

# Managing Unreasonable Conduct Towards the City and its Employees Policy

## Purpose

The purpose of this policy is to provide people and our employees of the City of Sydney (the City) with the framework for managing unreasonable conduct made toward the City and/or its employees (UCTCE).

The City is committed to being accessible and responsive to all persons regardless of ethnic identity, national origin, religion, linguistic background, sex, gender expression, sexual orientation, physical ability or other cultural or personal factors.

At the same time the success of our organisation depends on:

- our ability to do our work and perform our functions in the most effective and efficient ways possible
- the health, safety, and security of our employees, and
- our ability to allocate our resources fairly across all the requests we receive.

When people behave unreasonably in their dealings with us, their conduct can significantly affect our success. As a result, the City will act proactively and decisively to manage any conduct that negatively and unreasonably affects us and will support our staff to do the same in accordance with this policy.

## Scope

This policy applies to the management of unreasonable conduct towards the City and its employees.

## Definitions

Term	Meaning
Contractors	A company or person engaged by the City to manage or deliver services.
People/Person	Residents, visitors, patrons and businesses who engage with the City and its services.
Employees	For the purposes of this Policy, “employees” refers to all City of Sydney employees including permanent (whether full-time or part-time), temporary, casual employees, apprentices together with

Term	Meaning
	agency contractors (labour hire), workers, work experience students and volunteers.
UCTCE Review Panel	Panel of three (3) M3 Managers with responsibility and authority to change or restrict a person’s access to City services in line with this policy
Workers	All Employees, contractors, work experience students and volunteers.

**Policy Statement**

Most people act reasonably and respectfully in their interactions with us, even when they are experiencing high levels of distress, frustration and anger about their request or complaint.

However, despite our best efforts to help them, in a very small number of cases some people display inappropriate and unacceptable behaviour. They can be aggressive and verbally abusive towards our employees, threaten harm and violence or bombard our offices with unnecessary and excessive phone calls, texts and emails. They may make inappropriate demands on our time and resources or refuse to accept our decisions and recommendations in relation to their requests and complaints. When people behave in these ways we consider their conduct to be ‘unreasonable’.

The City is committed to ensuring we are reflective of the community we serve. We embrace all cultures, sexualities, gender identities, heritage and backgrounds.

The City’s commitments are set out in the Community Strategic Plan: Delivering Sustainable Sydney 2030-2050 – Continuing the Vision.

Communications which do not adhere to, or meaningfully engage with, the values, standards and goals to which the City has committed, and in particular communications which include racist, discriminatory or offensive language, may not be responded to and may be reported to external agencies where appropriate.

**Defining unreasonable conduct toward the City & its employees**

UCTCE is any behaviour by a person which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the City, our employees, other service users or the person themselves.

UCTCE can be divided into five categories of conduct:

- unreasonable persistence
- unreasonable demands
- unreasonable lack of cooperation
- unreasonable arguments
- unreasonable behaviours.

### **Unreasonable persistence**

Unreasonable persistence is conduct by a person that has a disproportionate and unreasonable impact on the City's employees, 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 made by the City.
- Persistently contacting the City about the same matter when it has been comprehensively considered and dealt with.
- Targeting the City with multiple requests about a range of issues, whether related or not, which separately or together require an unreasonable or unfair allocation of City resources.
- Refusing to accept the City's position when told that further action cannot or will not be taken on their requests or complaints.
- Reframing a request or a complaint with the same information to get it reconsidered.
- Persistently demanding a review simply because it is available, and without arguing or presenting a case for one.
- Multiple and repeated phone calls, visits, letters, and emails (including cc'd correspondence) after repeatedly being asked not to do so.
- Contacting different people within our organisation and/or externally to get a different outcome or more sympathetic response to their request or complaint – this is known as internal and external forum shopping.

### **Unreasonable demands**

Unreasonable demands are demands (express or implied) that are made by a person 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 request or complaint, the priority it was/should be given, or the outcome that was/should be achieved.
- Insisting on talking to a senior manager, Director or the CEO personally when the reasons that this is not appropriate or warranted have been carefully explained to the complainant
- Emotional blackmail and manipulation resulting in intimidation, harassment, shaming or portraying 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 fired or prosecuted, or for 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 repeatedly.
- Expecting responses to requests which separately or together require an unreasonable or unfair allocation of City resources.

