

UNREASONABLE CONDUCT POLICY

PURPOSE

1. The Unreasonable Conduct Policy has been developed to assist all staff to better manage unreasonable conduct by:
 - Defining unreasonable customer behaviour
 - Providing examples of the types of customer behaviour that might be considered unreasonable
 - Ensuring council supports and protects staff dealing with unreasonable behaviour
 - Assisting all staff to better manage unreasonable customer behaviour
 - Identifying how unreasonable customer behaviour may be managed
 - Providing an overview of the procedural fairness components required in order to provide a robust and just process to customers
2. The procedure we will follow to make decisions about unreasonable conduct by customers is covered in the Unreasonable Conduct Procedure document (“the procedure document”).

SCOPE

3. This Policy applies to all staff, contractors and members of advisory groups/panels/boards of the Kāpiti Coast District Council (Council).
4. This policy applies to all customers who interact with Council whose behaviour is unreasonable as defined in this policy.

Out of scope

5. Children, as defined by the Children, Young Persons, and Their Families Act 1989 as being under the age of 14 years are not within the scope of this policy.
6. Elected members¹ – this is covered by the Elected member code of conduct.

POLICY STATEMENT

7. Council is committed to being accessible and responsive to all customers.
8. Council has a zero-tolerance policy towards any harm, abuse or threats directed at staff, contractors, or advisory group/panels/board members. Any conduct of this kind will be dealt with under this policy, the procedure document, and the trespass procedure, in accordance with our duty of care and occupational health and safety responsibilities and, where appropriate by the Police and courts.
9. The success of Council operations depends on:
 - The health, safety, wellbeing, and security of our staff

¹ It is acknowledged that it may still be appropriate for Council staff to take measures to ensure the Health Safety and Wellbeing of Elected Members and staff within Council facilities or when using Council resources, such as a Council email address.

- The ability to do our work and perform our functions in the most effective and efficient way possible
 - Our ability to allocate our resources fairly across all customers
10. Council will take action to manage any customer conduct that negatively and unreasonably impacts on the organisation, its staff, and/or the ability to allocate resources fairly across all customers.

UNREASONABLE CONDUCT DEFINED

11. Unreasonable conduct is any behaviour, action, or communication by a customer which, because of its nature or frequency, raises health, safety, resource or equity issues for our organisation, staff, contractors, members of advisory groups/panels/boards, other service users and customers, or for the person themselves.
12. There are five categories of unreasonable conduct:

Unreasonable persistence	Continued, incessant and unrelenting conduct by a person that has a disproportionate and unreasonable impact on our organisation, staff, contractors, members of advisory groups/panels/boards services, time or resources.
Unreasonable demands	Any demands (express or implied), made by a customer that impacts health, safety, wellbeing, resource or equity for our organisation, staff, contractors and members of advisory groups/panels/boards, services, users or customers (including the complainant). This includes demands that have a disproportionate and unreasonable impact on our organisation, staff, contractors, members of advisory groups/panels/boards, services, time or resources.
Unreasonable lack of cooperation	Lack of willingness or ability of a person to cooperate with our organisation, staff, contractors, members of advisory groups/panels/boards, or complaints system and processes that results in a disproportionate and unreasonable use of our services, time or resources.
Unreasonable arguments	Arguments that are incomprehensible, false or inflammatory, or that disproportionately and unreasonably impact on health, safety, wellbeing, resource or equity for our organisation, employees, services, time or resources.
Unreasonable (and/or illegal) behaviours	Conduct that is unreasonable in any circumstances – regardless of how stressed, angry or frustrated a person is – because it compromises the health, safety and security of our staff, other service users or the person themselves

RESPONDING TO AND OPTIONS FOR MANAGING UNREASONABLE CONDUCT

13. This policy operates alongside Council’s venue terms and conditions of entry/use, and service-specific rules. Where unreasonable or unlawful conduct occurs at a Council venue or facility, Council may direct a person to leave, refuse entry, or take trespass action in accordance with the relevant procedure.

14. Council will apply a proportionate response to unreasonable conduct. Where appropriate, informal behaviour management strategies may be used. If these are unsuccessful or inappropriate, formal restrictions will be applied in accordance with this policy.

