

Unreasonable Complainant Conduct (UCC) Policy

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Review Date:	16 April 2028 <i>It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively.</i> <i>Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of ELT.</i>
Responsible Department:	Communications and Corporate Governance
Responsible Team:	Governance & Integrity
Relevant Legislation:	<i>Child Wellbeing and Safety Act 2005</i> <i>Disability Discrimination Act 1992</i> <i>Privacy and Data Protection Act 2014</i> <i>Fair Work Act 2009</i> <i>Occupational Health and Safety Act 2004</i> <i>Charter of Human Rights and Responsibilities Act 2006 (Vic)</i> <i>Equal Opportunity Act 2010 (Vic)</i>
Relevant Council Documents:	Annual Report Child Safe Standards

	Complaint Handling Framework Complaints Handling Policy Health, Safety and Wellbeing Policy Privacy Policy Risk Management Policy
ECM ID:	10643921

1. Purpose and Intent

This policy defines unreasonable complainant conduct (UCC) and also guides Council's management of unreasonable complainant conduct.

Council's goal in implementing this policy is to minimise the potential adverse impacts of unreasonable complainant behaviour by responding to UCC in a reasonable and proportionate manner.

2. Scope

This policy covers UCC across the full range of Council services, e.g. Customer Service, Finance and Rates, Building and Planning. It includes all complaints received through Council's communication channels with the public/external stakeholders, including, but not limited to the following forms of contact:

- Face to face interactions
- Telephone conversations
- Written mail
- Electronic mail (email)
- Social media, including City of Casey's Facebook and Livechat (Customer Service channel) via the City of Casey website

It is important to note that 'unreasonable conduct' can happen anywhere. It is not limited to telephone calls or face-to-face interactions. It can also take place online or in written correspondence.

As long as the person's unreasonable conduct arises during the course of, or as a direct result of, professional work/services provided by Council, it can legitimately be thought of as 'unreasonable conduct' for the purposes of this policy.

The policy applies to all Council stakeholders, including community members, in their interactions with City of Casey staff and representatives. More specifically, UCC can affect the following entities and individuals:

- Council, the organisation responsible for handling a complaint
- Councillors
- The Officer responsible for handling a complaint
- Any subjects of a complaint
- The person/s or group/s who made the complaint (potentially including members of their families and friends)
- Other people who have made or make a complaint to Council
- Other service users and service stakeholders, e.g. Council volunteers, contractors etc.

Organisations can also experience unreasonable conduct from people who have *not yet* demonstrated UCC, but have an issue with the organisation or its staff.

3. Definitions

Key term	Definition
Autism Spectrum Disorder (ASD)	Autism Spectrum Disorder (ASD) is as a complex neurodevelopmental condition that affects social interaction, communication, and behaviour. Individuals with ASD may exhibit a wide range of symptoms and abilities, leading to the "spectrum" designation.
Active listening	Is a communication technique that involves going beyond simply hearing the words of another person. Active listening engenders seeking to understand the <i>meaning</i> and <i>intent</i> behind the words: it requires being an active participant in the communication process.
Child or young person	Means any child or young person 17 years of age or under
Child Safe Standards	In 2015, the <i>Child Wellbeing and Safety Act 2005</i> was amended to include Child Safe Standards. The Standards are designed to drive cultural change and embed practice of protecting children into the everyday thinking of an organisation.
Complainant	Parliamentary ombudsmen use this term, 'complainant', to refer to a person, organisation or representative who makes a complaint. Council may use 'client', 'customer', 'resident', or another term instead.
Complaint	A complaint is an expression of dissatisfaction with: • The quality of an action taken, decision made, or service provided by Council or its appointed contractors • A delay or failure in providing a service, taking an action, or making a decision by Council or its appointed contractors
Complaint handler	A Council Officer responsible for responding to a complaint received by Council. It includes Officers who often handle complaints, and officers who only deal with complaints from time to time.
Complaint handling system	Refers to all policies, procedures, practices, Officers and resources an organisation deploys to manage complaints. Council is an example of an organisation with a formal complaint handling system.
Complex behaviour	Any behaviour experienced by the complaint handler as challenging and involves a variety and number of issues. This will vary from person to person.
Council	Means Casey City Council, being a body corporate constituted as a municipal Council under the <i>Local Government Act 2020</i>
Councillors	Means the individuals holding the office of a member of Casey City Council
Council officer	Means the Chief Executive Officer (CEO) and staff of Council appointed by the Chief Executive Officer.
Disability	The United Nations Convention on the Rights of People with Disability (UNCRPD) defines disability as a long-term physical, mental, intellectual, or sensory impairment which, in interaction with various barriers, may

