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1. INTRODUCTION

1.1 Statement of support

The City of Mount Gambier (Council) is committed to being accessible and responsive to all customers who approach our office for assistance, service and/or with a complaint. At the same time the success of our office in responding to customer enquiries 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 requests we receive.

When customers behave unreasonably in their dealings with Council, their conduct can significantly affect our ability to successfully respond. As a result, the 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.


All Council members, staff contractors, work experience students and volunteers are authorised and expected to implement the strategies provided in this policy.

An overview of the background and research which informed the development of this Policy is available at **APPENDIX A** for further information and insight.

1.2 Policy aims

This policy has been developed to assist all staff members to better manage unreasonable customer 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.
- Are aware of and understand the strategies provided in the *Managing Unreasonable Conduct by a Complainant: a Manual for frontline staff, supervisors and senior managers, 2021* ('practice manual') including the strategies to change or restrict customer access to our services.
- Have knowledge of alternative dispute resolution strategies to deal with conflicts involving unreasonable behaviours toward members of our organisation.

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- Have access to legal instruments such as trespass laws/legislation/Intervention Orders to prevent individuals 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 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.

2. SCOPE

This policy applies to all unreasonable customer conduct by members of the community, whether directly or indirectly, in relation to services delivered by Council. The Policy covers interactions with elected members, staff, contractors, work experience students and volunteers of Council.

3. DEFINITIONS

Staff	Any reference to 'staff' in this policy is also intended to include members, contractors, work experience students, volunteers and any other group to which Council would reasonable owe a duty of care, unless expressly stated otherwise.
Frivolous Vexatious	<p>or In the context of legal or complaints-related terminology, frivolous, or sometimes trifling, typically means something trivial, without merit, or not worth serious consideration.</p> <p>Vexatious has the meaning of being deliberately annoying, troublesome, or intending to cause harassment.</p>
Customer	A customer may be a person, a group, or a separate legal entity (such as a company or organisation).


4. DEFINING UNREASONABLE CUSTOMER CONDUCT

4.1 Unreasonable customer conduct

Most customers act reasonably and responsibly in their interactions with us, even when they are experiencing high levels of distress, frustration and anger about their matters of concern.

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 can be aggressive, verbally abusive, highly emotional and threatening towards our staff. They can 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, recommendations and reasoning in relation to their matters of concern.

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

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Unreasonable customer conduct ('UCC') is any behaviour by a current or former customer 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 themselves.

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 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 matters of concern.
- Reframing a request 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 matter – internal and external forum shopping.

For more examples of unreasonable persistence see pages 39 – 43 of the practice manual.

4.3 Unreasonable demands

Unreasonable demands are any demands (express or implied) that are made by a customer 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 matter, the priority it was/should be given, or the outcome that was/should be achieved.

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- Insisting on talking to a senior manager, General Manager or Chief Executive Officer 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.

For more examples of unreasonable demands see pages 50 – 54 of the practice manual.

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 systems 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 concern or explaining how they relate to the core issues being dealt with – only where the customer is clearly capable of doing this.
- Providing little or no detail when raising a matter of concern 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.

For more examples of unreasonable lack of cooperation see pages 64 – 65 of the practice manual.

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

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- are trivial when compared to the amount of time, resources and attention that the customer demands
- are false, inflammatory or defamatory.

For more examples of unreasonable arguments see pages 69 – 71 of the practice manual.

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 themselves. 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.
- Persistent derogatory comment shared in public forums, including online media, regarding the Council, Council services or staff, without factual basis.
- Stalking (in person or online).
- Emotional manipulation.

For more examples of unreasonable persistence see pages 77 – 85 of the practice manual.

All staff should note that the City of Mount Gambier 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, in accordance with our duty of care and occupational health and safety responsibilities, and will be reported to SA Police.