INFORMAL AND OTHER BEHAVIOUR MANAGEMENT STRATEGIES

15. Informal behaviour management strategies are not a restriction under the policy, but rather are tools staff can use to manage customer interactions.
16. The use of informal behaviour management strategies may be a precursor to a decision being made to apply formal restrictions under this policy.
17. Other strategies may also be used to minimise the impact of the behaviour, or to encourage the customer to behave in a reasonable way. This will depend on the individual customer, context of their issue and behaviour encountered. Use of these other strategies is at the discretion of council.
18. Other strategies may include:
- Using alternative legal mechanisms where appropriate to restrict a customer’s access to our services and/or our premises, such as trespass. Refer to the Trespass Procedure
 - Advising the customer to contact an appropriate external agency
 - Reporting the behaviour to an appropriate external agency, such as the Police or health services
 - Referring the customer to an external review agency, such as the Environment Court or the Office of the Ombudsman.

APPLICATION OF FORMAL RESTRICTIONS

19. If informal behaviour strategies do not achieve a resolution, or if the behaviour is sufficiently serious, formal restrictions on the customer’s contact with Council may be imposed. This may include but is not limited to restricting:
- **who they have contact with** – limiting a customer to a single contact within council
 - **what they can raise with us** – including restricting the subject matter that we will consider and respond to
 - **when they can have contact with us** – including limiting a customer’s contact within council to a particular time, day, or length of time, or curbing the frequency of their contact with us
 - **where they can make contact with us** – including limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office
 - **how they can make contact with us** – including limiting or modifying the forms of contact that the customer can have with us.
20. In addition to being proportionate to the level of unreasonable conduct, proposed restrictions on a customer’s contact with Council will be the least restrictive means to address the impact of the unreasonable conduct on staff, contractors, members of advisory groups/panels/boards, services, and resources.

PROCEDURAL FAIRNESS

21. Council will ensure that decisions to impose formal restrictions on a customer follow a robust process and are signed off by the Chief Executive or a Group Manager.
22. In most circumstances, before restrictions are applied the customer will be provided with a written warning advising:
 - That their conduct has been unreasonable
 - The conduct expected of customers
 - Restrictions that may be applied if their conduct does not improve.
23. In most circumstances, customers will be given time to show that their behaviour has changed. It is recognised that in some circumstances the behaviour may be such that immediate restrictions are required.
24. If a decision is made to implement formal restrictions following expiry of the warning period, the customer will be notified in writing.
25. We recognise that discretion will need to be used to adapt restrictions to suit the customer's personal circumstances including disability, level of comprehension or literacy skills. We also recognise that more than one strategy may be necessary in individual cases to ensure their appropriateness and efficacy.
26. If the customer is a ratepayer, our relationship with them will continue for the provision of infrastructure and services as provided to all ratepayers.
27. At all times, council must treat the customer fairly and at all stages should demonstrate:
 - Impartiality and open-mindedness
 - Transparency
 - Evidence based decision making.

RIGHT OF APPEAL

28. The decision to implement formal restrictions under this policy is final and there is no internal right of appeal available.
29. Customers being managed under the policy should be advised of their right to seek an external review from the New Zealand Ombudsman. The Ombudsman may investigate the decision to ensure council have acted reasonably and observed the principles of good administrative practice, including procedural fairness.

PERIODIC REVIEWS

30. When formal restrictions are put in place, a review date will be set. In most circumstances, this will be on an annual basis. There may be circumstances (at the discretion of the Chief Executive or Group Manager) where restrictions are put in place for two years.
31. Reviews will be undertaken by the Chief Executive or a Group Manager with assistance from the team who originally requested the restriction, along with the Legal Services team and the Health Safety and Wellbeing team. A decision will be made as to whether restrictions will continue.
32. If the outcome is to continue the restrictions, this will be communicated to the customer in writing, including any modification of the restrictions.

33. If the restrictions end and the customer’s behaviour deteriorates again, the Chief Executive or a Group Manager has discretion to reinstate the previous restrictions and add further restrictions.

RECORD KEEPING

34. Council will keep accurate and up-to-date records of our interactions with customers in the relevant Council record keeping systems.

35. Good record keeping as per the Unreasonable Conduct Procedures, will ensure that all incidents of unreasonable conduct (and unreasonable conduct trends) are promptly identified and dealt with.