	hinder the full and effective participation in society on an equal basis with others.
Discrimination	The unjust or prejudicial treatment of individuals or groups based on certain characteristics, such as race, gender, age, sexual orientation, religion, or disability. This can manifest in various forms, including but not limited to unequal opportunities, harassment, or exclusion from social, economic, or political activities.
Duty of care	Refers to a legal and ethical responsibility Council has to provide a certain standard of care to its employees. This duty requires Council to make practical, safe and prudent decisions in relation to its workforce and their working conditions.
Human right	As enshrined by the Victorian Human Rights Charter (2006), a human right: <i>“may be subject under law only to such reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors including—</i> (a) <i>the nature of the right; and</i> (b) <i>the importance of the purpose of the limitation; and</i> (c) <i>the nature and extent of the limitation; and</i> (d) <i>the relationship between the limitation and its purpose; and</i> (e) <i>any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.”</i>
Imminent threat	Physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm.
Intersectionality	Intersectionality is an analytical framework for understanding how groups' and individuals' social and political identities result in unique combinations of discrimination and privilege. Examples of these factors include gender, sex, race, ethnicity, class, sexuality, religion, disability, height, age, weight, and physical appearance.
Reasonable adjustment	In the context of Australian legislation, the <i>Disability Discrimination Act 1992</i> outlines the concept of reasonable adjustment. A reasonable adjustment is any measure or action that is taken to assist a person with a disability to participate in various areas of life. These adjustments aim to remove barriers that may limit a person's participation or create disadvantages due to their disability.
Reasonable and proportionate	‘Reasonable and proportionate’ are two intertwined concepts that are used in law to assess the <i>fairness</i> and <i>justice</i> of a measure or an action. Reasonableness implies that a measure or an action is necessary and appropriate for a lawful purpose. Proportionality implies that a measure or an action is not excessive or arbitrary, and that it balances the restriction imposed by the measure or the action with the severity of the prohibited act. For the purpose of this policy, the prohibited act means unreasonable conduct or behaviour, as defined below.

Reportable Conduct Scheme	In 2017, the <i>Child Wellbeing and Safety Act 2005</i> was amended to give power to the Commission for Children and Young People (CCYP) to oversee the Reportable Conduct Scheme (the Scheme). The Scheme began on 1 July 2017, with the City of Casey coming into the scope of the Scheme on 1 January 2018. The Scheme: • requires organisations to respond to allegations of child abuse made against their workers and volunteers either within work or of outside work, and to notify the CCYP of any allegations • enables the CCYP to independently oversee those responses • facilitates information sharing between organisations, their regulators, Victoria Police and the Department of Justice and Community Safety, and regulates the Working with Children Check Unit and the CCYP.
Unreasonable conduct / behaviour	Unreasonable conduct is any behaviour by a person which, because of its nature or frequency (or both), raises substantial health, safety, resource or equity issues for the people involved in the complaint handling process¹. These people can be: • The organisation responsible for handling a complaint • The Officer(s) dealing with a complaint • Any subjects of complaint • The person who made the complaint (potentially including members of their families and friends) • Other people who make a complaint • Other Council service users
Unreasonable complainant	An individual or group who demonstrates 'unreasonable behaviour' whilst pursuing a complaint against Council

4a. Policy – UCC Background

UCC is recognised as a significant issue across all levels of government, including local government. Whilst a legitimate grievance can be at the heart of complex complainant behaviour, managing unreasonable conduct can exhaust an organisation's resources.¹ In some cases, this is a large amount of an organisation's complaint handling resources, including senior managers' time and attention.¹

Further, it is estimated that for most organisations unreasonable conduct by complainants comprises about 3–5% of total complaints only and can involve just one or two complainants for the organisation at any given time¹. Even such low complaint numbers of this character can manifest in an unreasonable diversion of Council's resources and can result in a range of negative outcomes for Council and the community.

The Commonwealth Ombudsman published the 'Better Practice Guide to Managing Unreasonable Complainant Conduct' in June 2009².

The Victorian Ombudsman also published a guide in February 2022 entitled, 'Good Practice Guide: Managing Complex Complainant Behaviour'³.

1 NSW Ombudsman, 'Managing Unreasonable Conduct by a Complainant: A Manual for Frontline Staff, Supervisors and Senior Managers', 2021

2 The Better Practice Guide (2009) can be downloaded from: [Better Practice Complaint Handling Guide \(ombudsman.gov.au\)](https://www.ombudsman.gov.au/better-practice-guide)

3 The Good Practice Guide (2022) can be downloaded from: [Good practice guide: Managing complex complainant behaviour | Victorian Ombudsman](https://www.vic.gov.au/good-practice-guide-managing-complex-complainant-behaviour)

Both guides assist organisations to better understand and respond to ‘complex complainant behaviour’ or UCC.