### **Unreasonable lack of cooperation**

Unreasonable lack of cooperation is an unwillingness and/or inability by a person to cooperate the City's employees or request and complaints system and processes - resulting in a disproportionate and unreasonable use of our services, time and/or resources.

Some examples of unreasonable lack of cooperation include:

- Sending a constant stream of comprehensive and/or disorganised information without clearly defining any issues of complaint or explaining how they relate to the core issues being complained about – only where the person is clearly capable of doing this.
- Providing little or no detail with a request or complaint or presenting information in an ad hoc manner.
- 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.

### **Unreasonable arguments**

Unreasonable arguments include arguments that are not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or incoherent and disproportionately and unreasonably impact upon our organisation, employees, services, time, or resources.

Arguments are unreasonable when they:

- follow an illogical sequence
- are not supported by any evidence and/or are based on conspiracy theories
- lead a person to reject all other valid and contrary arguments
- are trivial when compared to the amount of time, resources and attention that the person demands
- are false, inflammatory or defamatory.

### **Unreasonable behaviour**

Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated that a person is – because it unreasonably compromises the health, safety and security of our staff, other service users or the person themselves.

Some examples of unreasonable behaviours include:

- acts of aggression, verbal abuse and derogatory, racist, or grossly defamatory remarks
- harassment, intimidation or physical violence
- rude, confronting and/or threatening face to face or phone contact or 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.

The City has a zero-tolerance policy towards any harm, abuse or threats directed towards employees. Any conduct of this kind will be dealt with under this policy, the Harassment & Bullying Policy, Security & Emergency Management Policy and the Work Health & Safety Policy.

## Managing UCTCE

### Changing or restricting a person's access to the City of Sydney

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

- **Who they have contact with** – for example, limiting a person to a sole contact person/staff member in our organisation.
- **What they can raise with us** – for example, restricting the subject matter of communications that we will consider and respond to.
- **When they can have contact** – limiting a person's contact with our organisation to, for example, a particular time, day, or length of time, or curbing the frequency of their contact with us.
- **How they can make contact** – for example, limiting or modifying the forms of contact that the person can have with us. This can include modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to our premises, contact through a representative only, taking no further action or terminating our services altogether.

When using the restrictions provided in this section, we recognise that discretion will need to be used to adapt them to suit a person's personal circumstances. 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.

#### **Who – limiting the person to a sole point of contact**

Where a person tries to forum shop internally within our organisation, changes their issues of request or complaint repeatedly, reframes their request to complaint, or raises an excessive number of requests or complaints, it may be appropriate to restrict their access to a single staff member (a sole contact point) who will exclusively manage their complaint(s) and interactions with the City. This may ensure they are dealt with consistently and may minimise the chances for misunderstandings, contradictions and manipulation.

People who are restricted to a sole contact person will be given the contact details of one additional staff member who they can contact if their primary contact is unavailable due to taking leave or is otherwise unavailable for an extended period of time.

#### **What – restricting the subject matter of communication that the City will consider**

Where people repeatedly send letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content or relate to a complaint/issue that has already been comprehensively considered and/or reviewed (at least once) by our office, we may restrict the issues/subject matter the person can raise with us or that 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 evidence. The person 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 person to one complaint/issue per month. Any attempts to circumvent this restriction, for example by raising multiple complaints/issues in the one complaint letter may result in modifications or further restrictions being placed on their access.
- Return correspondence to the person 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 UCTCE incidents.

### **When – limiting when and how a person can contact the City**

If a person's 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 person can interact with us. This may include:

- Limiting their telephone calls or face-to-face interviews to a particular time of the day or days of the week.
- Limiting the length or duration of telephone calls, written correspondence or face-to-face interviews. For example:
  - Telephone calls may be limited to [10] minutes at a time and will be politely terminated at the end of that time period.
  - Lengthy written communications may be restricted to a maximum of [15] typed or written pages, single sided, font size 12 or it will be sent back to the complainant to be organised and summarised – This option is only appropriate in cases where the complainant is capable of summarising the information and refuses to do so.
  - Limiting face-to-face interviews to a maximum of [45] minutes.
- Limiting the frequency of their telephone calls, written correspondence or face-to-face interviews. Depending on the nature of the service(s) provided we may limit:
  - Telephone calls to 1 every month.
  - Written communications to 1 every month.
  - Face-to-face contact to 1 every month.

