

From: [LGOIMA](#)
To: [Section 7 \(2\) \(a\) - Proceed](#)
Subject: RE: LGOIMA request - Unreasonable Complainant Policy - reference: 1725
Date: Monday, 4 March 2024 12:21:49 pm
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[Unreasonable Complainants Policy.pdf](#)

Kia ora [Section 7 \(2\) \(a\)](#),

I refer to your official information request dated 6 February 2024. The information you have requested is below:

- **Could you please send me the Unreasonable Complainant Policy.**

Please find **attached** a copy of Council's unreasonable complainant policy:

If you are not satisfied with Council's response, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely,

Legal Services Officer

Unreasonable Complainant Policy

ORGANISATIONAL POLICY

POLICY REFERENCES	
• Sponsor:	Chief Operating Officer
• Effective date:	August 2020
• Internal review due:	August 2023
• Legal compliance:	Local Government Act 2002 Local Government Official Information and Meetings Act 1987 Resource Management Act 1991
• Associated Documents/References	Enforcement Policy and Guidelines Managing unreasonable complainant conduct practice manual – October 2012
• Policy Number	CS29
• Approved by Chief Executive	Internal Policies are approved by the CE

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1. Purpose

This policy, alongside the Ombudsman's practice manual, is intended to assist all staff members to better manage unreasonable complainant conduct (UCC). The 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:
 - The strategies provided in this policy – including the strategies to change or restrict a complainant's access to our services.
 - Alternative disputes resolution strategies to deal with conflict involving complainants and members of our organisation.
- Legal instruments, such as trespass laws/legislation, to prevent a complainant from coming onto our premises and orders to protect specific staff members for any actual or anticipated personal violence, intimidation or stalking.
- Have a clear understanding of the criteria that will be considered before we decide to change or restrict a complainant'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 complainants 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. Definitions

Unreasonable Complainant Conduct (UCC) is any behaviour by a current or former complainant/requester which – because of its nature or frequency – raises substantial health, safety, resources or equity issues for our organisation, our staff, other service users or the complainant themselves.

UCC can be divided into five categories of conduct:

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

These are expanded below.

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

However, in a very small number of cases, some complainants behave in ways that are inappropriate and unacceptable – despite best efforts to help them. This may include behaviour that is:

- verbally abusive towards our staff,
- threats of harm and violence,
- unnecessarily excessive phone calls and emails,
- inaccurate or abusive posts on the Council's social media sites,
- inappropriate demands on our time and our resources,
- refusal to accept that the complaint has been closed.

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

Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated a complainant is – because it unreasonably compromises the health, safety and security of our staff, other service users, or to the complainant themselves. It could also be unreasonably disruptive or an inappropriate drain on staff resources.

Some examples of unreasonable behaviour include:

- Acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks
- Harassment, intimidation or physical violence
- Rude, confronting or threatening correspondence
- Threats of harm to self or third parties, threats with a weapon or threats to damage property – including bomb threats
- Stalking (in person or online)
- Emotional manipulation

All staff should note that Tasman District Council 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, and in accordance with our duty of care and occupational health and safety requirements.

Unreasonable persistence is continued, incessant and unrelenting conduct by a complainant 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 final decisions that have been comprehensively considered and dealt with.
- Persistently demanding a review simply because it is available and without presenting a case for one, including failure to present new information or evidence.
- Pursuing, after exhausting all available review options, when it is not warranted and refusing to accept further action cannot or will not be taken on their complaints.
- Reframing a complaint without new information or evidence in an effort to raise it again.
- Repeatedly contacting staff/organisation with phone calls, visits, letters, and emails (including cc'd correspondence) after being advised that the matter is closed.
- Bombarding the Council's social media sites with inaccurate, unnecessarily repetitive or abusive posts.
- Contacting different people within the organisation and/or externally to channel a complaint already addressed – internal and external forum shopping.

Unreasonable demands (express or implied) are made by a complaint that has a disproportionate and unreasonable impact on our organisation, staff, services, time and/or resources.

Some examples of unreasonable demands include:

- Refusing to discuss the matter with anyone other than the Chief Executive or Mayor when it is not appropriate or warranted.
- Demanding outcomes that are not possible or appropriate in the circumstances e.g. for someone to be fired or prosecuted, an apology and/or compensation when there is 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.