5. ROLES AND RESPONSIBILITIES


5.1 All staff

All staff are responsible for familiarising themselves with this policy as well as the *Individual Rights and Mutual Responsibilities of the Parties* in **Appendix B**.

Staff are encouraged to explain the contents of this document to customers who engage in UCC or exhibit the early warning signs for UCC. See pages 16 - 18 of the practice manual.

Staff are also encouraged and authorised to use the strategies and scripts provided in Part 6 of the practice manual to manage UCC, in particular:

- Strategies and script ideas for managing unreasonable persistence: pages 39 – 48.
- Strategies and script ideas for managing unreasonable demands: pages 50 – 63.
- Strategies and script ideas for managing unreasonable lack of cooperation: pages 64 – 68.

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- Strategies and script ideas for managing unreasonable arguments: 69 – 76.
- Strategies and script ideas for managing unreasonable behaviours: pages 77 – 88.

However, it must be emphasised that any strategies that effectively change or restrict a customer's access to our services must be considered at the General Manager 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) into the adopted case management database within 24 hours of the incident occurring.

Staff are also to report relevant UCC incidents to the relevant Manager using the *UCC Sample Incident Form* (available at AF/25/324-01). The types of incidents to be reported to a Manager for immediate consideration will be identified in the implementation of this policy.

Members should report relevant UCC incidents to the Chief Executive Officer, in line with the above process for staff.

5.2 Chief Executive Officer and General Managers

The relevant General Manager or Chief Executive Officer, in consultation with relevant staff, has the responsibility and authority to change or restrict a customer's access to our services in the circumstances identified in this policy. When doing so they will take into account the criteria in Part 8.2 below, adapted into a *UCC Sample Checklist for General Managers* (available at AF/25/324-01), 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 customer, but rather to manage the impacts of their conduct.

When applying this policy the General Manager or Chief Executive Officer will also aim to keep at least one open line of communication with a customer. However, it is recognised 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 General Manager or Chief Executive Officer 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.

5.3 Managers

All Managers are responsible for supporting staff to apply the strategies in this policy, as well as those in the practice manual. 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 a UCC and/or stressful interaction with a customer Managers are responsible for providing affected staff members with the opportunity to debrief and vent their concerns either formally or informally. 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 Employee Assistance Program (EAPS), if necessary.

Depending on the circumstances Managers may also be responsible for arranging other forms of support for staff which are detailed in Part 13 of this policy.

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5.4 Recording and reporting

All incidents of unreasonable customer conduct should be reported to the relevant Manager, to determine whether further action is required under this policy, and recorded using the *UCC Incident Form* (available at AF/25/324-01). All incidents and the management of same must be recorded in the CM9 container AF/25/324, to allow for tracking and monitoring of repeated behaviour.

Where staff have experienced psychological or physical harm as a result of an incident, as separate report should be recorded in Council's WHS software SkyTrust, and any relevant WHS Principles and Procedures followed, including notification of people leaders and seeking necessary treatment or support.

The Elected Council will be notified upon this Policy being enacted (i.e. upon measures being put in place to restrict a customer's access) and kept up-to-date as to any reviews to amend the restrictions in place.

5.5 Privacy and confidentiality

Customers have a right to expect that their behaviour will be investigated in private, to the appropriate extent possible. The identity of customer who has been dealt with under the policy will not be disclosed or made public by the Council, except where required by law.

All complaints lodged with Council are subject to the Freedom of Information Act 1991 and confidentiality cannot be guaranteed under the provisions of that legislation. Customers will be consulted with if a Freedom of Information application involves documents that are capturing matters of personal affairs (as defined by the FOI Act).

Complaints that have arisen from or are managed via the Public Interest Disclosure Act 2018, will be managed in accordance with the privacy and confidentiality provisions of that Act, the Office for Public Integrity Directions and Guidelines and Council's Public Interest Disclosure Policy.