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

- Require the person to clearly identify how the information or supporting materials they have sent to us relate to the central issues that we have identified in their complaint.
- Restrict the frequency with which people can send emails or other written communications to our office.
- Restrict a person to sending emails to a particular email account (e.g. the organisation's main email account) or block their email access altogether and require that any further correspondence be sent through Australia Post only.

### ***Writing only restrictions***

When a person is restricted to 'writing only' they may be restricted to written communications through:

- Australia Post only
- Email only to a specific staff email or our general office email account, or
- Some other relevant form of written contact, where applicable.

If it is not appropriate for a person to enter our premises to hand deliver their written communication this must be communicated to them as well.

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

### **Where – limiting face to face interviews**

If a person is violent or overtly aggressive, unreasonably disruptive, threatening or demanding or makes frequent unannounced visits to our premises, we may consider restricting our face-to-face contact with them.

These restrictions may include:

- Restricting access to particular secured premises or areas of the office – such as the reception area or a secured room/facility.
- Restricting their ability to attend our premises to specified times of the day and/or days of the week only – for example, when additional security is available or to times/days that are less busy.
- Allowing them to attend our office on an 'appointment only' basis and only with specified staff. Note – during these meetings staff should always seek support and assistance of a colleague for added safety and security.
- Banning the person 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 person and their conduct is particularly difficult to manage, we may also restrict their contact to go through a support person or representative only. The support person may be nominated by the person but must be agreed to by the City.

### **Completely terminating a person's access to the City**

In rare cases, and as a last resort when all other strategies have been considered and/or attempted, the CEO may decide that it is necessary for our organisation to completely restrict a person's contact/access to our services.

A decision to have no further contact with a person will only be made if it appears that the person 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:

- 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 person will be sent a letter notifying them that their access has been restricted. The Police may also be notified in these circumstances.

A person's access to our services and our premises may also be restricted (directly or indirectly) using the legal mechanisms such as trespass laws/legislation or legal orders to protect members of our staff from personal violence, intimidation or stalking by a person.

## **Managing UCTCE in Relation to Requests to Access to Information**

The Government Information (Public Access) Act 2009 (GIPA Act) provides persons with a right of access to information held by the City unless there is an overriding public interest consideration against disclosure of the information. The GIPA Act takes into account privacy, copyright and other legislation. Information may be provided proactively, or persons may request information either informally, usually by an information access request, or formally by a section 41 access application under the GIPA Act.

For more information regarding the City's principles regarding public access to information and the process of managing requests for such access please refer to the Access to Information Policy.

People seeking access to information that the City holds who demonstrate unreasonable conduct can be managed using the following strategies:

### **Who – limiting the person to a sole contact officer**

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

### **What – restricting the subject matter of communications that the City will consider**

Where a person repeatedly request information that has already been provided, the City may refuse to respond to further requests, unless required to do so under the GIPA Act. The person will be advised that future correspondence requesting information that has already been provided will be read and filed without acknowledgement.



## How – applying the GIPA Act

Under the GIPA Act:

- A person requesting information from the City cannot be prohibited from contacting the City.
- The City cannot be required to consider an informal request, or to provide information in response to such a request
- The City must consider all section 41 access applications (formals) it receives.

Where a request for information causes concern for an employee because the person demonstrates unreasonable conduct, the employee should refer the request to the Information Access team within the Information Services Section.

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

If the Information Access team decides not to deal with the information access request, it will advise the person that they have the option of lodging a section 41 access application (formal). Access applications are managed by the Information Access team in accordance with the GIPA Act.

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

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

It is preferable for the Information Access team, rather than other business units, to provide advice to persons regarding access applications.

## Alternative dispute resolution

### Using alternative dispute resolution strategies to manage conflicts with people

If the City determines that services to a person cannot be terminated in a particular case or that we bear some responsibility for causing or exacerbating their conduct, the City may consider using alternative dispute resolution strategies (ADRs) such as mediation and conciliation to resolve the conflict with the person and attempt to rebuild our relationship with them.