The Good Practice Guide has particularly informed and shaped the development of this policy; the Guide itself has been influenced and informed by the interplay between Victoria’s human rights laws, equal opportunity laws and workplace safety laws, along with industry discussion about complex complainant behaviour and research by organisational scientists into this subject.

In relation to workplace safety, the Victorian Ombudsman’s Guide states:

“ You have a legal obligation to provide a working environment that is safe and without risk to health. **Complex behaviour from members of the public is one health and safety risk that needs to be managed.**”

The Occupational Health and Safety Act 2004 (‘the Act’) also speaks to Council’s ethical and a legal obligation (‘duty of care’) to its employees. The Act’s principles of workers’ health and safety protection ensure that:

- “ persons at work should be given the highest level of protection against risks to their health and safety (that is reasonably practicable in the circumstances)” and that;
- “ persons who control or manage matters that give rise or may give rise to risks to health or safety are responsible for eliminating or reducing those risks so far as is reasonably practicable.”

Therefore, as much as possible, Council must provide a safe workplace to its staff. This includes ensuring there are adequate frameworks around complaints handling and handling unreasonable complaints.

4b. Organisational Impacts of UCC

The result of UCC has a wholly detrimental impact on individual Council staff, the organisation and other regulatory authorities, along with the community more broadly, and potentially the complainant themselves, in terms of:

- The efficacy of the organisation – the ability for Council to perform its functions in the most effective and efficient manner.
- Equity issues arising from Council devoting its time to managing complex UCC behaviour – the ability to allocate resources fairly across all complaints received, and the impact of managing complaints in terms of Council service delivery.
- The health, safety and security of staff – burnout and emotional stress may affect individuals involved with UCC, whether they be other customers, Councillors, volunteers, or Council staff. Some staff may also require time off work due to the extent of the adverse impact to their health and wellbeing. UCC can result in a large source of stress for the staff members who have to deal with it – including in some cases affecting their right to dignity, physical and emotional safety, wellbeing and work performance.
- UCC can have damaging and sometimes devastating consequences for the people who engage in these types of behaviours. It almost always hinders their ability to achieve appropriate and acceptable outcomes for themselves and, in extreme cases, can result in unemployment, bankruptcy or self-harm.
- Negative consequences for external review agencies and regulatory bodies that have to dedicate time and resources to dealing with review requests/applications that have little or no merit and have been escalated by people who cannot ‘let go’ of their issue.

Irrespective of UCC, organisations that value complaints and respond to them fairly and promptly are more likely to:

- Strengthen relationships with the people who use their services or premises, or with whom they otherwise interact
- Identify problems in the operations of their organisation or the conduct of their staff
- Improve their operations, service delivery and systems

- Improve the standard of the services they provide⁴
- Minimise organisational risk from a health and safety perspective

4.1 Guiding UCC Principles for Council

It is recognised that all Council stakeholders and members of the community have a right to ask questions of Council and about the services it provides, express opinions about Council and Council services, and to lodge complaints about Council and Council services via formal internal and external complaint channels, e.g. through a Manager, through Council's Privacy Officer, or through an appropriate state Commissioner or Ombudsman.

Victoria was the first state in Australia to adopt a charter of human rights in law, titled the *Charter of Human Rights and Responsibilities Act 2006* ('the Charter'). The Charter is designed to promote and protect human rights.

The Charter sets out 21 rights and freedoms enjoyed by people in Victoria including:

- A right to recognition and equality before the law (Section 8)
- A right to privacy and reputation (Section 13)
- Freedom of thought, conscience, religion and belief (Section 14)
- Freedom of expression (Section 15)
- A right to take part in public life (Section 18)

The Charter details what rights of expression a citizen has under Section 15: Freedom of Expression:

- “
1. *Every person has the right to hold an opinion without interference.*
 2. *Every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Victoria and whether:*
 - a. *orally; or*
 - b. *in writing; or*
 - c. *in print; or*
 - d. *by way of art; or*
 - e. *in another medium chosen by that person.*
 3. *Special duties and responsibilities are attached to the right of freedom of expression and the right may be subject to lawful restrictions reasonably necessary:*
 - a. *to respect the rights and reputation of other persons; or*
 - b. *for the protection of national security, public order, public health or public morality.”*

These rights, e.g. the right to freedom of expression or to take part in public life (e.g. ask questions, express opinions and lodge complaints) are not unqualified and Council may, and in some cases be legally obliged to, act by applying limits to complainants when faced with UCC. Council's Risk Management Policy states that Council “must protect employees, contractors, and the community against personal, physical, and financial losses” (within its control).