6. RESPONDING TO AND MANAGING UCC

6.1 Changing or restricting a customer'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 customers by restricting:


Who they have contact with – e.g. limiting a customer to a sole contact person/staff member in our organisation.

What they can raise with us – e.g. restricting the subject matter of communications that we will consider and respond to.

When they 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 they 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 they 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, contact through a representative only, taking no further action or terminating our services altogether.

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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.

6.2 Who – limiting the customer to a sole contact point

Where a customer tries to forum shop internally within our organisation, changes their issues of concern repeatedly, reframes their concerns, or raises an excessive number of concerns it may be appropriate to restrict their access to a single staff member (a sole contact point) who will exclusively manage their concern(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 General Manager or Chief Executive Officer will review the arrangement every six months to ensure that the officer is managing/coping with the arrangement.

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

6.3 What – restricting the subject matter of communications that we 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 concern/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 concern/issue per month. Any attempts to circumvent this restriction, for example by raising multiple concerns/issues in the one 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.

6.4 When – limiting when and how a customer can contact us

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:

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- 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 3 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 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 [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 identified in their matter of concern.
 - Restrict the frequency with which customer can send emails or other written communications to our office.
 - Restrict a customer to sending emails to a particular email account (e.g. city@mountgambier.sa.gov.au) 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 city general office email account
- Fax only to a specific fax number
- Some other relevant form of written contact, where applicable.

If a customer's contact is restricted to 'writing only', the General Manager or Chief Executive Officer will clearly identify the specific means that the customer can use to contact our office (e.g. Australia Post only). Also if it is not suitable for a customer 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 customer or read and filed without acknowledgement.

6.5 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 a customer service, board/meeting room or other secured area/facility.

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- 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 the General Manager or Chief Executive Officer.

When assessing a representative/support persons suitability, the General Manager or Chief Executive Officer should consider factors like: the nominated representative/support person’s competency and literacy skills, demeanour/behaviour and relationship with the customer. If the General Manager or Chief Executive Officer determines that the representative/support person may exacerbate the situation with the customer the customer will be asked to nominate another person or we may assist them in this regard.

6.6 Completely terminating a customer’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 and the Chief Executive Officer 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 as outlined in Part 8.4 below.

Such instances will also be reported to SA Police.

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/intervention orders to protect members of our staff from personal violence, intimidation or stalking by a customer.

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For more information, about the types of circumstances where legal mechanisms may be used to deal with UCC, please contact SA Police.

6.7 Immediate action

Depending on the severity and nature of the Unreasonable Conduct (such as circumstances where individual staff members are being targeted with derogatory emails and/or if there is any immediate concern for the health, safety and welfare of staff), the General Manager or Chief Executive Officer may determine that it is necessary to prevent further communications from the individual or group immediately, without taking the preliminary steps outlined under this policy, by asking the person to leave the site, blocking email communication, or flagging a phone number not to be answered, before the assessment and notification process is completed.

In these instances, the customer will still be notified of the change in their services, and provided with a timeline until the first review.

7. ALTERNATIVE DISPUTE RESOLUTION

7.1 Using alternative dispute resolution strategies to manage conflicts with customers

If the General Manager and Chief Executive Officer determine that we cannot terminate our services to a customer 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.

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


8. PROCEDURE TO BE FOLLOWED WHEN CHANGING OR RESTRICTING A CUSTOMER'S ACCESS TO OUR SERVICES

8.1 Consulting with relevant staff

When the relevant Manager receives a 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 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.

8.2 Criteria to be considered

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Following a consultation with relevant staff the relevant Manager will search the adopted case management system for information about the customer's prior conduct and history with our organisation. They will also consider the following criteria:

- Whether the conduct in question involved overt emotion, 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 customer's welfare, livelihood or dependents etc.
- Whether (where known) 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 the Manager has considered these factors they will decide on the appropriate course of action. They may suggest formal or informal options for dealing with the customer's conduct which may include one or more of the strategies provided in the practice manual and this policy.