If an ADR is considered to be an appropriate option in a particular case, it will be conducted by an independent third party to ensure transparency and impartiality.

A decision as to whether or not to participate in ADR is entirely at the discretion of the City and on a case-by-case basis.

## Procedure When Changing a Person's Access to the City

### Consulting with relevant employees

When determining if a person's access should be changed, we will consult with relevant employees on the following:

- The circumstances that gave rise to the UCTCE/incident(s), including the person's situation and perspective.
- The impact of the person's conduct on our organisation, relevant staff, our time, resources, etc.
- The person's response to the staff member's warnings or requests to stop the unreasonable behaviour.
- The actions relevant employees have taken to manage the person's conduct, if any.
- Any suggestions made by relevant employees on ways that the situation could be managed.

### Criteria to be considered

The following criteria will be considered:

- Whether the conduct in question involved overt anger, aggression, violence or assault (which is unacceptable in all circumstances).
- Whether the person's case or complaint has merit.
- The likelihood that the person 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 person's behaviour.
- Whether changing or restricting access to our services will affect the person'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 person's welfare, livelihood or dependents etc.
- Whether the person's personal circumstances have contributed to the behaviour? For example, the person 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 person's response or conduct was moderately disproportionate, grossly disproportionate or not at all disproportionate in the circumstances.
- Whether there any statutory provisions that would limit the types of limitations that can be put on the person's contact or access to our services.

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

### **Providing a warning letter**

Unless a person's conduct poses a substantial risk to the health and safety of staff or other third parties, they will be provided with a written warning about their conduct in the first instance. If the person is unable to read the letter, it will be followed/accompanied by a telephone call, using an interpreter if necessary.

The warning letter will:

- Specify the date(s), time (s), and location of the UCTCE incident(s).
- Explain why the person's conduct/UCTCE incident is problematic.
- List the types of access changes and/or restrictions that may be imposed if the behaviour continues. (Note: not every possible restriction should be listed but 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 complainant. See Appendix A - Individual rights and mutual responsibilities of parties to a complaint.
- Provide the name and contact details of the staff member who they can contact about the letter.
- Be signed by the nominated M3 Manager or Director or the CEO.

### **Providing a notification letter**

If a person'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 CEO has the discretion to send a notification letter immediately restricting the complainant's access to our services (without prior or further written warning).

If the person is unable to read the letter (due to literacy issues, non-English speaking, etc.) the letter will be followed or accompanied by a telephone call from the M3 Manager, using an interpreter if necessary.

This notification letter will:

- Specify the date, time, and location of the UCTCE incident(s).
- Explain why the person's conduct is problematic.
- Identify the change and/or restriction that will be imposed and what it means for the complainant.
- 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 [nominated senior manager or preferably the CEO/Director/General Manager].

Where necessary, police will be notified.

### **Continued monitoring/oversight responsibilities**

Once a person has been issued with a warning letter and/or notification letter the City will review the person's record/restriction every 6 months, on request by a staff member, or following any further incidents of UCTCE that involve the particular person to ensure that they are complying with the restrictions and the arrangement is working.

If the city determines that the restrictions have been ineffective in managing the person's conduct or are otherwise inappropriate, it may decide to either modify the restrictions, impose further restrictions or terminate the person's access to our services altogether.

## **Reviewing a Decision To Change Or Restrict Access To The City**

### **Right of review**

People are entitled to one review of a decision to change or restrict their access to our services. This review will be undertaken by a City M3 Manager member who was not involved in the original decision to change or restrict the person's access. This M3 Manager will consider the person's arguments along with all relevant records regarding the person's past conduct. The person will be advised of the outcome of their review by letter.

If a person continues to be dissatisfied after the review process, they may seek an external review from an oversight agency such as the Ombudsman. The Ombudsman may accept the review (in accordance with its administrative jurisdiction) to ensure that we have acted fairly, reasonably and consistently and have observed the principles of good administrative practice, including procedural fairness.

Note: people making section 41 access applications (formals) under the GIPA Act have review rights under that Act. The rights of review described in this section do not apply to people making formal access applications under the GIPA Act.