Unreasonable lack of cooperation is an unwillingness and/or inability by a complainant to cooperate with our organisation, staff, or complaints system and processes that result in a disproportionate and unreasonable use of our services, time and/or resources.

Some examples of unreasonable lack of cooperation include:

- Sending a constant stream of comprehensive and/or disorganised information without clearly defining any issues of complaint or explaining how they relate to the core issues being complained about – where only the complainant is clearly capable of doing this.
- Providing little or no detail with a complaint or presenting information in a way that takes considerable staff time to decipher.
- Refusing to follow or accept advice or suggestions without a clear or justifiable reason for doing so, and demanding a different outcome.
- Arguing frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid arguments and explanations.
- Displaying unhelpful behaviour – such as withholding information, acting dishonestly, misquoting others and misrepresenting the facts.

Unreasonable arguments include arguments that are not based on reason or logic, that are incomprehensible, trivial, false or inflammatory, 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 illogical or unintelligible.
- Are not supported by any evidence and/or based on conspiracy theories.
- Lead a complainant to reject all other valid and contrary arguments.
- Are trivial when compared with the amount of time, resources and attention that the complainant demands.
- Are false, inflammatory or defamatory.
- Misrepresentation of the facts in order to gain intervention or attention.

3. Managing unreasonable complainant conduct

For more information on definitions, policies and practice, references should be made to the *Managing unreasonable complainant conduct practice manual – October 2012* from the Office of the Ombudsman.

The approach and the strategies suggested in this policy are based on the clear understanding that:

- They are equally relevant and applicable to all staff within an organisation – including frontline staff, supervisors, senior managers and elected members.
- All complainants are treated with fairness and respect.
- In the absence of very good reasons to the contrary, all complainants have a right to access public services.
- All complaints are considered on their merits.
- Unreasonable complainant conduct does not preclude there being a valid issue and new complaints or information should be appropriately and objectively considered.
- The substance of a complaint dictates the level of resources dedicated to it, not a complainant's demands or behaviour.
- Anger is an understandable and, to some degree, an acceptable emotion among frustrated complainants as long as it is not expressed through aggression or violence.
- Staff safety and well-being are paramount when dealing with unreasonable complainant conduct.
- The decision to change or restrict a complainant's access to services – as a result of their behaviour – will be made by the Chief Executive in accordance with this policy, on advice from staff and with supporting documentation.
- Senior managers will ensure relevant systems, policies and procedures are in place to manage complaints and UCC and that all staff who interact with complaints will receive training, guidance and direction about using the strategies suggested in the policy.

4. Communicating the decision

Should a decision be made to change or restrict a complainant's access to services as a result of their behaviour, the complaint should be made aware, in writing, of:

- The restriction(s) that have been put in place
- The reasons for these restrictions
- The range of actions that the complainant may take to resolve the situation.

Council may impose any restrictions it deems appropriate in the circumstances. Some options available include:

- Trespass from Council premises
- Channelling all correspondence through to one email address
- Reduced response
- Lodging a restraining order
- Report to law enforcement.

Such letters should be signed by the Chief Executive, to make it clear to the complainant that the matter has been escalated and considered at the highest level and there is nowhere else

to go within the Council. The letter can also include a statement and explanation about how further communications relating to their complaint will be dealt with. For example “further correspondence on this issue will be read and filed without acknowledgement, unless the further action is warranted.”

Where there are restrictions imposed, the letter to the complainant is to include the duration (which can be limited or permanent) that the restrictions apply for.

The letter to the complainant is to also contain advice on their rights of legal redress and their ability to elevate the complaint to the Office of the Ombudsman or to a Court.

For more information on alternative dispute resolution see:

<http://www.fairwayresolution.com/our-services/services-for-local-government>

For complaints to the Office of the Ombudsman, the complainant needs to set out the action decision or conduct that they want to complain about, provide relevant background details and the steps they have taken to try to resolve the matter. They will need to include copies of any correspondence with the Council. If they need advice on how to make a complaint to the Ombudsman, they can phone them on 0800 802 602.

Janine Dowding, Chief Executive

Authorised by

Date of approval: 31 August 2020