See *UCC Sample Checklist for General Managers* (available at AF/25/324-01) when deciding to modify or restrict a customer's access.

8.3 Providing a warning letter

Unless a customer's conduct poses a substantial risk to the health and safety of staff or other third parties requiring immediate action to amend or restrict access to Council services, the relevant Manager 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 customer's conduct/ UCC incident is problematic.

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- 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 customer. See **Appendix B**.
- Provide the name and contact details of the staff member who they can contact about the letter.
- Be signed by the Manager or preferably the General Manager/Chief Executive Officer.

Where a contact address for the customer is not known a warning letter may be served to the customer when they next attend a Council office.

See *UCC Sample Warning Letter* (available at AF/25/324-01).

8.4 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 the General Manager or Chief Executive Officer 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 General Manager or Chief Executive Officer.

See *UCC Sample Letter Notifying Customers of a Decision to Change or Restrict their Access to our Services* (available at AF/25/324-01).

8.5 Notifying relevant staff about access changes/restrictions

The General Manager or Chief Executive Officer will notify relevant staff about any decisions to change or restrict a customer's access to our services, in particular reception and security staff in cases where a customer is prohibited from entering our premises.

The General Manager or Chief Executive Officer will also update the adopted case management system with a record outlining the nature of the restrictions imposed and their duration.

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8.6 Continued monitoring/oversight responsibilities

Once a customer has been issued with a warning letter or notification letter the General Manager or Chief Executive Officer will review the complainant'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 the General Manager or Chief Executive Officer 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.

9. APPEALING A DECISION TO CHANGE OR RESTRICT ACCESS TO OUR SERVICES

9.1 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. They will advise the customer of the outcome of their appeal by letter which must be signed off by the Chief Executive Officer. The staff member will then refer any materials/records relating to the appeal to the Manager Organisational Development to be kept in the appropriate file.

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.

10. NON-COMPLIANCE WITH A CHANGE OR RESTRICTION ON ACCESS TO OUR SERVICES


10.1 Recording and reporting incidents of non-compliance

All staff members are responsible for recording and reporting incidents of non-compliance by customers. This should be recorded in a file note in the adopted case management system and a copy forwarded to the General Manager or Chief Executive Officer who will decide whether any action needs to be taken to modify or further restrict the complainant's access to our services.

11. PERIODIC REVIEWS OF ALL CASES WHERE THIS POLICY IS APPLIED

11.1 Period for review

All UCC cases where this policy is applied will be reviewed every 3 months or 6 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.

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11.2 Notifying the customer of an upcoming review

The General Manager or Chief Executive Officer will invite all relevant customers to participate in the review process unless they determine that this invitation will provoke a negative response from the customer (ie 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).

See *UCC Sample Letter Notifying a Customer of an Upcoming Review* (available at AF/25/324-01).

11.3 Criteria to be considered during a review

When conducting a review the General Manager or Chief Executive Officer 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.

The General Manager or Chief Executive Officer may also consult any staff members who have had contact with the customer during the restriction period.

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.

See *UCC Sample Checklist for Reviewing an Access Change/Restriction* (available at AF/25/324-01).


11.4 Notifying a customer of the outcome of a review

The General Manager or Chief Executive Officer 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 relevant Manager who the customer can contact to discuss the letter.

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- Be signed by the General Manager or Chief Executive Officer.

See *UCC Sample Letter Advising the Customer of the Outcome of a Review* (available at AF/25/324-01).

11.5 Recording the outcome of a review and notifying relevant staff

Like all other decisions made under this policy, the General Manager or Chief Executive Officer is responsible for keeping a record of the outcome of the review, updating the adopted case management system and notifying all relevant staff of the outcome of the review including if the restriction has been withdrawn.

See Parts 5.2 and 8.5 above.

12 MANAGING STAFF STRESS

12.1 Staff reactions to stressful situations

Dealing with customers 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 City of Mount Gambier 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.