Council's responses to UCC will be reasonable and proportionate, and will, as far as is practicable, allow the individual or group involved in the UCC to continue to communicate with Council in a controlled manner.

⁴ NSW Ombudsman, 'Managing Unreasonable Conduct by a Complainant', 2021

Council's responsibilities to eliminate or reduce risks to mental and physical health and safety under occupational health and safety federal legislation are recognised as a fundamental consideration when dealing with UCC, along with balancing stakeholder's rights.

Council's responsibility to ensure that resources are allocated equitably are also an important aspect of dealing with UCC.

Nothing in this policy limits the capacity and legal requirement of Council to take appropriate action where the circumstances so dictate, such as where the UCC involves an *imminent threat* to the mental or physical health or well-being of another customer, Council staff member, Councillor, volunteer, or the failure to obey a lawful instruction.

4.1a. Understanding Complex Complainant Behaviour

It is not Council's role as a complaint handler to analyse the motivations or 'why' behind complex behaviour or UCC, however it may assist complaint handlers to view such troubling complainant behaviour through a broader prism of factors potentially affecting the complainant⁵. For example, a person of multicultural background with English as their second language, as well as having a learning disability, is at a disadvantage when raising a complaint. Supports may be required in the form of an interpreter, or support person – please refer to Section 4.1c 'Consideration of Disability when Applying Limits' for suggested ways to enhance accessibility to Council as part of the complaints process.

It is Council's responsibility however, to make an assessment of the behaviour and determine what action is to be taken.

People can engage in complex and egregious behaviour for different reasons. Some studies look at the psychological aspects of 'querulent' or 'high conflict' behaviour.⁶ The Victorian Ombudsman's Good Practice Guide asserts that complex behaviour can also arise from:

- The person's frustration, anxiety or distress about their complaint
- Previous bad experiences dealing with an organisation or the government
- Resentment about having to deal with an organisation / government in the first place, if this is not the person's choice. This might be an issue, for example, if the organisation is involved in enforcing the law, or collecting fees and taxes
- Stressful personal situations such as significant caring responsibilities or chronic pain
- Drug or alcohol use
- Cultural differences / language barriers – different cultures can have different ways of communicating problems or 'social norms' around expressing dissatisfaction. English may not be a person's first language, or the language spoken at home.
- General difficulties in explaining themselves clearly and communicating their problems with officialdom, e.g. a person with Autism Spectrum Disorder (ASD) who has difficulties with the social aspects of language may appear blunt or rude. If Council refuses the person service because of their manners, this may be indirect discrimination on the basis of their disability.
- Some types of disability or mental illness
- Lack of knowledge on the role and limitations of Local Government in responding to a matter or complaint, e.g. when a complaint falls outside Council's jurisdiction and should be handled by another enforcement or regulatory agency such as Fines Victoria or Environmental Protection Authority (EPA)

Council's focus is complaint handling in a culturally sensitive and inclusive manner. Council must respond appropriately to people who are dissatisfied with a service or decision they have received from Council, or a failure by Council to follow a process or procedure.

⁵ The idea of 'intersectionality' recognises that some community members experience compounding disadvantage of intersecting assigned attributes.

⁶ Paul E Mullen and Grant Lester, 'Vexatious litigants and unusually persistent complaints: From querulous paranoia to querulous behaviour' (2006) 24 Behavioural Sciences and the Law 33; Bill Eddy, Managing High Conflict People in Court (High Conflict Institute, 2008)

It is important to stress that most complaint handlers do not have the qualifications to assess and diagnose complainants with a medical or mental condition. It is recommended that complaint handlers take a more focused approach to dealing with UCC by responding directly to the *actions and behaviours* they observe from the complainant, rather than the circumstances they assume or suspect.

Further, a complainant's behaviour should not negatively affect how their complaints are dealt with by Council. If their complaint has legitimate grounds, the level of attention that is given to the complaint will be the same as any other.

Unreasonable conduct and its impacts must be managed by Council in a manner that is transparent, reasonable and fair to all those involved in a complaint and the way it is handled.

4.1b. Consideration of Reasonable Limits

If a complainant is behaving unreasonably, it may be appropriate for Council to modify or restrict access to services ordinarily offered. This may include:

- Restricting access to certain members of staff
- Restricting the issues that the complainant can discuss with Council
- Restricting the way in which contact can be made, for example, limiting a complainant to written interactions, or to a single point of contact

Before limiting a person's access to Council, e.g. access to Council services or communication limits in contacting Council, Council will first consider whether applying limits will affect any of the person's rights under the Charter of Human Rights.

