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**Policy:**

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**Managing Unreasonable  
Customer Conduct**

**2020**

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## INFORMATION ABOUT THIS DOCUMENT

<b>Date Adopted by Council</b>	1 July 2020	<b>Resolution No.</b>	20-221
<b>Document Owner</b>	Director Corporate and Community Services		
<b>Document Development Officer</b>	Customer Service Coordinator		
<b>Review Timeframe</b>	Every 4 years		
<b>Last Review Date</b>	30 June 2020	<b>Next Scheduled Review Date</b>	30 June 2024

### ***Document History***

<b>Doc No.</b>	<b>Date Amended</b>	<b>Details/Comments eg Resolution No.</b>
E2019/70383	6 September 2019	Draft – distributed to WHS Committee and Managers for review
E2019/70383	4 December 2019	Draft – endorsed by ET with minor amendments. ET resolved to report to Council after final staff and union consultation
E2019/70383	28 May 2020	Resolved (20-221) to exhibit Draft Policy
E2019/70383	1 June 2020	Draft Policy on public exhibition to 30 June 2020
E2019/70383	1 July 2020	Nil submissions received – Policy adopted in accordance with Resolution 20-221
E2020/53014	15 July 2020	Change document number – from E2019/70383 to E2020/53014

### ***Further Document Information and Relationships***

<b>Related Legislation</b>	The Government Information (Public Access) Act 2009 Local Government Act 1993 Disability Inclusion Act 2014 NSW Ombudsman, Managing unreasonable complainant conduct – a model policy and procedure, February 2013
<b>Related Policies</b>	Code of Conduct for Council Staff 2019 Managing Unreasonable Online Conduct Practice Guide 2019 Code of Meeting Practice 2019 Enforcement Policy 2016 Communications Policy 2013 Complaints Management Policy 2011 Social Media Policy 2013 Work Health Safety Policy 2015
<b>Related Standards, Procedures/Protocols, Statements, documents</b>	Service Standards 2018 Customer Experience Strategy 2019-2022 Community Strategic Plan 2028 Customer Request Management (CRM) Procedure 2018

*Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.*



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## 1. PURPOSE

Council is committed to being accessible, inclusive and responsive to all customers who contact Council for assistance and/or with a complaint. At the same time, the success of staff to resolve issues and respond to requests depends on:

- the ability for staff to do their work and perform their functions in the most effective and efficient ways possible
- the health, safety, wellbeing and security of staff
- the ability to allocate Council resources fairly across all requests and complaints received

When customers behave unreasonably in their dealings with Council, their conduct can significantly affect staff and efficiency. As a result, Council will take proactive action to manage any customer conduct that negatively and unreasonably affects staff and/or other customers, and will support staff to do the same in accordance with this policy.

## 2. OBJECTIVES

This policy has been developed to provide guidance for Council staff to manage unreasonable customer conduct. Its aim is to provide a framework for staff to:

- feel confident and supported in taking action to manage unreasonable customer conduct
- act fairly, consistently, honestly and appropriately when responding to unreasonable customer conduct
- assess, identify and manage unreasonable customer conduct including applying restrictions where appropriate

## 3. SCOPE

This policy applies to all situations involving interactions between people working on behalf of Byron Shire Council and individual customers engaging in unreasonable conduct as defined.

It is important to note that this Policy is separate to Council's Complaints Management Policy which deals with the complaints management process and the alternate options available to the community in making complaints including the NSW Ombudsman, the Independent Commission against Corruption (ICAC) and the NSW Office of Local Government.

Council also has a Managing Unreasonable Online Conduct Practice Guide 2019, that deals with assessing and responding to online content and conduct.

## 4. DEFINITIONS

<b>Customer</b>	Anyone (other than staff and Councillors) who enters Council premises, is served by or engages with Council staff, or who contacts Council staff by telephone, letter or electronic communication.
<b>Council</b>	Byron Shire Council
<b>Council staff or staff</b>	Any person employed by or engaged on behalf of Council. This includes Councillors, permanent employees, contractors, labour hire, temporary staff and volunteers.
<b>Council premises</b>	Includes Council owned and operated buildings and locations (such as work sites) where Council staff perform work duties.

<b>Restricted access</b>	Involves the placing of restrictions with regard to how a person can communicate with Council for a specified period. Restrictions may include prohibition on meetings with Council staff, restrictions on entering Council premises, or being restricted to written communication only.
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## 5. DEFINING UNREASONABLE CUSTOMER CONDUCT

Council's expectation is that all interactions will be based on mutual respect, honesty and courtesy. Unreasonable customer conduct is behaviour which, because of its nature or frequency, raises health or safety or unreasonable resource or equity issues for Council, Council staff and other customers.

