

Addressing Unreasonable Conduct Policy

1. Purpose

This policy establishes Mount Alexander Shire Council's (MASC) position in relation to conduct of residents and others which poses or may pose a risk to the health and safety of MASC staff (as defined in this policy) and/or Councillors and/or impact on MASC's ability to provide equitable services to the whole community.

2. Scope

This policy covers Unreasonable Conduct towards staff and/or Councillors across the full range of Council services and via all communication channels, including but not limited to, face-to-face, telephone, mail, email, letters to the media, and social media.

3. Unreasonable conduct in dealing with staff and/or Councillors

Councillors and staff are required to abide by Council's Codes of Conduct.

We expect the same standards of behaviour from members of the public when interacting with staff and Councillors.

If we consider that the behaviour of a member of the public is Unreasonable Conduct, as defined below, due to it raising health, safety, resource or equity issues for the staff or Councillors involved, we may change the way we communicate with that member of the public and how we permit them to communicate with us.

Unreasonable Conduct includes, but is not limited to:

3.1. Unreasonable persistence

- bombarding our staff or Councillors with calls, correspondence or visits that we consider unwarranted
- contacting multiple staff seeking a different answer
- reframing an old issue so it looks like there are new issues
- refusing to accept the decision after we have investigated a complaint, provided a decision and reasons, answered questions and provided external review options
- questioning the skills or competence of a complaint handler

3.2. Unreasonable demands

- insisting on an immediate response or priority to a matter that we consider unwarranted
- insisting on a response to every point, no matter how minor

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- demanding information for which no 'as of right' entitlement exists
- insisting that the Chief Executive Officer or other senior manager handle a matter, when we consider that unwarranted and/or it is inconsistent with our adopted approach
- instructing our staff on how to investigate a matter or complaint

3.3. Unreasonable lack of cooperation

- sending voluminous amounts of information
- providing little or no information
- presenting information in 'drips and drabs'
- refusing to comply with reasonable requests for information

3.4. Unreasonable arguments

- insisting on the importance of matters that ought reasonably be considered minor
- making unsubstantiated allegations e.g. bias or corruption
- insisting on 'cause and effect' links without reasonable evidence

3.5. Unreasonable behaviour

- verbal abuse
- aggressive behaviour
- harassment
- threats

4. Managing Unreasonable Conduct

If we consider that a member of the public's conduct is unreasonable, we will seek to apply appropriate and proportionate strategies for managing their behaviour. The strategies will depend on the behaviour and may include setting limits on how future interactions can occur. The actions chosen will be commensurate with our assessment of the behaviour and its impact upon:

- a) The health and safety of our staff and/or Councillors,
- b) The efficient use of our resources; and
- c) Our ability to maintain equitable levels of service for other members of the community.

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4.1. 'Unreasonable persistence' – asking for the behaviour to stop

We will:

- a) Ask that contact ceases regarding the matter(s) raised to enable us a reasonable opportunity to respond; and/or
- b) Set time limits on any discussions; and/or
- c) Refer the matter back to the original staff member who was handling the matter or their manager; and/or
- d) Decline to consider new issues that are not supported with relevant information or evidence.

4.2. 'Unreasonable demands' – setting limits on our involvement

We will:

- a) Advise when demands will not be met and explain why, and/or
- b) Explain how and to what extent the matters raised will be responded to and why, and then limit our response to that.

4.3. 'Unreasonable lack of cooperation' and/or 'unreasonable arguments' – declining or discontinuing our involvement

We will:

- a) Require appropriate evidence before engaging further on any matter; and/or
- b) Not continue or revisit matters where we consider there is no practical outcome or we believe the matters have been appropriately dealt with previously; and/or
- c) Provide the contact details of external parties who may perform an external review of how we handled the matter(s).

If the strategies outlined above have not worked and Unreasonable Conduct towards our staff and/or Councillors continues, the Chief Executive Officer (CEO) may consider limiting the following:

- a) Contact by the member of public to a specific staff member (or staff members).
- b) What issues we will respond to. For example not responding to issues that have already been the subject of an assessment and explanation unless legitimate new issues that warrant attention are raised.
- c) When contact can be made with us. For example, times of the day or a day of the week.
- d) Where contact can be made with us. For example, limiting locations of face to face meetings to secure areas.
- e) How contact can be made with us. For example, confining contact to being in writing only.

5. Exceptional Circumstances

Notwithstanding any other provisions of this Policy, where the Unreasonable Conduct by a member of the public has included verbal abuse, aggressive behaviour, threats and/or harassment to an extent where the CEO deems it to be impacting the ongoing health and safety of any staff and/or Councillors, the CEO may intervene at any point and authorise the immediate implementation of any and all strategies deemed necessary to address this.

In such instances, the CEO will provide the reasons for doing so as soon as possible following written notice being issued to the relevant member of the public of the strategies so implemented.

Nothing in this provision is intended to prevent a member of the public from seeking a review of the CEO's decision by an external authority listed in Clause 12.

6. Decision Making Authority (in non-exceptional circumstances)

In instances involving Unreasonable Persistence, Unreasonable Demands, Lack of Cooperation or Unreasonable Arguments, decisions regarding appropriate strategies will be made by the relevant Director of the MASC department(s) involved.