Council will carefully consider whether:

- The proposed limits are reasonable and demonstrably justified. Council must follow a process of documenting evidence of the UCC behaviour, its impact on Council and its staff, and how Council assessed the risk
- The proposed limits are properly targeted to manage the impact of the person's behaviour. Council must demonstrate that limits are proportionate to the risk
- Whether Council can first improve access for the complainant, including the ability to have their concerns better understood, for instance, by offering a language interpreter when there may be communication difficulties present, which would therefore help to resolve the complaint
- There are no less restrictive options available to achieve Council's intended result
- The UCC is related to a disability (please see Section 4.1c. below)

In addition, given the seriousness of the action and that limiting a person's access to Council is viewed as a last resort. Council will ensure that the decision to manage a complainant under this policy is made at the senior management level, such as Director or CEO.

In cases where Council is unsure of its legal obligations or whether proposed limits are 'reasonable and proportionate' (e.g. in relation to a disability) given a complainant's background or disability, external legal advice will be sought prior to making a decision on applying limits.

4.1c. Consideration of Disability when Applying Limits

There may be times when UCC is related to a disability. Council acknowledges that people with disability face multi-dimensional challenges related to the impact of impairment with the environment, including:

- accessibility barriers in physical environments, such as buildings, transportation, and public spaces, which can limit mobility and independence
- lack of accommodations and assistive technologies essential for daily activities and participation in education, employment, and community life
- negative attitudes and stereotypes, leading to social exclusion, discrimination, and limited opportunities for social interaction and inclusion

- inadequate support services and resources, including healthcare, rehabilitation, and community-based programs, which are crucial for addressing their specific needs and promoting their wellbeing.

It is recognised by Council that individuals with a disability may require additional support.

Council will duly consider the *Equal Opportunity Act 2010* (Vic), to ensure that they are not breaching a disabled person's right to access Council's services.

Council acknowledges that perceived negative complainant behaviour may be the result of the interaction of a person with impairment and social and attitudinal barriers, and therefore to limit their access to Council may be discriminatory. In cases involving disability, Council's actions must be reasonable, proportionate and balanced with Council's duty of care to its staff – "to protect the health or safety of any person ... or the public generally" or "to protect the property of any person ... or any public property".⁷

In accordance with the *Disability Discrimination Act 1992* and the Victorian Ombudsman's Good Practice Guide: Managing Complex Complainant Behaviour, Council commits to making reasonable adjustments to service delivery for people with a disability, where possible, including:

- *Adapting communication style*
 - using simpler language
 - using inclusive language – respectful language that acknowledges the individual and their disability without making assumptions or stereotypes
 - offering the complainant the use of interpreter relay services, for instance, in the case of hearing impairment
- *Increased Accessibility*: making sure all Council communication, documentation, and information are accessible to them, considering their specific needs
- *Demonstrating 'active listening'*: with a mindset of empathy and understanding, taking the time to listen to the complainant's concerns and needs
- *Offering reasonable accommodations* to ensure the complainant can fully participate in the complaint process, such as:
 - providing accessible facilities or communication support
 - providing the person more time to explain their complaint, or respond to their questions
 - agreeing to contact the person at a preferred time of day
 - allocating one officer to deal with the complaint (dealing with a new officer each time can be difficult for some people)
 - offering the complainant to have a support person to assist them in their communications with Council, if desired
- *Respecting privacy*: respect the privacy and confidentiality of the complainant's disability-related information unless consent is given to share it as necessary
- *Training and awareness*: ensuring staff members are trained in disability awareness and sensitivity to effectively engage with the complainant and provide appropriate support
- *Seeking feedback*: request feedback from the complainant about their experience with Council's complaint process and how it could be improved to better accommodate individuals with disabilities

Where the person's behaviour involves aggression or disruption, Council must further consider what is reasonable in the circumstances. The *Equal Opportunity Act 2010* (Vic) permits applying limits to a disabled person's behaviour, as a last resort, where discrimination is seen as a reasonably necessary step to protect health, safety or property of other people.

Council must consider all relevant facts and circumstances including:

- The person's circumstances, e.g. the nature of their disability
- The nature of the adjustment required to accommodate their disability

⁷ Equal Opportunity Act 2010 (Vic); Occupational Health and Safety Act 2004

- The financial and other effects of the adjustment on the organisation
- The consequences of making the adjustment for the organisation
- The consequences of not making the adjustment for the person

4.1d Unreasonable Complainant Conduct Involving Children and Young People

There may be times when UCC is related to Child Safety.

The City of Casey is committed to be a child safe organisation that complies with all relevant legislation, including the Victorian Child Safe Standards and Victorian Reportable Conduct Scheme.

Council takes all allegations of child abuse seriously and will investigate all allegations in a procedurally fair way complying with natural justice principles.

If unreasonable complaint conduct relates to a child and/or young person, the complaint will also be managed in consultation with Council's Child Safe team.

