




Unreasonable Customer Conduct Policy

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APPROVAL	Chief Executive Officer				
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DIRECTORATE	Corporate and Commercial Services				
POLICY OWNER	Manager Governance				
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1. Purpose

While Frankston City Council is committed to being accessible and responsive to all members of the community, unreasonable customer conduct can significantly affect the successful conduct of our work and the experience of other customers.

This policy, and the Unreasonable Customer Conduct Procedure (Procedure), provides clear principles and processes to establish Alternative Access Arrangements (AAAs) that alter how customers who behave unreasonably may access Council services.

2. Scope

This policy applies to all Council officers, contractors, and volunteers.

This policy applies to all forms of customer conduct including to face to face, telephone, mail, email, and social media.

3. Governance Principles and Council Plan Alignment

3.1. Governance Principles

A Council must, in the performance of its role, give effect to the overarching governance principles (*Local Government Act 2020 (Act) s9*). In accordance with the Act, this Policy aligns with the following governance principle/s:

Principle (a) Council decisions are to be made and actions taken in accordance with the relevant law;

Principle (i) the transparency of Council decisions, actions and information is to be ensured.

3.2. Council Plan Alignment

Strategic Outcome 1: Healthy and Inclusive Communities – Improve community health, safety and wellbeing by reducing harms and promoting healthy lifestyles. Strengthen resilience, inclusiveness and enrich culture and diversity.

Strategic Outcome 4: Council Performance and Leadership – A forward-thinking and responsive council that values community input, committed to optimising services, ensuring robust governance and making sustainable decisions.

4. Policy

4.1. Guiding principles

- 4.1.1. Council's customer service promise is to be accessible, respectful, clear, and accountable. Officers dealing directly with members of the public should be open to discussing concerns with complainants. Officers should be responsive and acknowledge when mistakes have been made. Officers must also be aware that some customers have unique communication needs.
- 4.1.2. At the same time, Council is responsible for providing a safe workplace for its officers, volunteers and contractors. Council also must use its limited resources efficiently when dealing with complaints. Lastly, customers have the right to access Council's services without being mistreated by other customers.
- 4.1.3. This policy, with the Procedure, strikes a balance between these competing priorities and sets out a consistent approach to altering a customer's access arrangements when unreasonable conduct as defined by this policy arises, taking account of all relevant circumstances.

4.2. When to implement an Alternative Access Arrangement (AAA)

- 4.2.1. An AAA may be implemented to manage unreasonable conduct, following this policy and the Procedure.
- 4.2.2. Before implementing an AAA, other strategies of dealing with unreasonable conduct must first be considered. Examples include:
 - Warning the customer that unreasonable conduct will not be tolerated and that the officer will cease the interaction if unreasonable conduct continues.
 - Managing expectations from the outset by clearly explaining timeframes and possible outcomes.
 - Keeping the customer updated throughout the progress of their complaint.

- Active listening and apologising on behalf of Council where appropriate.
- Communicating in a polite, respectful, and firm manner.
- Looking past the unreasonable conduct to any valid issue and refocusing the conversation on this issue.
- Practical security measures, such as duress alarms, ability to retreat to a safe location, and physical barriers between customers and Council officers.
- Flexible communication, such as agreeing to speak to the customer at certain times and sending summaries of conversations afterwards.

4.3. Types of AAAs

4.3.1. The following types of AAAs may be implemented:

- Limiting a customer from attending a particular service location.
- Limiting the officers with whom a customer may interact, such as only with a specified senior officer.
- Limiting how a customer may make contact such as only by telephone, in writing, or in-person meetings.
- Limiting the extent of contact such as a certain number of complaints per day.
- Limiting the subject matter a customer may complain about.
- Limiting contact to be through a nominated support person.

