# Unreasonable Conduct Management Procedure

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| **Procedure Number** | PRO-UCCPV2 |
| **File Number** | 9/PRO/UCCP/2 |
| **Responsible Officer** | Chief Executive Officer |
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| **Due date of next Review** | August 2030 |

## 1. Scope

**1.1** Mid Murray Council is committed to being accessible and responsive to customers who approach Council with a request for service/information or with a complaint. At the same time the success of our organisation depends on:

- the health, safety, security and welfare of our staff, volunteers and customers;
- our ability to do our work and perform our functions in the most effective and efficient ways possible; and
- our ability to allocate our resources fairly across all the requests we receive and services we provide.

**1.2** Council staff, volunteers and customers have the right to conduct their roles/business effectively without fear of harassment or intimidation. Council does not tolerate any abuse or threats directed toward our staff and volunteers or between customers and any conduct of this kind will be dealt with as outlined in this procedure, in accordance with our duty of care and work health and safety responsibilities.

**1.3** To ensure a safe, respectful, and inclusive environment for staff, volunteers, and the broader community.

## 2. Purpose

**2.1** This Unreasonable Conduct Management Procedure (the Procedure) outlines how the Council will manage unreasonable conduct by any individual engaging with the Council, including customers, patrons of Council activities, and users of Council facilities.

**2.2** The purpose of this Procedure is to outline the steps that Council staff and volunteers will undertake when addressing unreasonable external customer behaviour, to minimise the risks associated with such conduct in a manner that is both reasonable and proportionate. Noting that the Procedure relates to external customers only and internal matters are to be handled via the employee and volunteer code of conduct frameworks.

# 3. Objectives

**3.1** Ensure health and safety – complying with work health and safety (WH&S) and duty of care obligations by identifying the potential risks posed to Council staff, volunteer and customer's health, safety, security and welfare by unreasonable conduct and implementing measures to eliminate or control those risks. Council staff/volunteer/customer safety is the number one priority.

**3.2** Ensure equity and fairness – ensuring all current and potential requests be addressed equitably and fairly and resources are distributed based on the merit of each request, rather than a customer's demands or conduct.

**3.3** Improve efficiency – improving overall efficiency by allocating sufficient time and resources, addressing unreasonable customer conduct which, if left unmanaged, can be a significant drain on the complaint resolution resources of an organisation.

# 4. Definitions

**4.1** **Abusive** - Extremely offensive and insulting behaviour or personal attacks

**4.2** **Complaint** - An expression of dissatisfaction made to or about a decisions, products, services, facilities, Council staff or the handling of a complaint.

**4.3** **Cooperation** - An act or instance of working or acting together for a common purpose or benefit; joint action.

**4.4** **Customers and Participants** - an individual, group, or organisation that uses, participates in, or benefits from Council facilities, services, information, or activities, on a one-off, ongoing, or contractual basis.

**4.5** **Feedback** - Positive and negative comments (verbal or written remarks expressing an opinion or reaction) about our products, services, facilities or Council staff & Volunteers.

**4.6** **Council Workers** - All associated employees and volunteers of Mid Murray Council.

**4.7** **Stalking** - The act of engaging in a course of conduct directed at a person that serves no legitimate purpose and seriously alarms, annoys, or intimidates that person. This includes filming or recording a staff member after being asked to stop.

**4.8** **Threat** - A statement of an intention to inflict pain, injury, damage, or other hostile action on someone (or to self) in retribution for something done or not done.

**4.9** **Unreasonable** - Behaviour and actions that are considered by a reasonable person as being unfair, rational, or sensible.

**4.10** **Vexatious** - Intention to annoy or cause problems for someone.

# 5. Defining Unreasonable Conduct

**5.1** **Unreasonable conduct**

Unreasonable conduct is behaviour demonstrated by a customer that because of its nature, intensity or frequency of their contact, raises health, safety, resource or equity issues on public safety, Council staff, volunteers, customers, services, time and/or resources.

5.1.1 **Unreasonable Conduct Directed Toward Council Staff and Volunteers**
This includes behaviour by a customer that impacts the health, safety, wellbeing, or ability of Council workers to perform their roles. These behaviours may significantly impact worker safety, service delivery, and organisational resources.

5.1.2 **Unreasonable Conduct Between Customers**
This includes behaviour by a customer that impacts the safety, wellbeing, or experience of other customers, facility users, or participants in Council services, programs or facilities. Such conduct may impact public safety, equitable access to services, and the overall community experience.