4.2 UCC Categories

There is a wide spectrum of potentially complex and challenging behaviour associated with UCC. Most types of complex behaviour can be managed using preventive and responsive customer service strategies to de-escalate conflict and re-focus the interaction back to the substantive issue at hand.

Some types of challenging behaviour, such as verbal abuse, threats and violence, are unreasonable in expression and degree and are therefore *never acceptable*.

Unreasonable behaviour can include:

- Repeated contact by a complainant after Council has comprehensively considered and finalised their complaint
- Persistent demands by a complainant on how Council should handle a complaint, the priority it should be given, or the outcome that should be achieved
- A continual unwillingness by a complainant to cooperate with Council staff and processes
- Constant and repeated arguments by complainants that are not based on reason or logic, that are incomprehensible, false, inflammatory or trivial
- Acts of aggression, threats, verbal abuse, derogatory, racist or defamatory remarks⁸

Council recognises UCC, including the above behaviours, as falling into five (5) distinct categories of unreasonable behaviour. The behaviour of a complainant may fall into one or more of these categories:

1. **Unreasonable Persistence**
2. **Unreasonable Demands**
3. **Unreasonable Lack of Cooperation**
4. **Unreasonable Arguments**
5. **Unreasonable Behaviour**

The core characteristics associated with each UCC category has been summarised in Council's Unreasonable Complainant Conduct (UCC) Assessment Matrix. Please refer to the matrix for detailed descriptions of the 5 distinct UCC categories.

8 Victorian Ombudsman Policy, 'Dealing with Challenging Behaviour', July 2023, ombudsman.vic.gov.au

4.3 Strategies for dealing with UCC

The appropriate strategy for dealing with UCC will depend on the specific circumstances, and the conduct of the individual or group. When conduct can be categorised into one or more of the above UCC categories, the complex behaviour will need to be formally managed through strategies identified in this policy.

Managing UCC involves placing a reasonable and proportionate limitation on one or more of the following:

- Subject matter of communications – where a reasonable person would conclude that a specific issue has already been addressed
- Timing of communications, including time of day, frequency and/or duration of contact
- Method of access, including prohibiting physical entry to Council premises
- Method of communication, such as all contact directed to a single email address or single Council representative

Council staff must adhere to Council's Complaint Handling Policy and four-level complaint handling procedure when dealing with any complaint, including those where unreasonable conduct may be a consideration. While many complaints can be resolved by Council's frontline staff, there will be instances where the matter should be referred to the departmental subject matter experts, senior Officers or Governance & Integrity.

Council staff should remain respectful during their interactions with the complainant and demonstrate 'active listening'. Attempts to identify how the problem may be solved to the satisfaction of the complainant, and what steps can be taken by Council to address their concerns, should be made⁹.

If Council is unable to assist directly, staff should advise the person or group:

- If their complaint is governed by specific statutory and regulatory legislation (therefore falling outside Council's complaint handling scope) e.g. a complaint against a decision made under the *Building Act 1993*, *Infringements Act 2006*
- What further processes, avenues and/or other governance or regulatory authorities are available to them, e.g. Fines Victoria, Office of the Victorian Information Commissioner; Victorian Ombudsman; Victorian Building Authority

In determining the most appropriate strategy for dealing with UCC under a specific set of circumstances, Council may wish to consult guidelines on dealing with complex behaviour published by other government integrity agencies.

4.4. Notification to Unreasonable Complainants

In determining the appropriate process for notifying the individual (or group) and managing the UCC, the Director Customer and Corporate Services ("The Director") will consider all relevant factors, including:

- The specific nature of the UCC
- The history of Council's dealings with the person or group involved in the UCC
- The immediacy of any risks arising from the UCC
- The negative impact of UCC on the equitable allocation and use of Council resources
- Whether the process, as well as the strategy, are reasonable and proportionate in the circumstances

The Director shall send a formal warning letter to the individual or group involved in the UCC, in situations where the UCC is yet to escalate. For example, to the stage where it is believed to pose an imminent threat to the mental or physical health or well-being of another customer, Councillor, volunteer, or staff member.