4.4. Relevant criteria to consider when implementing an AAA:

4.4.1. Reasonableness and proportionality

All limitations imposed must be reasonable and proportionate to the unreasonable conduct in question. The relevant officer must consider whether and how an AAA would address the unreasonable conduct and the future risk of unreasonable conduct. The AAA must not limit access to Council services any further than necessary to achieve the purpose of this policy. This is critical to ensuring compliance with Council's obligations under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (Charter). Limiting access to Council services may affect human rights set out in the Charter, such as:

- Freedom of movement;
- Freedom of expression; and
- Taking part in public life.

Such rights may only be subject to reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom and taking into account factors including:

- The nature of the right;
- The importance of the purpose of the limitation;
- The nature and extent of the limitation;
- The relationship between the limitation and its purpose; and
- Any less restrictive means reasonably available to achieve the purpose.

Consideration must be given to the relevant human rights of the customer when assessing whether an AAA should be implemented and whether a particular AAA will be reasonable and proportionate.

In some circumstances, effective application of these criteria is also necessary to comply with Council's obligations under the *Equal Opportunity Act 2010* (Vic) (EO Act). The EO Act makes it unlawful to discriminate against a person on the basis of their disability by refusing services or the terms on which services are provided unless that discrimination is reasonably necessary to protect the health, safety or property. The EO Act is relevant where the unreasonable conduct relates to a physical or mental disability.

4.4.2. Staff welfare

Council must provide a safe workplace to its staff, contractors, and volunteers. This includes ensuring the well-being of those who have direct contact with customers.

4.4.3. Severity of unreasonable conduct

Whether the unreasonable conduct involved physical violence, threats of violence or highly aggressive and insulting language. The extent to which the unreasonable conduct falls below the conduct that would be displayed by a reasonable person.

4.4.4. Duration of unreasonable conduct

The number of instances that unreasonable conduct occurred.

4.4.5. Extenuating circumstances

Whether the complainant's case has merit and relates to a significant error made by Council. In this case, consider whether the conduct was proportionate to the issue.

4.4.6. Other explanation of unreasonable conduct

Whether the unreasonable conduct was likely the result of the complainant's status as a vulnerable person, such as:

- Homelessness;
- Physical disability;

- Illiteracy or other language or communication barrier;
- Personal crises; or
- Substance or alcohol abuse.

4.4.7. Effect on resourcing

Where the unreasonable conduct has a high impact on the fair allocation and use of Council resources.

4.4.8. Statutory provisions

Whether any statutory provisions would prevent altering access to services.

4.4.9. Effect of the AAA

The likely effect of an AAA on the physical or mental health of the relevant customer, and those affected by the unreasonable conduct.

4.4.10. The views of those affected by unreasonable conduct

The views of those affected by the unreasonable conduct, and their health and safety representatives as applicable. The views of the Coordinator of Health Safety and Wellbeing and Manager People and Culture as applicable.

4.4.11. The effect on other customers

The extent to which unreasonable conduct affects other customers in Council facilities or using Council services. Patrons have the right to access Council's services without being disrespected or being made to feel unsafe. Council has zero tolerance for child abuse and is committed to creating a child safe environment.

5. Roles and Responsibilities

Role	Responsibility
Chief Executive Officer	Responsible for: <ul style="list-style-type: none"> • Deciding whether to issue a warning or implement an AAA. • Sending any warning letter and notification letter to a customer. • Reviewing any AAA. • Deciding upon any appeal of an interim AAA.
Managers and Coordinators	Responsible for: <ul style="list-style-type: none"> • Discussing incidents involving unreasonable conduct with officers and deciding whether unreasonable conduct may

