

Unreasonable Conduct by Customer

1. Purpose

Yass Valley Council is committed to delivering quality customer service and to communicating effectively with our community.

Yass Valley is committed to being accessible and responsive to all customers who approach Yass Valley Council for assistance with a request for service, request for information or with a complaint.

At the same time the success of our organisation 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 customers behave unreasonably in their dealings with us, their conduct can significantly affect our success. As a result, Yass Valley Council will take proactive and decisive action to manage any customer conduct that negatively and unreasonably affects us and will support our staff to do the same in accordance with this policy.

2. Policy Objective

This Policy is aligned to the NSW Ombudsman 'Unreasonable Conduct by Complainants' (UCC) model policy. Its aim is to ensure that Customers and Yass Valley Council staff:

- Have a clear understanding of the criteria that will be considered before we decide to change or restrict a customer'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 customers 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.

3. Scope

This Policy applies to all staff of Yass Valley Council who deal in customer service.

Definitions

Term	Meaning
UCC	refers to Unreasonable Conduct by Customer

4. Policy Provisions

4.1. Unreasonable Conduct by Customers

Most customers 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 customers 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 customers behave in these ways, we consider their conduct to be 'unreasonable'.

Unreasonable conduct by customers ('UCC') is any behaviour which, because of its nature or frequency raises substantial health, safety, resource or equity issues for our organisation, our staff, other service users and customers or the customer himself/herself.

UCC can be divided into five categories of conduct:

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

4.2 Unreasonable Persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a customer that has a disproportionate and unreasonable impact on the Yass Valley Council, 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 contacting Yass Valley Council about the same matter when it has been comprehensively considered and dealt with.
- 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, and 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.

4.3 Unreasonable Demands

Unreasonable demands are demands (express or implied) that are made by a customer that have a disproportionate and unreasonable impact on Yass Valley Council, 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 [CEO / Director General/ Director / 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 – e.g. 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

4.4 Unreasonable Lack of Cooperation

Unreasonable lack of cooperation is an unwillingness and/or inability by a customer to cooperate with our organisation, staff, or complaints system and processes that results 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 customer is clearly capable of doing this.
- Providing little or no detail with a complaint or presenting information in ‘dribs 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.

4.5 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 customer to reject all other valid and contrary arguments
- Are trivial when compared to the amount of time, resources and attention that the customer demands
- Are false, inflammatory or defamatory.

4.6 Unreasonable Behaviour

Unreasonable behaviour is conduct 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 our staff, other service users or the customer 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.

Yass Valley Council has a zero-tolerance policy towards any harm, abuse or threats directed towards staff.

4.7 Responding to and Managing Unreasonable Conduct by a Customer

4.7.1 Changing or restricting a Customer’s access to Yass Valley Council

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

- **Who they have contact with** – limiting a customer to a sole contact person/staff member in our organisation.
- **What they can raise with us** – restricting the subject matter of communications that we will consider and respond to.
- **When they can have contact** – 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 they can make contact** – limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office.
- **How they can make contact** – 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, 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 customer'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.

4.7.2 Who – limiting the customer to a sole contact point

Where a customer 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.

Customers 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 due to taking leave or are otherwise unavailable for an extended period of time.

4.7.3 What – restricting the subject matter of communications that Yass Valley Council will consider

Where customers 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 customer 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 customer 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 customer 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 customer 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.

4.7.4 When - limiting when and how a customer can contact Yass Valley Council

If a customer'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 (e.g. 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 customer 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 15 typed or written pages, single sided, font size 12 or it will be sent back to the customer to be organised and summarised – This option is only appropriate in cases where the customer is capable of summarising the information and refuses to do so.
 - Limiting face-to-face interviews to a maximum of 45 minutes.
- Limiting the frequency of their telephone calls, written correspondence or face-to-face interviews. Depending on the nature of the service(s) provided we may limit:
 - Telephone calls to 1 every month.
 - Written communications to 1 every month.
 - Face-to-face interviews to 1 every month.

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

- Require the customer 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 customers can send emails or other written communications to our office.
- Restrict a customer to sending emails to a particular email account (e.g. the organisation's main email account) or block their email access altogether and require that any further correspondence be sent through Australia Post only.