## **Periodic reviews of all cases where a change or restriction to access is applied**

### **Period for review**

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

### **Notifying the person of an upcoming review**

The City will invite all people who have received a UCTCE notification letter to participate in the review process unless they determine that

- the invitation is reasonably likely to provoke a negative response from the person (i.e. further UCTCE)
- the original issue or concern is resolved.

The invitation will be given, and the review will be conducted in accordance with the person's access restrictions (e.g. if contact has been restricted to writing only then the invitation to participate will be done in writing).

### **Criteria to be considered during a review**

When conducting a review, the City will consider:

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

Note – Sometimes a person 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 person 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.

### **Notifying a person of the outcome of a review**

The City will notify the person of the outcome of their review using the appropriate/relevant method of communication as well as a written letter explaining the outcome, as applicable.

### **Responsibilities**

To effectively administer the UCTCE policy, there is a reliance on employees within this process to review and analyse a person's contact with the City. To enable this process staff are responsible for recording all contacts or incidents that they have with a person, regardless of the person being designated UCTCE.

To facilitate the recording of a person's contacts, staff members are to use the City's enterprise systems i.e. Pathway, CRM and / or Trim.

#### **Employees will:**

- familiarise themselves with the policy as well as the Individual Rights and Mutual Responsibilities of the Parties to a Complaint in Appendix A.
- speak with their Managers about how this policy relates to any Business Unit specific procedures regarding managing person behaviours.
- explain the contents of this document to all people particularly those who engage in UCTCE or exhibit the early warning signs for UCTCE.
- report the incident(s) of people exhibiting UCTCE behaviours to their Manager.
- record and report all UCTCE incidents they experience or witness (as appropriate) to their Manager within 24 hours of the incident occurring and ensuring details of contacts are recorded.
- maintain accurate records of contacts with people using the City's record keeping systems e.g., Trim, Pathway, CRM & WHS Incident Management System.

While effective application of this policy relies on all staff identifying and reporting UCTCE incidents, it must be emphasised that any strategies that effectively change or restrict a person's access to our services must be considered at the Senior Management (M3) level or higher as provided in this policy.

**M3/M4 Managers will**

- provide advice to their Director and the Manager Customer Service, on changing or restricting a person's access to the City in the circumstances identified in this procedure.
- ensure that all relevant staff members are trained to deal with UCTCE – including on induction.
- support employees to apply the strategies in this policy and are responsible for ensuring compliance.
- record, monitor and review all cases where UCTCE is applied within their business area to ensure consistency, transparency and accountability for the application of this policy.
- Will manage and keep a record of all cases where these procedures are applied.
- Is responsible for arranging support for staff impacted by UCTCE behaviours.

**Manager Customer Service**

- Acts as a central point of escalation and will be notified by business unit managers of any proposed changes or restrictions to a person's access.
- Is responsible for maintaining current and accurate information held centrally about UCTCE and changes to person's access to our services.

**UCTCE Review Panel**

- Has the responsibility and authority to change or restrict a person's access to our services in the circumstances identified in the policy (in consultation with relevant staff,).
- Will consider the criteria in Appendix A and will aim to impose any service changes or restrictions in the least restrictive ways possible. Their aim, when taking such actions will not be to punish the person, but rather to manage the impacts of their conduct.
- Will also aim to keep at least one open line of communication with a person. However, we do recognise 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.
- Is responsible for recording, monitoring and reviewing all cases to ensure consistency, transparency and accountability for the application of the policy & this procedure. They will also manage and keep a file record of all cases where this policy is applied.

**Manager Information Services will:**

- ensure that requests for information that are received by, or referred to, the Information Access team by business unit managers are dealt with according to City procedures and the GIPA Act.

**Directors will:**

- support employees to apply the strategies in this procedure. The Director of People, Performance and Technology and the Director Legal & Governance are responsible for approving any strategies that effectively change or restrict a person's access to the City. These include notifying people of any changes or restrictions to their access to the City, and any outcomes of a review of changes to access restrictions that have been applied.

**Chief Executive Officer will:**

- approve any decision to completely terminate a person’s contact / access to the City.

**Correspondence and Direct Response Unit will:**

- prepare any correspondence that effectively changes or restricts a person’s access to the City, on behalf of business unit Managers, Directors and the CEO.
- manage all files in relation to UCTCE in TRIM to ensure consistency, transparency and accountability.