Examples of unreasonable conduct includes (but not limited to):

- Unreasonable persistence
- Unreasonable demands
- Unreasonable lack of cooperation
- Unreasonable arguments
- Unreasonable behaviours (including threatening and aggressive behaviour)

### 5.2 Unreasonable persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a customer that has a disproportionate and unreasonable impact. Some examples of unreasonably persistent behaviour include:

- An unwillingness or inability to accept reasonable and logical explanations, including final decisions that have been comprehensively considered and dealt with.
- Persistently contacting Council staff about the same matter when it has been comprehensively considered and dealt with.
- Contacting different Council staff seeking a different outcome or response about the same matter when it has been comprehensively considered and dealt with.
- Repeatedly contacting Council staff via phone calls, voicemail messages, visits, letters and emails, including carbon copied (cc'd) correspondence after being asked not to do so.
- Continued after hours contact after being asked to contact Mid Murray Council during working hours.

### 5.3 Unreasonable demands

Unreasonable demands are demands made by a customer that have a disproportionate and unreasonable impact. Some examples of unreasonable demands include:

- Insisting on outcomes that are not possible or appropriate in the circumstances – e.g. for someone to be dismissed or prosecuted, an apology and/or compensation with no reasonable basis for expecting this.
- Demanding services that are of a nature or scale that cannot be provided by Mid Murray Council.
- Issuing instructions and making demands about how Council have/should handle their complaint/request, the priority, or the outcome that was/should be achieved.
- Insisting on talking to a senior manager or the Chief Executive Officer personally when it is not appropriate or warranted, or before escalation and resolution processes have been worked through.

### 5.4 Unreasonable lack of cooperation

Unreasonable lack of cooperation and an unwillingness by a customer to cooperate with our organisation, Council staff, or the complaints process. Some examples of unreasonable lack of cooperation include:

- Arguing frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid contrary explanations.
- Displaying unhelpful behaviour – such as withholding information, acting dishonestly, misquoting others, manipulating circumstances etc.
- Repeatedly rescheduling or not attending meetings/discussions in which the purpose is to resolve concerns without providing reasonable notice.
- Failure to follow reasonable requests.

### 5.5 Unreasonable arguments

Unreasonable arguments include any arguments that are false, defamatory. Arguments are unreasonable when they:

- Are not supported by any evidence;
- Are speculative and/or are made without any proper basis;
- Are false or defamatory;
- Are vexatious and made without sufficient grounds but made to cause annoyance.

### 5.6 Unreasonable behaviours

Unreasonable behaviour is conduct that is unreasonable because it compromises the health, safety and security of Council staff, other service users or the customer themselves. Some examples of unreasonable behaviours include:

- Behaviour with the intention to intimidate, bully or harass another person;
- Acts of aggression, verbal abuse, derogatory, racist, or defamatory remarks;
- Harassment, intimidation or physical violence;
- Rude, confronting and threatening correspondence or behaviour;
- Threats of any kind (including threats made verbally, via social media or in writing). Threats may be of harm to self or third parties, threats with a weapon or threats to damage property or reputation; and
- Stalking;
- Online harassment or trolling.

# 6. Procedure

### Steps for assessing behaviour / if further action is required

The steps for assessing and responding to complaints of unreasonable behaviour are outlined in **Attachment 1:** *Unreasonable Conduct Process Map*

**6.1** Complaints regarding unreasonable conduct are to be documented via the Council's Records Management System and provided to the Director. All incidents must be reported in accordance with Council's WHS Incident Reporting and Investigation Procedure.

**6.2** The Director is to consider all relevant factors and make a recommendation on further action. Relevant factors include:

6.2.1 The negative impact of the unreasonable conduct on council staff and or volunteers or between customers;

6.2.2 The communication to date between the parties;

6.2.3 The specific nature of the unreasonable complainant conducted as defined in section 4;

6.2.4 The history of Council's dealing with the individual or group involved in the unreasonable conduct. Noting history can be searched in Council's Records Management System and incident reports via Skytrust. The Records Department can assist in searching on unreasonable customer interactions reported by staff.

6.2.5 The immediacy of risks arising from the unreasonable conduct;

6.2.6 The negative impact of the unreasonable conduct on equitable use of Council resources;

6.2.7 Whether the approach is reasonable and proportionate in the circumstances.

Following an assessment, the Manager can decide:

6.2.8 No further action is required (as the conduct does not meet the unreasonable behaviour definitions outlined), OR

6.2.9 The person displaying the unreasonable conduct be notified in writing that a complaint of unreasonable conduct has been made against them, and outlining the expectations of any continued communication with the Council, OR

6.2.10 Make a recommendation to the Director, who can direct and advise the customer of limited or adapted ways Council will interact with the customer during any forthcoming exchanges. Refer to section 7.

**6.3** The relevant Director can place limitations (as outlined in **Clause 7**) on how a customer interacts with Council, if following the first written notification, the customer does not modify behaviour or if the unreasonable conduct poses an imminent, ongoing or increasing threat to the health and safety of another customer or council staff member or volunteer. The Director will send a letter to the customer, advising of these limitations deemed appropriate.