Writing only restrictions

When a customer 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.

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

4.7.5 Where – limiting face to face interviews to secure areas

If a customer 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 customer from attending our premises altogether and allowing some other form of contact – e.g. 'writing only' or 'telephone only' contact.

Contact through a representative only

In cases where we cannot completely restrict our contact with a customer 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 customer but must be approved by Yass Valley Council.

4.7.6 Completely terminating a customer's access to Yass Valley Council

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 customer's contact/access to our services.

A decision to have no further contact with a customer will only be made if it appears that the customer 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 – e.g. entrapping them in their home.
- Conduct that is otherwise unlawful.

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

A customer'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 customer.

4.8 Managing Customers Seeking Access to Information

The *Government Information (Public Access) Act 2009 (GIPA Act)* provides our customers with a general right of access to information held by Yass Valley Council unless there is an overriding public interest consideration against disclosure of the information, and as long as releasing the information is consistent with privacy, copyright and other legislation. Information is provided proactively, and customers may make either an informal request or a formal access application under the Act.

Information is provided via the informal process either directly by staff as part of business operations, or by the Information Access team in Information Services. All requests for information are assessed and determined in accordance with the legislation.

There is also provision for a customer to make a formal information access application. Formal applications are processed by the Information Access team and final determinations regarding what information is released are made by the Governance team. Formal applications are managed in a structured way under GIPAA that includes application and processing fees, defined response times and appeal provisions.

Customers seeking access to information that Yass Valley Council holds who demonstrate unreasonable conduct can be managed using the following strategies:

4.8.1 Who – limiting the customer to a sole contact officer

Where a customer requests the same information from different staff, it may be appropriate to restrict their access to a single staff member (a sole contact officer) who will exclusively manage their request(s) for information. This will ensure they are dealt with consistently and minimise the chances for misunderstandings.

4.8.2 What – restricting the subject matter of communications that Yass Valley Council will consider

Where customers repeatedly request information that has already been provided, Yass Valley Council may refuse to respond to these requests. The customer will be advised that future correspondence requesting information that has already been provided will be read and filed without acknowledgement.

4.8.3 How – applying GIPAA rules

Under GIPAA:

- A customer requesting information from Yass Valley Council cannot be prohibited from contacting Yass Valley Council.
- Yass Valley Council cannot be required to consider an informal request, or to provide information in response to such a request.
- Yass Valley Council must consider all formal access applications it receives.

Where a request for information causes concern in a business unit because the customer demonstrates unreasonable conduct the business unit may refer the request to the Information Access team within the Information Services Unit.

The Information Access team will assess the request and decide whether to deal with it as an informal request.

If the decision is not to deal with the informal request, the customer will be advised that they have the option of lodging a formal access application. Formal access applications are managed by the Information Access team in accordance with the GIPA Act.

The GIPA Act (s60) allows for refusal to deal with a formal access application only on the following grounds:

- Unreasonable and substantial diversion of resources
- Applicant has previously been provided with the information
- Applicant has previously applied for the same information, and the earlier application has been decided, and there are no reasonable grounds to believe revisiting the matter would result in a different decision.

4.9 Alternative Dispute Resolution

4.9.1 Using alternative dispute resolution strategies to manage conflicts with customer

If Yass Valley Council determines that services to a customer cannot be terminated 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 customer 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.

4.10 Changing a Customer's Access to Yass Valley Council

4.10.1 Relevant staff will be consulted about their contact with the customer on matters including:

- The circumstances that gave rise to the UCC/incident.
- The impact of the customer's conduct on our organisation, relevant staff, our time, resources, etc.
- The customer's responsiveness to the staff member's warnings/requests to stop the behaviour.
- The actions the staff member has taken to manage the customer's conduct, if any.

- The suggestions made by relevant staff on ways that the situation could be managed.
- Whether the conduct in question involved overt anger, aggression, violence or assault (which is unacceptable in all circumstances).
- Whether the customer's case has merit.
- The likelihood that the customer 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 customer's behaviour.
- Whether changing or restricting access to our services will affect the customer'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 customer's welfare, livelihood or dependents etc.
- Whether the customer's personal circumstances have contributed to the behaviour? For example, the customer 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 customer'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 customer's contact/access to our services.