**Community Facilities Managers can:**

Note: Community Facilities include Service and Neighbourhood Centres, Libraries, Community Centres and Aquatic Centres.

- place general restrictions or bans on people who demonstrated unreasonable behaviours contacting or accessing council services.

**Consultation**

This policy was developed to align with the NSW Ombudsman’s Managing unreasonable conduct by complainants - Model policy (July 2022).

The following business units within City were consulted:

- City Rangers
- Customer Service
- Health and Building
- Information Services
- Libraries & Learning
- Marketing & Communications
- Office of the CEO
- Rates
- Risk & Governance
- Social City

**References**

Laws and Standards
• Government Information (Public Access) Act 2009
• Health Records and Information Privacy Act 2002
• Inclosed Lands Protection Act 1901
• Independent Commission Against Corruption Act 1988
• Local Government Act 1993
• Library Act 1939

Laws and Standards
• Library Regulation 2010
• Ombudsman Act 1974
• Privacy and Personal Information Protection Act 1998
• Public Interest Disclosures Act 2022

Policies and Procedures
Access to Information Policy
Code of Conduct
Complaints and Feedback Guidelines
Equal Employment Opportunity (EEO) and Anti-Discrimination Policy
Face to Face Service Standards
Harassment and Bullying Policy
Security and Emergency Management Policy
Grievance and Conflict Resolution Policy
Telephone Service Standards
Work Health and Safety Policy

**Review period**

This policy will be reviewed every 4 years.

**Approval Status**

The Chief Executive Officer approved this policy on 21/2/2024



**Monica Barone, Chief Executive Officer**



**Approval History**

Stage	Date	Comment	TRIM Reference
Original Policy	19 August 2014	Endorsed by the Executive	2014/139144
Reviewed	December 2017	<ul style="list-style-type: none"> <li>• Full review.</li> <li>• Policy modified to align Ombudsman NSW Unreasonable Complaint Conduct Model Policy (2013)</li> <li>• Endorsed by the Executive</li> </ul>	2018/010669
Reviewed	January 2020	<ul style="list-style-type: none"> <li>• Changed references to complaints to be requests or complaints</li> <li>• Modifications to Section 3.3 ‘How – applying the GIPA Act’. Updated information relating to GIPAA.</li> <li>• Modification to Section 6.1 ‘Right to Review’. Updated information relating to GIPAA</li> <li>• Modified to a 4 year review cycle</li> </ul>	2020/039899
Reviewed	21 Feb 2024	<ul style="list-style-type: none"> <li>• Policy name changed to Managing Unreasonable Conduct Towards the City and its Employees.</li> <li>• Policy modified to align to Ombudsman NSW Managing unreasonable conduct by complainants Model policy 2022</li> <li>• Modifications to Managing Requests to Access to Information section.</li> <li>• Added statement regarding racist/offensive communications</li> </ul>	2018/010669
Commence Review Date	21 May 2027		
Approval Due Date	21 Feb 2028		

**Ownership and approval**

<b>Responsibility</b>	<b>Role</b>
Author	Manager Customer Service
Owner	Manager Customer Service
Endorser	City of Sydney Executive
Approver	Chief Executive Officer

## Appendix A

### ***Individual Rights and Mutual Responsibilities of the Parties to a Complaint***

In order for the City of Sydney (the City) 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 to the complaint process.

#### ***Individual rights<sup>1</sup>***

*People have the right to:*

- make a complaint and to express their opinions in ways that are reasonable, lawful and appropriate<sup>2</sup>
- a reasonable explanation of the organisation's complaints procedure, including details of the confidentiality, secrecy and/or privacy rights or obligations that may apply
- a fair and impartial assessment and, where appropriate, investigation of their complaint based on the merits of the case<sup>3</sup>
- a fair hearing<sup>4</sup>
- a timely response
- be informed in at least general terms about the actions taken and outcome of their complaint<sup>5</sup>
- be given reasons that explain decisions affecting them
- at least one right of review of the decision on the complaint<sup>6</sup>
- be treated with courtesy and respect
- communicate valid concerns and views without fear of reprisal or other unreasonable response<sup>7</sup>.