12.2 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.


Further information on service providers and contact details to make an appointment are available on the staff Intranet and notice boards.

13 OTHER REMEDIES

13.1 Compensation for injury

Any staff member who suffers injury as a result of aggressive behaviour from customers is entitled to make a workers' compensation claim. Human Resources 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.

Members will be provided with similar support via the appropriate mechanisms, as applicable to them.

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13.2 Compensation for damage to clothing or personal affects

Where damage is suffered to clothing or personal effects as a result of aggression by a customer, compensation or replacement may be sought.

13.3 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 Chief Executive Officer will consider providing reasonable legal assistance if the staff members wishes to take civil action.

13.4 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 the office. Requests for such assistance should be made to the General Manager or Chief Executive Officer.

13.5 Escorts home

When a staff member fears for their safety following a threat from a customer, another staff member may accompany them home or the office can meet the cost of the staff member going home in a taxi. Ask the relevant Manager for more information.

13.6 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 the office 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, the City of Mount Gambier 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 Chief Executive Officer.

13.7 Other security measures

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


14. TRAINING AND AWARENESS

The City of Mount Gambier 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.

15. OMBUDSMAN MAY REQUEST COPIES OF OUR RECORDS

The City of Mount Gambier 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.

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16. REVIEW & EVALUATION


Council will review this Policy once during every Council term, or upon significant legislative change as required. The Council may, at any time by resolution, alter, or substitute, or revoke this Policy.

All staff may forward any suggestions they have in relation to this policy to the General Manager Corporate and Regulatory Services, for consideration as to inclusion in the next review, or earlier as appropriate.

17. AVAILABILITY OF POLICY

This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.mountgambier.sa.gov.au.


Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

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File Reference:	AF18/48
Applicable Legislation:	Criminal Law Consolidation Act 1935 Freedom of Information Act 1991 Local Government Act 1999 Public Interest Disclosure Act 2018 Workplace Health and Safety Act 2012 (SA) Workplace Health and Safety Regulations 2021 (SA)
Reference: Strategic Plan 2024-2028	Excellence in Leadership and Governance
Related Policies:	Request for Service and Complaint Policy - C200
Related Procedures:	Occupational Health and Safety Principles Administrative Procedure – Acknowledging and Responding to Customer Feedback and Request for Service Administrative Procedure – Employee Assistance Program
Related Documents:	<u>Managing Unreasonable Conduct by a Complainant: a Manual for frontline staff, supervisors and senior managers, 2021</u> City of Mount Gambier Social Media Terms of Use - Public

DOCUMENT DETAILS

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APPENDIX A

Background

In 2006 the Australasian Parliamentary Ombudsman began a collaborative project on Managing Unreasonable Complainant Conduct ('UCC'). The focus of this project has been to develop clear and practical strategies to help organisations and their staff manage their interactions with complainants whose conduct is identified as unreasonable.

One of the key principles and messages underlying the Ombudsman project has been the idea that to effectively manage UCC organisations need to recognise that dealing with it is a core part of complainant handling work. As such UCC must be treated as a priority and given adequate resources, including being supported by clear policies and procedures.

Accordingly, since the publication of the first edition of the Ombudsman *Managing Unreasonable Complainant Conduct Practice Manual* in 2009 a number of public organisations have taken steps to develop policies and procedures to assist and support their staff in this regard. While this appears to have led to a general improvement in how UCC is managed, Ombudsman offices across Australasia have observed significant variations in the level of detail and contents of these policies, as well as a general lack of formal procedures to support them.


For example, we have found some policies do not adequately define the roles or responsibilities of frontline officers and senior managers to take action in relation to UCC. They do not distinguish between the strategies that frontline officers are authorised to use and those that must be considered and acted on at a senior management level – e.g. those that seek to change or restrict a complainant's ability to access their services. Other policies do not provide/are not supported by any procedures for recording or reporting UCC incidents and do not provide guidance on the type of criteria that should be considered when restricting a complainant's access to services. They also fail to identify any systems or processes for reviewing such restrictions and do not include strategies on how staff can deal with complainants who do not comply with these types of restrictions.

