original complaint handler or their manager

<p>complaint, provided a decision and reasons, answered questions and provided review options</p> <ul style="list-style-type: none"> questioning the skills or competence of the complaint handler 	<ul style="list-style-type: none"> declining to consider new issues that are not supported by information or evidence providing a warning
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5.3.2 Behaviour Type: Unreasonable demands

<p>Unreasonable demands are any demands (express or implied) made by a customer that are unattainable or constantly changing that result in a disproportionate and unreasonable impact on Councils organisation, staff, services, time and/or resources.</p>	
<p>Examples of unreasonable demands include:</p> <ul style="list-style-type: none"> insisting on an immediate response or priority that is not warranted insisting on a response to every point, no matter how minor demanding information they are not entitled to insisting that the head of your organisation handle the complaint when that is not warranted instructing officers how to investigate the complaint 	<p>Strategies for managing unreasonable demands are centered around setting limits and may include:</p> <ul style="list-style-type: none"> explaining how you will be dealing with the complaint explaining that you will not meet the demand and why 'reality checking' i.e. explaining that we deal with many complaints and need to decide when and how they are handled providing a warning

5.3.3 Behaviour Type: Unreasonable lack of cooperation

<p>Unreasonable lack of cooperation is an unwillingness and/or inability by a customer to cooperate with Council, staff, or complaints system and processes that result in a disproportionate and unreasonable use of Council services, time and/or resources.</p>	
<p>Examples of unreasonable lack of cooperation include:</p> <ul style="list-style-type: none"> sending voluminous amounts of information providing little or no information presenting information in 'drips and drabs' 	<p>Strategies for managing unreasonable lack of cooperation are centered around setting conditions to motivate action and may include:</p> <ul style="list-style-type: none"> asking the person to take action (e.g. providing certain information) before you will consider the complaint further providing a warning

<ul style="list-style-type: none"> • refusing to comply with reasonable requests for information 	
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5.3.4 Behaviour Type: Unreasonable arguments

<p>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 Councils organisation, staff, services, time, and/or resources</p>	
<p>Examples of unreasonable arguments include:</p> <ul style="list-style-type: none"> • insisting on the importance of minor issues • making unsubstantiated allegations e.g. bias or corruption • insisting on 'cause and effect' without evidence 	<p>Strategies for managing unreasonable arguments are centered around declining or discontinuing involvement and may include:</p> <ul style="list-style-type: none"> • requiring evidence before taking a complaint further • not investigating issues where there is no practical outcome • providing a warning

5.3.5 Behaviour Type: Unreasonable behaviour

<p>Unreasonable behaviour is acts of aggression, threats, verbal abuse, derogatory, racist or defamatory remarks that is unreasonable in all circumstances regardless of how stressed, angry or frustrated that a customer is – because it unreasonably compromises the health, safety and security of Council staff, other service users or the customer themselves.</p>	
<p>Examples of unreasonable behaviour include:</p> <ul style="list-style-type: none"> • verbal abuse • aggressive behaviour • harassment • threats 	<p>Strategies for managing unreasonable behaviour are centered around setting limits and conditions and may include:</p> <ul style="list-style-type: none"> • naming the behaviour and asking the person to stop • providing a warning

5.4 Stage Four - Limiting Access

Kingston City Council can consider limiting access to our services if other strategies have not worked and the person continues to engage in unreasonable behaviour.

Depending on the type of behaviour, we may consider limiting:

- **Who the customer has contact with** – e.g. limiting a customer to a sole contact person / staff member in our organisation.
- **What the customer can raise with us** – e.g. restricting the subject matter of communications that we will consider and respond to.

- **When the customer can have contact** – e.g. limiting a customer’s contact with our organisation to a particular time, day, or length of time, or curbing the frequency of their contact with us.
- **Where the customer can make contact** – e.g. limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office.
- **How the customer can make contact** – e.g. limiting or modifying the forms of contact that the customer can have with us. This can include modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to our premises or contact through a representative only.

5.4.1 Termination of a customer’s access to our services

In rare cases, and when all other strategies have been attempted, the review panel may decide it is necessary for Council to restrict a customer’s contact/access to council services because 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
- Conduct that is otherwise unlawful.