⁹ Ideas, scripts and strategies for managing interactions are available from the Victorian Ombudsman [website](#)

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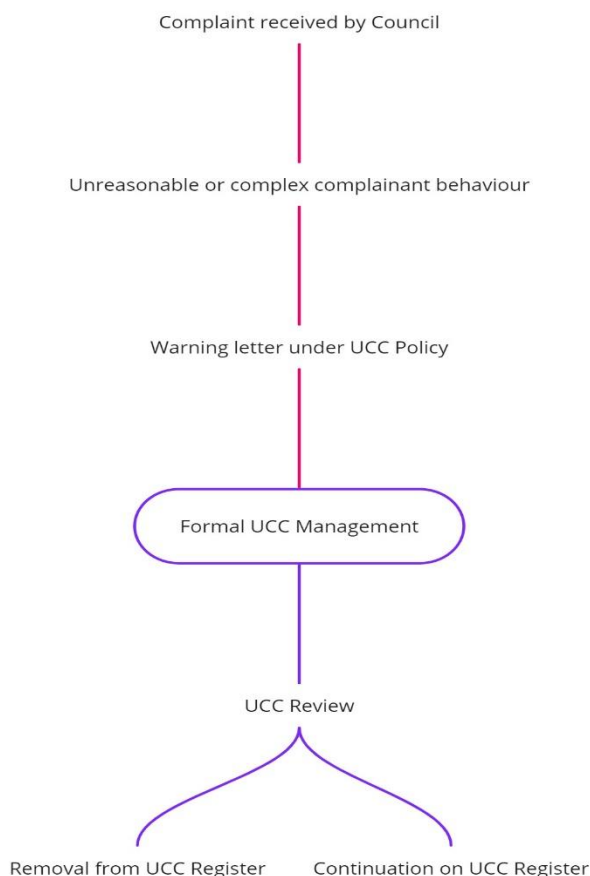
If the individual or group involved in the UCC does not modify their behaviour, the Director shall send a notification letter advising of the limitations which the Director has determined to be appropriate.

The steps involved with the UCC process, are encapsulated below:

Steps involved in the UCC Process

1. Department reports case of UCC to Governance & Integrity Team. The UCC must be fact-based and substantiated with evidence of the problematic behaviour
2. Memo for Senior Manager approval prepared by Governance & Integrity, with a recommendation for inclusion of individual or group due to UCC
3. If approved, a formal initial Warning Letter signed by the Director or Manager Communications and Corporate Governance ("The Manager") is sent to individual or group with a copy of the UCC Policy
4. If the UCC continues, reasonable and proportionate limits are identified and applied and confirmed in a further letter to the individual/group, with a copy of the UCC Policy, advising them of their inclusion on the UCC Register and a timeframe for their inclusion
5. Annual review of complainants on UCC Register by aforementioned Director/Manager
6. Extend or remove individuals or groups from UCC Register through formal notification from Governance & Integrity Team

This UCC process is visually summarised in the simple flowchart below:



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4.5 Review of Unreasonable Complainants

The Director and/or Manager will review the limitations placed on individuals/groups on the UCC Register every twelve (12) months, at the start of the financial year (June).

In undertaking this review and making a decision whether the individual or group will be removed from management under this policy, the Director and/or Manager will consider the following factors, upon advice from the Governance & Integrity Team:

- The level of compliance with the UCC arrangements formalised in their official UCC inclusion letter*
- Evidence of the person or group's willingness to modify their conduct
- Whether any continuing strategies to manage UCC are reasonable and proportionate in the circumstances

Council will balance the above factors against its duty of care to staff, being:

- The need to ensure that resources are equitably distributed across Council's customers, as opposed to being disproportionately allocated to dealing with UCC
- Council's occupational health & safety responsibilities / exposure to risk

***Complainants may remain on the UCC Register for additional 12 monthly period/s, if the person or group are unable to demonstrate full adherence to the behaviour / conduct expectations or instructions outlined in their UCC inclusion letter from Council.**

4.6 Management of UCC Register

The UCC Register is administered by the Governance & Integrity Team in coordination with the Director and the Manager and Head Of. The Register captures the following data:

- Name of complainant (can be a person or a group)
- Address or contact details of complainant (where known)
- Complaint history
- Dates for complainant being actively managed under the UCC Policy
- Reason for being placed on the UCC register
- Contact restrictions
- Current status, e.g. active / initial warning letter sent date; removed / UCC lifted letter sent date
- UCC status review date

The above data is used to form an accurate picture of the behaviour trend of the person or group being managed via this policy, for annual reporting to Council's Audit & Risk Committee. Additionally, UCC list review ensures improvement of Council's services more broadly, including how Council can better manage complaints.

The UCC Register is not a publicly-available document – any personal details of complainants are treated with privacy and confidentiality as per Council's Privacy Policy and the *Privacy and Data Protection Act 2014*.

Importantly, in line with Council's Complaint Handling Policy and privacy legislation, complaint details are provided to staff on a 'need to know' basis only.

A copy of this Register is available for the Customer Service department and Governance and Integrity only, with Governance and Integrity holding ultimate oversight for management.

4.7 Appeals Against UCC Inclusion

An individual or group subject to limitations imposed on them by Council in response to UCC may appeal these limitations by contacting the Victorian Ombudsman, or other appropriate government integrity agency.