*Employees have the right to:*

- determine whether, and if so, how a complaint will be dealt with
- finalise matters on the basis of outcomes they consider to be satisfactory in the circumstances<sup>8</sup>
- expect honesty, cooperation and reasonable assistance from people

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<sup>1</sup> The word 'rights' is not used here in the sense of legally enforceable rights (although some are), but in the sense of guarantees of certain standards of service and behaviour that a complaint handling system should be designed to provide to each of the parties to a complaint

<sup>2</sup> Differences of opinion are normal: people perceive things differently, feel things differently and want different things. People have a right to their own opinions, provided those opinions are expressed in acceptable terms and in appropriate forums

<sup>3</sup> While degrees of independence will vary between complaint handlers, all should assess complaints fairly and as impartially as possible, based on a documented process and the merits of the case.

<sup>4</sup> The 'right to be heard' refers to the opportunity to put a case to the complaint handler/decision-maker. This right can be modified, curtailed or lost due to unacceptable behaviour, and is subject to the complaint handler's right to determine how a complaint will be dealt with.

<sup>5</sup> Provided this will not prejudice on-going or reasonably anticipated investigations or disciplinary/criminal proceedings.

<sup>6</sup> Such a right of review can be provided internally to the organisation, for example by a person not connected to the original decision.

<sup>7</sup> Provided the concerns are communicated in the ways set out in relevant legislation, policies and/or procedures established for the making of such complaints/allegations/disclosures/etc.

<sup>8</sup> Some complaints cannot be resolved to the complainant's satisfaction, whether due to unreasonable expectations or the particular facts and circumstances of the complaint

- expect honesty, cooperation and reasonable assistance from organisations and people within jurisdiction who are the subject of a complaint
- be treated with courtesy and respect
- a safe and healthy working environment<sup>9</sup>
- modify, curtail or decline service (if appropriate) in response to unacceptable behaviour by a person.<sup>10</sup>

*Subjects of a complaint have the right to:*

- a fair and impartial assessment and, where appropriate, investigation of the allegations made against them
- be treated with courtesy and respect by employees of the City
- be informed (at an appropriate time) about the substance of the allegations made against them that are being investigated<sup>11</sup>
- be informed about the substance of any proposed adverse comment or decision
- be given a reasonable opportunity to put their case during the course of any investigation and before any final decision is made<sup>12</sup>
- 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
- be protected from harassment by disgruntled people acting unreasonably.

## **Mutual responsibilities**

***People are responsible for:***

- treating staff of the City with courtesy and respect
- clearly identifying to the best of their ability the issues of request or complaint, or asking for help from the staff of the City to assist them in doing so
- providing to the best of their ability the City with all the relevant information available to them at the time of making the complaint
- being honest in all communications with the City
- informing the City of any other action they have taken in relation to their complaint<sup>13</sup>
- cooperating with the staff who are assigned to assess/ investigate/resolve/determine or otherwise deal with their complaint.

If people do not meet their responsibilities, the City may consider placing limitations or conditions on their ability to communicate with employees or access certain services.

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<sup>9</sup> See for example WH&S laws and the common law duty of care on employers

<sup>10</sup> Unacceptable behaviour includes verbal and physical abuse, intimidation, threats, etc.

<sup>11</sup> Other than where there is an overriding public interest in curtailing the right, for example where to do so could reasonably create a serious risk to personal safety, to significant public funds, or to the integrity of an investigation into a serious issue. Any such notifications or opportunities should be given as required by law or may be timed so as not to prejudice that or any related investigation.

<sup>12</sup> Depending on the circumstances of the case and the seriousness of the possible outcomes for the person concerned, a reasonable opportunity to put their case, or to show cause, might involve a face to face discussion, a written submission, a hearing before the investigator or decision maker, or any combination of the above

<sup>13</sup> For example whether they have made a similar complaint to another relevant person or body or have relevant legal proceedings at foot.

The City 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 complaint or to have further dealings with the customer.<sup>14</sup> Any such conduct of a criminal nature will be reported to police and in certain cases legal action may also be considered.