If the strategies implemented by a Director in response to such behaviours are considered ineffective, the relevant Director may refer the matter to the CEO.

As provided for in Clause 4, the CEO may decide to further limit the relevant member of the public's access to MASC services in response to the continued Unreasonable Conduct.

In coming to such a decision, the CEO will take into account all of the information provided about the matter and the strategies implemented to date.

7. Final opportunity to stop Unreasonable Conduct

Except in circumstances deemed exceptional by the CEO, before a decision is made to limit access to Council's services, the CEO or relevant Director will provide a final written warning of the proposed action and give the member of the public an opportunity to stop the Unreasonable Conduct.

In issuing such a warning, the CEO or Director must be satisfied that:

- a) The behaviour is Unreasonable Conduct and poses a sufficient risk to the health and safety of staff and/or Councillors and/or unreasonably impacts on the resources of Council and/or unreasonably impacts on the ability to maintain equitable services to the whole community.

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- b) All relevant factors have been considered including the member of public's history in dealing with MASC, the nature of the conduct, their personal circumstances and the impact of limiting access on them.
- c) The limits are proportionate to the level of risk posed by the conduct/behaviour.
- d) There is sound evidence to support the decision.
- e) The limits are consistent with the *Charter of Human Rights and Responsibilities Act 2006* (Vic) and *Equal Opportunity Act 2010* (Vic).

8. Legal Recourse

If none of the strategies above are effective in managing the Unacceptable Conduct, including the measures implemented by the CEO, legal recourse may be sought. Legal recourse may include, but is not limited to, intervention orders against the relevant member of the public.

9. Informing the Parties

The CEO, or delegate, will inform:

- a) Affected staff and/or Councillors, and those staff or Councillors who are at risk of being affected, about decisions made under this Policy.
- b) The subject member of the public.

Notification of decisions will be in writing (unless another form of communication is more appropriate) and will include the reasons for the decision(s). It will set a timeframe for reviewing the decisions and explain options for the member of the public to seek an external review of the decision.

In addition, affected and potentially affected staff and Councillors will be advised that they are authorised to act in accordance with the decision as specified.

10. Reviewing Decisions

The CEO will ensure that any imposed limits on access are reviewed at least once every 12 months to determine if the limits are effective and still warranted.

The outcome of the review will be provided to the relevant member of the public in writing and an opportunity to respond offered before a final decision is made.

Should the member of the public wish to challenge this decision, they will be referred to external agencies such as the Victorian Ombudsman or, if the person claims discrimination, the Victorian Equal Opportunity and Human Rights Commission.

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11. Requesting an internal review

Internal reviews regarding decisions by Directors may be requested of the CEO. Where requested, the CEO will arrange for:

- a) The internal review to be conducted by a senior officer or other legal representative who has not had any prior involvement in the matter.
- b) The outcome of the internal review and the reasons for the conclusions reached to be provided within 30 calendar days of the date of the request for the review.

12. Requesting an external review

The following entities have authority to undertake a review of decisions made under this Policy and the contact details of the relevant authority will be provided in the CEO's written advice to the subject member of the public about the decision:

Complaint	Organisation to contact for external review
Actions or decisions of Council staff and contractors. This includes, but is not limited to, failure to consider human rights or failure to act compatibly with a human right under the <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic).	Victorian Ombudsman: www.ombudsman.vic.gov.au
Breaches of the Local Government Act	Local Government Inspectorate: www.lgi.vic.gov.au
Breach of privacy. This includes, but is not limited to, complaints about a freedom of information application.	Office of the Victorian Information Commission: www.ovic.vic.gov.au
Corruption or public interest disclosure ('whistleblower') complaints.	Independent Broad-based Anti-corruption Commission: www.ibac.vic.gov.au
Discrimination	Victorian Human Rights and Equal Opportunity Commission: www.humanrights.vic.gov.au

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13. Security – General Provisions

MASC reserves the right to ensure that our staff are safe and will implement any security measures deemed necessary, including:

- a) Monitoring face to face meetings, implementing the use of duress alarms, use of secure meeting rooms, and third parties attending meetings.
- b) Implementing incident response processes.
- c) Monitoring harassment of staff and Councillors outside of the workplace through means such as social media and taking action as deemed necessary.

14. Definition of Abbreviations Used

Terms and their definitions as they relate to the Policy:

Term	Definition
Staff	<p>Any person appointed by the Chief Executive Officer including but not limited to:</p> <ul style="list-style-type: none">• Employees• Contractors• Any third-party engaged by Mount Alexander Shire Council to carry out functions on its behalf• Volunteers.
Councillor	<p>The individuals holding the office of a member of Mount Alexander Shire Council.</p>

This document has been created based on the following:

1. NSW Ombudsman - 2021
Managing unreasonable conduct by a complainant
A manual for frontline staff, supervisors and senior manager
2. *The Charter of Human Rights and Responsibilities Act 2006*
3. The Victorian Ombudsman – May 2018
Good Practice Guide to Dealing with Challenging Behaviour

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15. Human Rights Statement

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights and Responsibilities Act (2006), other than is proportionate and necessary in order to protect the occupational health and safety of Mount Alexander Shire Council's staff and Councillors.