As a result, as Stage 2 of the UCC project has progressed, the Parliamentary Ombudsman have identified a number of situations where unclear and/or informal policies and procedures have led to a range of administrative problems and inconsistencies in how UCC is managed. See for example: *Commonwealth Ombudsman, Unreasonable customer conduct and 'write only' policy*.¹

Purpose

The model policy has been developed to clarify the Ombudsman policy recommendations in relation to the management of UCC. It attempts to provide a robust, standardised and consistent model policy and procedure that organisations can use to inform and support their policy development processes. We recommend that all organisations – whether they are in the process of developing a UCC policy and procedure or already have an existing one(s) – take time to review this document to ensure their policies and procedures are fair and consistent, and compliant with Ombudsman's suggested approach.

At the same time it should be noted that this document is only a guide. Each organisation will need to decide how best to implement the information contained in it to suit their own circumstances and existing organisational systems and protocols.

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1 Commonwealth Ombudsman 2010, *Department of Human Services, Child Support Agency, Unreasonable customer conduct and 'write only' policy*, Report no 14/2010, Canberra.

Important points and caveats

Policy and procedure to be in writing

To ensure transparency, accountability, fairness and consistency in the management of UCC, it is essential for an organisation to have a written UCC policy and procedure(s) for its staff. A written policy and procedures will ensure that staff are aware of their roles and responsibilities and have clear guidance and authority to deal with UCC on a daily basis. A written policy and procedure will also provide a reference point for all complainants whose conduct is managed in accordance with it, as well as review bodies, courts or tribunals that may subsequently be tasked with reviewing their application.


Contents of a UCC policy

A robust and comprehensive UCC policy should include the following basic features:

- Clear guidance about the authority vested in frontline staff and senior management to respond to and manage UCC, including taking action to restrict a complainant's access to services.
- An explanation of the types of circumstances where it might be appropriate to change or restrict a complainant's access to services and the procedures that should be followed when doing so.
- A range of possible service restrictions (not just 'write only' restrictions) that staff can use to manage UCC.
- Guidance about the types of factors that should be taken into account when deciding to change or restrict a complainant's access to services.
- Procedures for communicating with complainants about decisions to change or restrict their access, including the use of template letters.
- A centralised system for recording and reporting details of complainants with service restrictions to assist with ongoing management and review of these cases.
- A standardised process for reviewing decisions to change or restrict access – including fixed time periods and criteria for review, and a presumption that any restriction will be lifted unless there is a clear need for it to continue.

In addition, national organisations and/or those with multiple offices should standardise their UCC policies to ensure overall consistency in how UCC is dealt with in each office. This is particularly important for managing situations where complainants attempt to forum shop from one office to the next or have legitimate reasons for having contact with more than one office – e.g. Centrelink.

See Part 3.1 – policy and procedure.

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Avoiding misuses and overuses of UCC policies

Organisations also need to take steps to ensure that their UCC policies are applied cautiously and sparingly. The Ombudsman's approach and UCC policies, in general, should never be seen as a quick solution for dealing with complainants who are angry or frustrated or who are viewed as being annoying or a nuisance. They are intended to be applied in cases where UCC is in fact an issue – that is in cases where a complainant's conduct raises the types of safety, resource and equity issues identified in the *Managing Unreasonable Conduct by a Complainant: a Manual for frontline staff, supervisors and senior managers, 2021* and supporting documents. For most organisations these cases are likely to be very few in number.

Organisations should also take steps to ensure their UCC policies are applied in the least restrictive ways possible. They should never be applied in ways that go beyond what is appropriate and necessary to manage a complainant's conduct and must always be proportionate to the complainant's personal circumstances. The aim when applying such policies should not be to punish the complainant but rather to manage the impacts of their conduct.