**Employees are responsible for:**

- providing reasonable assistance to people who need help to make a complaint and, where appropriate, during the complaint process
- dealing with all complaints, people or organisations the subject of complaint professionally, fairly and impartially
- giving people or their advocates a reasonable opportunity to explain their complaint, subject to the circumstances of the case and the conduct of the customer
- giving people or organisations the subject of complaint a reasonable opportunity to put their case during the course of any investigation and before any final decision is made<sup>15</sup>
- informing people or organisations the subject of investigation, at an appropriate time, about the substance of the allegations made against them<sup>16</sup> and the substance of any proposed adverse comment or decision that they may need to answer or address<sup>17</sup>
- keeping people informed of the actions taken and the outcome of their complaints<sup>18</sup>
- Giving people reasons that are clear and appropriate to their circumstances and adequately explaining the basis of any decisions that affect them
- Treating people with courtesy and respect at all times and in all circumstances
- Taking all reasonable and practical steps to ensure that people<sup>19</sup> are not subjected to any detrimental action in reprisal for making their complaint<sup>20</sup>
- Giving adequate warning of the consequences of unacceptable behaviour.

If the City or its employees fail to comply with these responsibilities, customers may complain to the NSW Ombudsman.

***Subjects of a complaint are responsible for:***

- cooperating with City employees who are assigned to handle the complaint, particularly where they are exercising a lawful power in relation to a person or body within their jurisdiction<sup>21</sup>
- providing all relevant information in their possession to the City or its authorised employees when required to do so by a properly authorised direction or notice

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<sup>14</sup> Other than in circumstances where the organisation is obliged to have an ongoing relationship with the complainant

<sup>15</sup> See Endnote 11

<sup>16</sup> Other than where an allegation is so lacking in merit that it can be dismissed at the outset

<sup>17</sup> See Endnote 11.

<sup>18</sup> See Endnote 5.

<sup>19</sup> 'Complainants' include whistle-blowers/people who make internal disclosures.

<sup>20</sup> 'Complaints' includes disclosures made by whistle-blowers/people who make internal disclosures.

<sup>21</sup> This does not include any obligation to incriminate themselves in relation to criminal or disciplinary proceedings, unless otherwise provided by statute.

- being honest in all communications with the City and its employees
- Treating the City employees with courtesy and respect at all times and in all circumstances
- Refraining from taking any detrimental action against the person<sup>22</sup> in reprisal for them making the complaint.<sup>23</sup>

If subjects of a complaint fail to comply with these responsibilities, action may be taken under relevant laws and/or the City's Code of Conduct and other policies.

***City of Sydney is responsible for:***

- having an appropriate and effective complaint handling system in place for receiving, assessing, handling, recording and reviewing complaints
- decisions about how all complaints will be dealt with
- ensuring that all complaints are dealt with professionally, fairly and impartially<sup>24</sup>
- ensuring that staff treat all parties to a complaint with courtesy and respect
- ensuring that the assessment and any inquiry into the investigation of a complaint is based on sound reasoning and logically probative information and evidence
- finalising complaints on the basis of outcomes that the organisation, or its responsible staff, consider to be satisfactory in the circumstances<sup>25</sup>
- implementing reasonable and appropriate policies/procedures/practices to ensure that people<sup>26</sup> are not subjected to any detrimental action in reprisal for making a complaint<sup>27</sup>, including maintaining separate complaint files and other operational files relating to the issues raised by individuals who make complaints
- giving adequate consideration to any confidentiality, secrecy and/or privacy obligations or responsibilities that may arise in the handling of complaints and the conduct of investigations.

If the City fails to comply with these responsibilities, customers may complain to the NSW Ombudsman.

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<sup>22</sup> See Endnote 19.

<sup>23</sup> See Endnote 20

<sup>24</sup> See Endnote 3.

<sup>25</sup> Once made, complaints are effectively 'owned' by the complaint handler who is entitled to decide (subject to any statutory provisions that may apply) whether, and if so how, each complaint will be dealt with, who will be the case officer/investigator/decision-maker/etc, the resources and priority given to actioning the matter, the powers that will be exercised, the methodology used, the outcome of the matter, etc. Outcomes arising out of a complaint may be considered by the complaint handler to be satisfactory whether or not the complainants, any subjects of complaint or the organisation concerned agrees with or is satisfied with that outcome.

<sup>26</sup> See Endnote 19.

<sup>27</sup> See Endnote 20.