ROLES AND RESPONSIBILITIES

Role	Responsibilities
All Staff	<ul style="list-style-type: none"> • Maintain familiar with this policy and the associated procedures under this policy. • Keep full and accurate records of interactions with customers who are being considered for or who are being managed under this policy, as per the Public Records Act 2005. • Identify behaviours that may be unreasonable as defined by this policy. • Log interactions/incidents with customers in Council’s Service Request System, or Council’s health and safety reporting tool as appropriate. • Protect fellow staff, both in terms of health and safety considerations and ensuring that any private and confidential information relating to staff involved in the application of this policy is protected, to the extent possible, and subject to any legal requirements. • Seek guidance on application of policy from manager and Legal services team. • Seek additional support from manager in dealing with customers displaying unreasonable conduct.
The Chief Executive	<ul style="list-style-type: none"> • Champion health, safety and wellbeing of staff. • To be aware of customers being managed under this policy or being considered for management under this policy, as escalated by the relevant Group Manager.

	<ul style="list-style-type: none"> • Support staff to apply the policy. • Conduct periodic reviews of the application of the policy to a customer.
Group managers	<ul style="list-style-type: none"> • Support staff to apply the policy. • Ensure staff are provided with proper support and assistance following interactions with customers exhibiting unreasonable conduct. • Take steps to minimise the impact of interactions under the policy on relevant employees, which may include having a manager take over the interactions where appropriate. • Conduct periodic reviews of the application of the policy to a customer.
Managers	<ul style="list-style-type: none"> • Supporting staff to apply the policy. • Ensuring staff are provided with proper support and assistance following interactions with customers with unreasonable conduct. • Take over the interactions with the customer from staff where appropriate. • Support the Chief Executive or Group Manager in conducting periodic reviews of the application of the policy to a customer.
Legal Services team	<ul style="list-style-type: none"> • Providing advice and guidance around application of policy. • Supporting the Chief Executive or Group Manager in conducting periodic reviews of the application of the policy to a customer.
Health Safety and Wellbeing team	<ul style="list-style-type: none"> • Provide advice and guidance on the impact of behaviour on staff wellbeing and correspondence obligations to keep staff safe. • Have input into the restrictions required to best protect staff that are set out in the memo to the Chief Executive or Group Manager. • Provide advice and guidance during periodic reviews of the application of the policy to a customer.

RELATED POLICIES, DOCUMENTS, AND LEGISLATION

The following policies, documents, and legislation may inform, require consideration, or need to be referred to, in the implementing of this policy. If any policy, document, or legislation has been superseded, the replacement policy, document, or legislation will apply under this Policy.

- Complaints, Compliments, and Suggestions Policy and Complaints Policy Procedure
- HR-13-020 Health and Safety Policy
- Health and Safety Policy Statement
- HR-13-017 Employees Wellness Policy
- Care Register Policy
- Trespass Procedure
- The Practice Manual – the Managing Unreasonable Person Conduct Practice Manual (New Zealand Ombudsman October 2012)
- Public Records Act 2005
- Local Government Official Information and Meetings Act 1987
- Ombudsmen Act 1975
- Harassment Act 1997
- Harmful Digital Communications Act 2015

POLICIES

- Management of Information Policy

DOCUMENTS

- Guidance for customer strategies are provided in the [*Managing Unreasonable Complainant Conduct Practice Manual \(New Zealand Ombudsman October 2012\)*](#)

LEGISLATION

- [Privacy Act 2020](#)
- [Health and Safety at Work Act 2015](#)

DEFINITIONS OF TERMS

TERM	DEFINITION
Council	Kāpiti Coast District Council
Staff	All employees or contractors of Council
In writing	Includes both email and letter
Customer/person	Any individual or organisation who interacts with Council, uses Council services, attends Council facilities/venues, or communicates with Council staff or representatives.

Council venue/facility	Any land, building, facility or event owned, operated, or managed by Council, including aquatic facilities, carparks, libraries, service centres and community venues.
Restriction	A formal limitation on how, when, where, or with whom a customer may interact with Council, made under this policy.
Unreasonable conduct	is any behaviour, action, or communication by a customer which, because of its nature or frequency, raises health, safety, resource or equity issues for our organisation, staff, contractors, members of advisory groups/panels/boards, other service users and customers, or for the person themselves.