The following table explains and provides examples of the five categories of unreasonable customer conduct:

Type of Conduct	Definition	Behaviour examples
1. Unreasonable persistence	Occurs where a customer will not be satisfied with the action taken or the service provided, despite the service or action being properly implemented and exhausted in accordance with the relevant Council policy/policies	<ul style="list-style-type: none"> <li>• Refusing to accept final decisions</li> <li>• Sending excessive amounts of correspondence</li> <li>• Persisting in pursuing issues even though they have been dealt with to finality</li> <li>• Contacting different people within Council in the hope of getting a different outcome</li> </ul>
2. Unreasonable or unauthorised demands	Occurs where demands are unreasonable, whether by the amount of information sought, the nature and the scale of services sought, or the number of approaches made, or where Council is not authorised to undertake activities or actions	<ul style="list-style-type: none"> <li>• Directing how their complaint is to be handled</li> <li>• Insisting that Council respond to every point in their complaint</li> <li>• Insisting on talking to a senior manager personally to demand answers to questions that have already been responded to comprehensively or repeatedly</li> <li>• Repeatedly changing issue(s) or desired outcome(s) whilst matter is being processed</li> <li>• Insisting on outcomes that are unattainable</li> <li>• Demanding Council staff undertake activities or actions that are unauthorised i.e. falls under another agency's jurisdiction</li> </ul>

Type of Conduct	Definition	Behaviour examples
3. Unreasonable lack of cooperation	Occurs where behaviour is obstructive or unhelpful to the resolution of the enquiry/issue	<ul style="list-style-type: none"> <li>• Providing disorganised, excessive or irrelevant information</li> <li>• Providing little or no information in support of request</li> <li>• Providing information that is intentionally misleading or wrong</li> <li>• Refusal to comply with reasonable requests for information, or disregarding valid explanations</li> <li>• Being unwilling to consider other valid viewpoints</li> <li>• Refusing to define issues of complaint when they are capable of doing so</li> </ul>
4. Unreasonable arguments	Occurs where a customer holds conspiracy theories unsupported by evidence, incorrectly interprets or applies facts or laws or refuses to accept other interpretations or view points	<ul style="list-style-type: none"> <li>• Holding conspiracy theories unsupported by evidence</li> <li>• Making unsubstantiated allegations</li> <li>• Seeing cause and effect arguments where there are none</li> </ul>
5. Unreasonable behaviours	Includes, but is not limited to rudeness, anger, aggression, harassment, threats or physical violence	<ul style="list-style-type: none"> <li>• Swearing and yelling</li> <li>• Rude, angry or harassing behaviour</li> <li>• Confronting and threatening correspondence</li> <li>• Threats and/or abuse, either verbal or physical</li> <li>• Intimidation or stalking</li> </ul>

## 6. RESPONSE TO UNREASONABLE CUSTOMER CONDUCT

### 6.1. Managing communication

A customer's right to access services, communicate with staff and access Council premises and facilities may be restricted where their behaviour is unreasonable. It is recognised that unreasonable conduct can sometimes be associated with mental illness. Dealing with customers with a mental illness requires extra sensitivity, although their conduct can generally be dealt with in the same way as anyone else's. Council will consider each case on its individual merits.

Where Council staff or other customers are being adversely impacted by unreasonable customer conduct, staff have the right to conclude the interaction or service. This may be done by:

- removing themselves from the situation

- terminating a telephone call
- advising that no further assistance can be provided
- escalating the matter to a Team Leader/Coordinator
- requesting the customer leave Council premises
- having the customer removed from Council premises (which may include police involvement)

All incidents of unreasonable customer conduct will be documented and escalated to management for formal reporting purposes and possible further action.

## 6.2. Application of restrictions

Significant or repeated incidents of unreasonable customer conduct may result in the issuing of written warnings or the placing of time bound restrictions on how a customer can communicate with Council.

Examples of communication restrictions include:

- being restricted to written communication only
- being restricted to telephone contact only on a specified time and day of the week
- being restricted to scheduled face-to-face contact only
- being restricted to contact with a specified member of staff
- restrictions on entering Council premises

Depending on the situation, one or more restrictions can be applied and/or any other restrictions that management consider to be appropriate in the circumstances. Each case will be considered on its individual merits.

## 6.3. Process of restriction

Customers have the right to be afforded procedural fairness at all stages. This can include the right to make submissions before a restriction is applied and the right to have any restrictions reviewed or modified.

Where it is determined that restrictions should be applied, the customer will be:

- placed on the Restricted Access Register
- notified in writing of the determination (Administrative Restrictions letter), including details of and duration of the restrictions proposed
- provided with the opportunity to make a written submission to the General Manager within 30 days of issuing of the Administrative Restrictions letter, detailing any mitigating circumstances as to why the action is not appropriate

Where a customer is added to the Restricted Access Register, Council staff will be notified of the restriction(s) and their duration.

Customer information, including details of any restrictions, is private information that must be kept confidential.

#### 6.4. Other measures

Once implemented, where restrictions are breached or unreasonable behaviour is repeated, consideration can be given to additional or extended application of restrictions. Factors such as the nature of the breach and its impact, the severity of conduct or the number of repeated instances will be considered in making this determination.

Extended restrictions can be implemented for periods of up to 12 months. In addition to restrictions, other actions such as police involvement or legal action, can be considered where appropriate. The General Manager will advise the Office of Local Government, ICAC and NSW Ombudsman of the circumstance and action taken as required.

### 7. LEGISLATIVE AND STRATEGIC CONTEXT

This Policy and the procedures within are based on the 'Unreasonable Complainant Conduct Model Policy' published in February 2013 by the NSW Ombudsman.

Furthermore, Byron Shire Council's *Community Strategic Plan 2028 – our Byron, our Future*, mandates a strong focus on community engagement that is genuine, open and transparent, with decisions that are explained and communicated. There is a clear community expectation that Council provides a high level of customer service and that concerns and suggestions are acknowledged and addressed in a timely manner. Implementing measures concerning unreasonable customer conduct ensures fair and equitable resource allocation for all customers and supports these community expectations.