Once Yass Valley Council has considered these factors a decision will be made on the appropriate course of action.

4.10.2 Providing a warning letter

Unless a customer's conduct poses a substantial risk to the health and safety of staff or other third parties, they will be provided 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 customer'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 listing on those that are most relevant).
- Provide clear and full reasons for the warning being given.
- Include an attachment that briefly states the standard of behaviour that is expected of the customer. See Appendix A.
- Provide the name and contact details of the staff member who they can contact about the letter.
- Be signed by the relevant Director or General Manager.

4.10.3 Providing a notification letter

If a customer'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 Yass Valley Council has the discretion to send a notification letter immediately restricting the customer'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 customer's conduct/UCC incident(s) is problematic.
- Identify the change and/or restriction that will be imposed and what it means for the customer.
- 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 relevant Director or General Manager.

4.10.4 Continued monitoring/oversight responsibilities

Once a customer has been issued with a warning letter or notification letter Yass Valley Council will review the customer's record/restriction every [3 months], on request by a staff member, or following any further incidents of UCC that involve the particular customer to ensure that they are complying with the restrictions/the arrangement is working.

If Yass Valley Council determines that the restrictions have been ineffective in managing the customer's conduct or are otherwise inappropriate, they may decide to either modify the restrictions, impose further restrictions or terminate the customer's access to our services altogether.

4.11 Appealing a Decision to Change or Restrict Access to Yass Valley Council

4.11.1 Right of Appeal

Customers 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 customer's access. This staff member will consider the customer's arguments along with all relevant records regarding the customer's past conduct. The customer will be advised of the outcome of their appeal by letter.

If a 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.

Note: customers making formal application for information from Yass Valley Council have review rights under the GIPA Act. The rights of appeal described in section 8 do not apply to customers making formal GIPAA applications.

4.12 Periodic Reviews of all Cases Where a Change or Restriction to Access is Applied

4.12.1 Period of Review

All UCC cases where this policy is applied will be reviewed every 6 months and not more than 12 months after the service change or restriction was initially imposed or continued/upheld.

4.12.2 Notifying the customer of an upcoming review

Yass Valley Council will invite all customers to participate in the review process unless they determine that this invitation will provoke a negative response from the customer (i.e. further UCC). The invitation will be given and the review will be conducted in accordance with the customer's access restrictions (e.g. if contact has been restricted to writing only then the invitation to participate will be done in writing).

4.12.3 Criteria to be considered during a review

When conducting a review Yass Valley Council will consider:

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

Note – Sometimes a customer 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 customer 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.

4.12.4 Notifying a customer of the outcome of a review

Yass Valley Council will notify the customer 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 Manager Customer Service who the customer can contact to discuss the letter.

4.13 TRAINING AND AWARENESS

Yass Valley Council is committed to ensuring that all staff are aware of and know how to use this policy. All staff who deal with customers 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.

4.14 OMBUDSMAN MAY REQUEST COPIES OF OUR RECORDS

Yass Valley 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

Responsibilities & Review

The Customer Service Coordinator will

- Provide all necessary administrative support for the operation of this policy
- Develop and document any procedures for the effective implementation of this policy
- Keep sufficient records to enable monitoring of compliance with this policy and provide information required for Integrated Planning and Reporting purposes and internal organisational performance measurement.
- Review this policy biennially (every 2 years). The next review date is 24 March 2024.

References

This policy is to be read in conjunction with the following:

Legislation Policies and procedures	Yass Privacy and Personal Information Protection Act 1998
	Health Records Information Privacy Act 2002
	Independent Commission Against Corruption Act 1988
	Government Information (Public Access) Act 2009
	Local Government Act 1993
	Library Act 1939
	Library Regulation 2010
	Protected Disclosures Act 1994
	Ombudsman Act 1974
	Inclosed Lands Protection Act 1901

Approval History

Stage	Date	Comment	MagiQ Reference
Original	26/02/2020	Approved at Council Meeting	358015
Reviewed	28/03/2022	No changes	358015

Ownership and Approval

Responsibility	Role
Author	Customer Service Coordinator
Owner	Director Corporate & Community
Endorser	EMT
Approver	Council