For example, it would be inappropriate for an organisation to restrict a complainant's access to 'writing only' if that complainant is not proficient in English, is illiterate or vision impaired. It would be equally inappropriate to impose access restrictions in ways that would limit a complainant's ability to exercise a right that has been provided to them by statute.


To guard against misuses or overuses of UCC policies, we strongly suggest that all organisations should implement effective systems for:

Recording and reporting all UCC incidents – this includes ensuring that their staff are well trained in appropriate and consistent record keeping practices and ensuring they have in place a centralised case management system where UCC incidents can be easily recorded and accessed.

A good case management system – that is capable of delivering timely and accurate information about complainants and their complaints – is essential for the proper management of UCC, particularly if a complainant's ability to interact with the organisation has been modified or restricted as a result of their behaviour. It can facilitate the sharing and dissemination of information among staff and ensure consistency in the approaches taken.

A well implemented case management system is:

- easily accessible and searchable
- capable of being easily updated with contemporaneous information
- contains information and documentation relating to all complaints and complainants
- includes a system of alerts and notifications that promptly alert staff to any access changes or restrictions along with contextual information (in summary form) of the nature and reasons for those restrictions
- includes a tracking system for monitoring incidents of UCC and their progress.
- Also, staff need to be clearly advised about whom, within the organisation, they should report UCC incidents to, as well as the proper procedure(s) for doing so.

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Tracking and monitoring all uses of their policies – one staff member [e.g. a *nominated senior manager*] should be responsible for tracking and monitoring all uses of their UCC policy to ensure that it is being applied consistently, appropriately and effectively and that UCC cases are reviewed at appropriate intervals.

Reviewing all cases where their policies are used – all uses of their UCC policies should be reviewed at regular intervals to ensure that they continue to be necessary, appropriate and effective in the circumstances.


See Parts 5, 8.6, 10, and 11 of the attached Policy.

Handling complaints in ways that will not trigger or exacerbate UCC

Organisations must acknowledge that sometimes they and their staff get it wrong and can, in fact, trigger or exacerbate UCC. Mistakes can be made, complaints/cases can be mishandled, processes and procedures can be overly complex or unresponsive to the needs of certain complainants, and delays may occur. In these circumstances, and in any circumstance where an organisation contributes to a complainant's unreasonable conduct, they should immediately rectify the problem – including providing the complainant with an apology. For further advice on making apologies, see: *Apologies – A practical guide*, NSW Ombudsman, March 2009).

If remediation does not work and the organisation's relationship with the complainant breaks down, it may be necessary to organise alternative dispute resolution approaches – such as conciliation – to resolve the issue and rebuild the relationship with the complainant to the extent possible.

See Part 7 of the attached Policy.

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APPENDIX B

Individual Rights and Mutual Responsibilities of Parties

In order for the City of Mount Gambier to ensure that all complaints are dealt with fairly, efficiently and effectively and that occupational 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 involved in relation to unreasonable conduct.

Individual rights

Customers have the right:


- to raise concerns and to express their opinions in ways that are reasonable, lawful and appropriate
- to a fair and impartial assessment and, where appropriate, investigation of their concerns based on the merits of the case
- to a fair hearing
- to be informed in at least general terms about the actions taken and outcome of their concerns
- to be given reasons that explain decisions affecting them
- to be treated with courtesy and respect
- to communicate valid concerns and views without fear of reprisal or other unreasonable response.

Staff have the right:

- to determine whether, and if so how, concerns will be dealt with
- to finalise matters on the basis of outcomes they consider to be satisfactory in the circumstances
- to expect honesty, cooperation and reasonable assistance from customers
- to expect honesty, cooperation and reasonable assistance from organisations and people within jurisdiction who are the subject of a customer concerns
- to be treated with courtesy and respect
- to a safe and healthy working environment
- to modify, curtail or decline service (if appropriate) in response to unacceptable behaviour by a customer.