6. Review Panel

A review panel will have the responsibility and authority to change or restrict a customer’s access to Councils services in accordance with the Complex and Unreasonable Customer Behaviour policy. At a minimum the review panel will comprise of:

- General Manager Customer and Corporate Support
- Independent Senior Officer
- Manager Customer Experience and Corporate Performance
- Team Leader Complaint and Service Resolution

In the instances where the General Manager Customer and Corporate Services is not independent from the particular circumstance then another General Manager will be nominated.

The Team Leader Complaint and Service Resolution is responsible for initiating a review panel and advising of the collation of required documentation to assist in the review.

7. Setting Service Limits

7.1 Criteria for Setting Service Limits

Before approving any limits, the review panel will consider all relevant factors and be satisfied that:

- the behaviour is unreasonable i.e. poses a risk to the health, safety, equity or resources of one of the parties involved
- all alternative strategies have been, or are likely to be, ineffective in managing the risk all relevant factors have been considered including the person's history, the nature of the conduct, the person's personal circumstances and the impact of limiting access on the welfare of the person and their dependants
- the limits are proportionate to the level of risk posed by the behaviour
- there is sound evidence to support the decision
- the limits are consistent with the *Charter of Human Rights and Responsibilities Act 2006* (Vic) and we have documented:
 - which, if any, human rights will be affected
 - why we are satisfied that the limits are reasonable and demonstrably justified under section 7 of the Charter
- If the behaviour may be a symptom or manifestation of a disability, the limits are consistent with the *Equal Opportunity Act 2010* (Vic).

8. Informing the Parties

The General Manager Customer and Corporate Support will inform:

- the affected council officers of the decision
- the customer in writing (unless another form of communication is more appropriate) and will explain the decision and the reasons for the decision.

Communication sent to the customer will be based on the Victorian Ombudsman's examples of 'warning letter' or 'letter limiting access'. The letter will set a timeframe for reviewing the limits (see below) and explain the person's options for a right of appeal about the decision.

8.1 Right of appeal

Customers are entitled to one appeal of a decision to change/restrict their access to Council services. This review will be undertaken by the Chief Executive Officer who will consider the customers opinions along with all relevant records regarding the customers' past conduct.

If the customer 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.

8.2 Period for review

Kingston City Council will ensure that any limits on a person's access are reviewed within the named timeframe, and at least once every 12 months, to determine if they are effective and still warranted.

The General Manager Customer and Corporate Support will document the review and inform affected officers and the person of any decision to remove or vary the limits on access.

8.3 Centralised register

A centralised register will be managed detailing the name/s of customers whereby service limits have been enacted, if possible, their contact details and specifically the key reasons why they are on the register. Access to this register will be limited to senior staff across the organisation so that customers with restrictions can be readily identified and if applicable staff alerted to this status when required.

9. Support for Staff

Kingston City Council recognises that dealing with complex or unreasonable behaviour can be upsetting and stressful and we are committed to supporting Council staff. We will uphold our legal obligations to provide a safe workplace and support officers by providing formal training, coaching and mentoring arrangements, debriefing arrangements and access to an employee assistance programs.

Managers will speak with officers who handle complaints regularly to check their welfare, in addition to any other supervision arrangements.

Officers are encouraged to monitor the impact of complex behaviour on their wellbeing, draw on available supports and maintain a healthy approach to managing stress. Officers who are injured at work can report this in accordance with Council's Safety Incident and Injury Reporting Procedure.

10. Roles and Responsibilities

All officers are authorised to apply the strategies in Stages One to Three of this policy (Prevent, Respond and Manage). Officers must consult a manager if:

- a person threatens suicide
- a person makes threats to harm a staff member or another person

Decisions to limit access to services (Stage four) may only be made by The General Manager, Customer and Corporate Support or an independent General Manager when required.

11. Related Documents

11.1 Legislation

- *Local Government Act 2020* (Vic)
- *Charter of Human Rights and Responsibilities Act 2006* (Vic)
- *Equal Opportunity Act 2010* (Vic)
- *Disability Discrimination Act 1992*
- *Privacy and Data Protection Act 2014* (Vic)

11.2 Documents and Resources

- Kingston Complaint Resolution Policy
- Kingston Customer Commitment
- Kingston Corporate Information Management Policy
- Victorian Ombudsman's Good Practice Guide – Councils and Complaints (2021)
- Victorian Ombudsman's Good Practice Guide: Managing complex complainant behaviour (2022)