	<p>be effectively managed without an AAA or whether an AAA should be considered.</p> <ul style="list-style-type: none"> • Assisting to complete the Incident Form. • Assisting to provide providing further information regarding unreasonable conduct incidents upon request. • Issuing warnings for unreasonable conduct. • Implementing an interim AAA for a period not exceeding two calendar weeks while the Procedure is being followed. • Notifying a customer who is the subject of an interim AAA. • Notifying officers who may encounter the relevant customer of the presence of an AAA and of any change to the AAA. • Monitoring the effectiveness of an AAA and requesting a review as required.
<p>Coordinator Health Safety and Wellbeing</p> <p>Manager People and Culture</p>	<p>Responsible for:</p> <ul style="list-style-type: none"> • Providing their views regarding issuing a warning or implementing an AAA to the Principal Legal Advisor and Manager Governance.
<p>Officers, contractors, volunteers</p>	<p>Responsible for:</p> <ul style="list-style-type: none"> • Familiarising themselves with this policy and the Unreasonable Customer Conduct Procedure. • Informing their Manager or Coordinator of unreasonable conduct as it occurs. • With their Manager or Coordinator, completing and submitting an Incident Form. • Providing further information regarding any incident upon request. • Providing views on the type of AAA that should be implemented upon request.

6. Policy non-compliance

Non-compliance with this Policy has the potential to result in:

- Inconsistent and inappropriate responses to unreasonable conduct;
- Negative impacts on wellbeing and greater turnover of Council officers, contractors, and volunteers;
- Unjustified restrictions on Council services;
- Risk of litigation;
- Reduced public confidence in Council; and
- Inefficient use of Council's resources.

7. Definitions

Term	Definition
<i>Alternative Access Arrangement (AAA)</i>	An arrangement which sets out how a customer's access to Council services is to be altered for a specified period, interim or otherwise.
<i>Complainant</i>	A customer who may be affected by the action or inaction of Council, who then alerts Council to the issue.
<i>Contractor</i>	A person engaged to undertake works for Council, including service providers/service partners.
<i>Council</i>	Frankston City Council
<i>Coordinator</i>	A Council officer whose permanent or interim position is formally that of "coordinator".
<i>Manager</i>	A Council officer whose permanent or interim position is formally that of "manager".
<i>Officer</i>	A Frankston City Council employee.
<i>Unreasonable customer conduct</i>	<p>Conduct, which because of its nature or frequency, raises substantial health, safety, resourcing, or equity issues. Unreasonable conduct can be divided into five categories:</p> <ul style="list-style-type: none"> • Unreasonable conduct: Where conduct, in all the circumstances, negatively affects the health, safety, or security of Council officers, contractors, volunteers, or customers. • Unreasonable persistence: Where a complainant unreasonably persists with issues that have been finalised, such as refusing to accept a final decision or sending excessive amounts of correspondence. • Unreasonable demands: Where a complainant places unreasonable demands on Council services through the frequency or nature of complaints made. Includes instances where a complainant expects impractical or disproportionate outcomes in light of the issues raised and Council's resources. • Unreasonable lack of cooperation: Where the complainant demonstrates an unreasonable lack of cooperation, such as refusing to clearly define a complaint, providing excessive irrelevant information, or dishonestly presenting facts. • Unreasonable arguments: Where a complainant unreasonably advances an argument, such as an argument lacking a factual basis or that is otherwise illogical.

Volunteer Formally recognised, unpaid member of the public who assists with the provision of Council services e.g. Visitor Information Centre, Library and Meals on Wheels.

8. Related documents

8.1. Legislation

- *Local Government Act 2020* (Vic)
- *Charter of Human Rights and Responsibilities Act 2006* (Vic)
- *Child Wellbeing and Safety Act 2005* (Vic)
- *Equal Opportunity Act 2010* (Vic)
- *Occupational Health and Safety Act 2004* (Vic)
- *Privacy and Data Protection Act 2014* (Vic)

8.2. Documents and resources

- Child Safety & Wellbeing Policy
- Complaints Policy
- Frankston Customer Service Charter
- Occupational Health, Safety & Wellbeing Policy
- Privacy Policy
- Unreasonable Customer Conduct Procedure
- NSW Ombudsman – Managing unreasonable conduct by a complainant
- Victorian Ombudsman – Good Practice Guide: Managing Complex Complainant Behaviour

9. Implementation of the Policy

This policy will be published on Council's website and intranet so that it can be accessed by members of the community and employees of Council, contractors and agency and/or labour hire staff engaged by Council, Audit and Risk Committee Members, Delegated Committee Members, Community Asset Committee Members and Councillors.