Subjects of customer concerns 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 the City of Mount Gambier
- to be informed (at an appropriate time) about the substance of the allegations made against them that are being investigated
- 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 made
- 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.

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Mutual responsibilities

Customers are responsible for:

- clearly identifying to the best of their ability their issues of concern, or asking for help from the staff of the City of Mount Gambier to assist them in doing so
- providing to the best of their ability the City of Mount Gambier with all the relevant information available to them at the time of raising concerns
- being honest in all communications with the City of Mount Gambier
- informing the City of Mount Gambier of any other action they have taken in relation to their concerns
- cooperating with the staff who are assigned to assess/ investigate/resolve/determine or otherwise deal with their concerns
- treating staff of the City of Mount Gambier with courtesy and respect.


If customers do not meet their responsibilities, the City of Mount Gambier may consider placing limitations or conditions on their ability to communicate with staff or access certain services.

The City of Mount Gambier 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 concern or to have further dealings with the customer. In certain cases legal action may also be considered.

Staff are responsible for:

- providing reasonable assistance to customers who need help to raise their concerns and, where appropriate, during the investigation process
- dealing with all concerns, customers and people or organisations the subject of concern professionally, fairly and impartially
- giving customers or their advocates a reasonable opportunity to explain their concerns, subject to the circumstances of the case and the conduct of the customer
- giving people or organisations the subject of concern a reasonable opportunity to put their case during the course of any investigation and before any final decision is made
- informing people or organisations the subject of investigation, at an appropriate time, about the substance of the allegations made against them and the substance of any proposed adverse comment or decision that they may need to answer or address
- keeping customers informed of the actions taken and the outcome of their concerns
- giving customers reasons that are clear and appropriate to their circumstances and adequately explaining the basis of any decisions that affect them
- treating customers and any people the subject of concerns with courtesy and respect at all times and in all circumstances
- taking all reasonable and practical steps to ensure that customers are not subjected to any detrimental action in reprisal for raising their concerns
- giving adequate warning of the consequences of unacceptable behaviour.

If the City of Mount Gambier or its staff fail to comply with these responsibilities, customers may further raise their concern with the Chief Executive Officer or the SA Ombudsman.

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Subjects of customer concerns are responsible for:

- cooperating with the staff of the City of Mount Gambier who are assigned to handle the concerns, particularly where they are exercising a lawful power in relation to a person or body within their jurisdiction
- providing all relevant information in their possession to the City of Mount Gambier or its authorised staff when required to do so by a properly authorised direction or notice
- being honest in all communications with City of Mount Gambier and its staff
- treating the staff of the City of Mount Gambier with courtesy and respect at all times and in all circumstances
- refraining from taking any detrimental action against the customer in reprisal for them raising concerns

If subjects of a customer concern fail to comply with these responsibilities, action may be taken under relevant laws and/or codes of conduct.

The City of Mount Gambier is responsible for:

- having an appropriate and effective request for service and complaint handling system in place for receiving, assessing, handling, recording and reviewing requests for service and complaints
- ensuring that all customer concerns are dealt with professionally, fairly and impartially
- ensuring that staff treat all parties to a customer concern with courtesy and respect
- ensuring that the assessment and any inquiry into the investigation of a concern is based on sound reasoning and logically probative information and evidence
- finalising matters of concern on the basis of outcomes that the organisation, or its responsible staff, consider to be satisfactory in the circumstances
- implementing reasonable and appropriate policies/procedures/practices to ensure that customers are not subjected to any detrimental action in reprisal for raising their concerns
- giving adequate consideration to any privacy implications that may arise in the handling of customer concerns and the conduct of investigations.

If the City of Mount Gambier fails to comply with these responsibilities, customers may complain to the Chief Executive Officer or the SA Ombudsman.