DOCUMENT CONTROL

VERSION	DATE APPROVED	NEXT REVIEW DUE	POLICY OWNER	DESCRIPTION OF CHANGE	AUTHOR	APPROVED BY
1	22 February 2021		Janie McDougall, Group Manager People and Partnerships	New Policy	Aston Mitchell, Policy Advisor	SLT
2	1 April 2026	April 2029	Mark de Haast, Group Manager Corporate Services	Amended and updated policy	Fiona Story, Manager Legal Compliance and Complaints	SLT/CE

Policy approved by the Senior Leadership Team



Darren Edwards
Chief Executive

SCHEDULE 1

EXAMPLES OF UNREASONABLE PERSISTENCE

- an unwillingness or inability to accept reasonable explanations, including final decisions that have been comprehensively considered and communicated
- persistently requesting a review simply because it is available, without presenting new or compelling reasons for the review
- excessive requests for information under the Local Government Official Information and Meetings Act 1987 (“LGOIMA”)
- refusing to accept further actions cannot or will not be taken on their complaint or concern, after a final decision has been made
- reframing a complaint in an effort to get it taken up again
- persistently sending copies of information that has already been sent, or that is irrelevant to the complaint or concern
- bombarding staff with unreasonably high levels of phone calls, visits, letters, emails (including being copied in on correspondence) after being asked not to do so
- contacting different people within council or externally in an attempt to get a different outcome or more sympathetic response to their complaint.
- using the complaints process to raise new trivial complaints in an effort to reopen the original issue or prevent the work needed to implement a decision
- high frequency of communication which impedes council from pursuing a legitimate aim or implementing a legitimate decision.

EXAMPLES OF UNREASONABLE DEMANDS

- issuing instructions and making demands about how we have handled or should handle their complaint or request, the priority it was given or should be given, or the outcome that was or should be achieved
- insisting on outcomes that are not possible or appropriate in the circumstances, such as calling for someone to be sacked or prosecuted, an apology or compensation when there is no reasonable basis for expecting this
- asserting they must talk to a senior member of staff or the chief executive, mayor or elected representative personally when it is not possible, appropriate or warranted to do so
- emotional blackmail and manipulation with the intent to intimidate, harass or shame staff, contractors or members of advisory groups/panels/boards, or to portray themselves as being victimised, when this is not the case
- demanding services that are of a nature or scale that we cannot provide when this has been explained to them repeatedly.
- repeatedly demanding responses within an unreasonable timeframe, including insisting on the issue being progressed or determined outside of the normal framework for progressing such requests
- repeatedly changing the substance of a complaint or raising unrelated concerns and demanding that these are considered and investigated through the original process.

EXAMPLES OF UNREASONABLE LACK OF COOPERATION

- sending incomprehensible or disorganised information without clearly defining any issues of complaint or explaining how they relate to the core issues being complained about, when the customer is clearly capable of doing this

- providing little or no detail with a complaint or presenting information in a sporadic, nonsensical or disorganised manner
- refusing to follow or accept our suggestions or advice without a clear or justifiable reason for doing so
- arguing frequently 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 or misquoting others
- Refusing to help us by summarising their concerns or completing necessary documentation for us
- Withholding information, only providing partial information, acting dishonestly, misrepresenting facts or misquoting others.

EXAMPLES OF UNREASONABLE ARGUMENTS

Arguments are unreasonable when they:

- insist on the importance of an issue which is not supported by evidence
- fail to follow a logical sequence, are illogical or unintelligible
- make allegations using unsupported or irrelevant information
- refuse to accept other valid contrary arguments
- are not supported by sufficient evidence or are based on conspiracy theories
- make pseudo-law/sovereign citizen type assertions or arguments
- make allegations of bullying or victimisation which are not substantiated by evidence
- attempt to undermine staff, for example by challenging professionalism or making unnecessary personal comments or demanding personal details about staff, contractors, members of advisory groups/panels/boards carrying out their roles, such as qualifications, work experience, authority to act, in an attempt to alter a decision or outcome
- lead a person to reject all other valid contrary arguments
- have an impact that is disproportionate to the amount of time, resources and attention that the customer demands
- are false, inflammatory or defamatory or nonsensical.

EXAMPLES OF UNREASONABLE (AND/OR ILLEGAL) BEHAVIOUR

These behaviours may occur in person, in writing, or online:

- acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks
- physical violence
- harassment or intimidation (in person or online)
- rude, confronting, threatening, or aggressive communication (verbal or written)
- threats of harm to self or third parties, threats with a weapon or threats to damage property, including bomb threats and cyber security threats
- stalking (in person or online)
- emotional manipulation
- unwanted behaviour of a sexual nature (physical, verbal or non-verbal)
- breaching the conditions of entry or terms of use for council venues, land, events and equipment
- repeated use of inappropriate tone, volume and language

- disruptive or disorderly behaviour at Council venues or facilities that materially impacts the safety, amenity, or ability of others to use the facility, including persistent swearing, yelling, intimidation, harassment, or refusing to follow reasonable staff directions.