A complaint form may be accessed via the Victorian Ombudsman's website: [Make a complaint | Victorian Ombudsman](#)

4.8 UCC Reporting

The Governance & Integrity Team will report annually on the management of UCC to Council's Audit & Risk Committee.

As per Council's Complaint Handling Policy, Council is committed to being open and transparent about the complaints it receives and what remedies have been taken. Council publishes complaint data in its Annual Report.

4.9 Responsibilities

This policy acknowledges that individual frontline staff in all service areas have a large and vital role to play in managing complaints made to Council. However, for the purposes of UCC and this policy, are not the focal point of the responsibilities ascribed below¹⁰. All staff have a role to play in complaint handling within the organisation.

Unless otherwise directed by the CEO, the following positions are primarily responsible for managing UCC in accordance with this policy:

Position	UCC Responsibilities
CEO	The CEO has the ultimate responsibility for ensuring a strong risk management culture and that UCC risks are effectively managed across the organisation.
Customer Service	Responsible for: - Assisting Governance & Integrity Team in applying reasonable and proportionate limits to persons or groups included on the UCC Register, e.g. limiting channels of correspondence and phone calls - Assisting Governance & Integrity Team to monitor and record UCC contact, for noting on the UCC Register - Assisting with directing UCC contact or correspondence to Governance & Integrity
Director Customer and Corporate Services	Responsible for: - Overseeing all arrangements in place to manage UCC throughout the organisation - Reviewing the UCC limitations placed on individuals or groups at a minimum of every twelve months. This review of Council's UCC list is to align with the start of the financial year. (This task may be delegated to the Manager Communications and Corporate Governance)
Manager Communications and Corporate Governance, Head of Corporate Governance	Responsible for: - Determining the appropriate strategy to be used to manage UCC in the case of a particular individual or group - Reviewing the UCC limitations placed on individuals or groups at a minimum of every twelve months. This review of Council's UCC list is to align with the start of the financial year
Individual teams / departments	Responsible for: - Using an evidence-based approach, to document cases of UCC. Leaders should log the following particulars in a diary: - Name of complainant, if known - Time and date of the inappropriate interaction/s - The subject and nature of the interaction - The method of contact, e.g. telephone, face to face - Name of staff member involved

¹⁰ UCC cases typically arise after frontline staff have attempted to clarify and resolve their issue without success and therefore have referred the complaint to the relevant specialist for investigation.

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	○ How the staff member was affected by the interaction • Providing a summary of complainant's unreasonable behaviour/history, and their suitability for management under this policy, to the Governance & Integrity Team
Team Leader Governance & Integrity	Responsible for: • Overseeing the UCC register, UCC Policy and communications to all stakeholders regarding UCC, including other regulatory agencies • Reporting to Audit and Risk Committee
Governance Officer	Responsible for: • Managing the UCC Register and drafting internal and external communications to stakeholders regarding UCC • Distributing the UCC Register to relevant Council service areas as required e.g. Customer Service, to gain their assistance in the management of UCC cases
Audit and Risk Committee / Occupational Health and Safety Team	From an organisational risk perspective, monitoring staff health and safety concerns that arise from UCC, and reporting to the Executive Leadership Team on the organisation's exposure to risk from UCC

4.9 Breaches

NA

5. Relevant Forms

Title	Link
City of Casey Complaint Form	Make a complaint City of Casey
Victorian Ombudsman Complaint Form	Make a complaint Victorian Ombudsman
Unreasonable Complainant Conduct (UCC) Assessment Matrix	Director Endorsed Documents Library (Internal Staff Only)

6. Document History

Date approved	Change Type	Version	Next Review Date
27 February 2025	Administrative update to repair broken hyperlinks, footnote amendment	4.2	16 April 2028
13 November 2024	Admin update to reflect Head of Corporate Governance roles and responsibilities	4.1	16 April 2028
16 April 2024	Major review	4.0	16 April 2028
2 August 2019	Administrative: Transfer to new template	3.0	30 June 2023
6 June 2018	Administrative	2.1	30 June 2022

Contact the City of Casey:

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Email: caseycc@casey.vic.gov.au
Phone: 03 9705 5200
Post: PO Box 1000, Narre Warren VIC 3805
NRS: 133 677 (for the deaf, hearing or speech impaired)

Customer Service Centres:

Narre Warren: Bunjil Place, Patrick Northeast Drive
Cranbourne: Cranbourne Park Shopping Centre
ABN: 43 320 295 742



TIS: 131450 (Translating and Interpreting Service) المترجم الفوري 翻译 مترجم شفاهي ਦੁਆਰਾ ਸ਼ਾਮਲ ਕੀਤਾ

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