**6.4** The relevant Director will also notify the Manager of their decision to change or restrict a customer's access to Mid Murray Council or Facility and provide a copy of the letter that sent to the customer, outlining their adapted or limited access conditions.

**6.5** The Manager will keep a record outlining the nature of the restrictions imposed and their duration, and notify relevant Council staff in the organisation, in particular frontline Council staff and Volunteers.

**6.6** Customer details and any letters sent to customers in relation to unreasonable conduct are to be saved within Council's records management system.

**6.7** Once a customer is issued with a notification letter, the Manager will review the effectiveness and need for the restriction to continue or be removed within a 12-month period from first notification being sent.

# 7. Limiting or adapting the ways Council interacts with unreasonable customers

Based on an assessment of the impact and risks of the unreasonable conduct, the way a customer interacts with Council may be limited or adapted in the following ways:

**7.1** ***Limiting the customer to a sole contact point***

Where a customer demonstrates unreasonable persistence or demands, it may be appropriate to restrict their access to a single Council staff member (a sole contact point) who will exclusively manage their request(s), complaint(s) and interactions with Mid Murray Council. This will ensure they are interacted with consistently and will minimise the chances for ambiguity, misunderstandings, contradictions and manipulation.

**7.2** ***Restricting the subject matter of communications that Mid Murray Council will consider***

Where customers continue to engage in unreasonable conduct about issues that have already been comprehensively considered and/or reviewed (at least once) by the organisation, restrictions can be applied to the issues/subject matter the customer can raise.

The Council may specify the unreasonable conduct and refuse to respond to correspondence that raises an issue that has already been dealt with comprehensively. The customer will be advised that future correspondence of this kind will be read and filed without acknowledgement. It is important to specify the duration of the change or restriction imposed, which initially may be for up to 12 months at which point it will be reviewed.

**7.3** ***Limiting when and how a customer can contact Mid Murray Council***

If a customer's telephone, written or face-to-face contact with the Council places an unreasonable demand on time or resources because it is overly onerous or affects the health, safety and security of Council staff because it involves behaviour that is persistently rude, threatening, abusive or aggressive, limits may be imposed in relation to when and/or how the customer can interact with Mid Murray Council. This may include:

7.3.1 Limiting their telephone calls or face-to-face contact to a particular time of the day or days of the week.

7.3.2 Limiting the length or duration of telephone calls, written correspondence or face-to-face contact.

7.3.3 Permitting them to attend Council premises on an 'appointment only' basis and only with specified Council staff. This may include the need for a minimum of 2 staff to be in attendance or a security guard. Note – the safety and security of Council staff must be assessed when considering this option.

7.3.4 Directing the customer to leave Council premises if their conduct is rude, threatening, abusive or aggressive.

7.3.5 Temporarily or permanently banning the customer from attending Council premises (all premises or selected) and allowing some other form of contact – e.g. 'writing only' or 'telephone only' contact.

**7.4 *Issue an* expiation *for breach of section 9.7, By-Law No 4 – Local Government Land***

If a customer behaves in such a manner to cause discomfort, inconvenience, annoyance or offence to any other person whilst on Local Government Land an expiation for a breach of By-Law 4 may be issued. The decision to expiate should be made in consultation with the Senior Management Team or the CEO and should consider the impact of the conduct on other persons, including Council staff. Any expiation must be issued by an Authorised Officer and will impose the relevant expiation fee as set out in *By-Law No 1 – Permits and Penalties*.

**7.5 Terminating a customer's access to Mid Murray Council or Facility or Activity**

In rare cases, and as a measure when all other strategies have been considered and/or attempted, or the behaviour poses a high risk to safety or is unlawful, it may be necessary for the organisation to completely terminate a customer's contact/access. This direction must be approved by the CEO.

A decision to have no further contact with a customer will only be made if there is a documented history of contact that supports the reasonable conclusion that the customer is unlikely to modify their conduct and/or their conduct poses a significant risk for Council staff or other parties. In general, this history would involve one or more of the following types of conduct:

- Acts of aggression, verbal and/or physical abuse, threats of harm, harassment, intimidation, stalking, assault;
- Damage to property while on Council's premises;
- Conduct that is otherwise unlawful.

A customer's access to the Council and its facilities and services may also be restricted (directly or indirectly) using the legal mechanisms such as trespass laws/legislation or legal orders to protect members of Council staff from personal violence, intimidation or stalking. Any advice to a customer terminating their access to Mid Murray Council and its facilities and services must specify that their obligation to pay rates or other monies owed to Council is not changed as a consequence of their terminated access.

# 8. Managing difficult situations & immediate risks

**Unreasonable Conduct Directed Toward Council Staff and Volunteers**

**8.1** Council workers have the right to call Police or use the duress button at their own discretion if a customer is being threatening. This action does not require the approval of the relevant Manager, Director or CEO. Managers are to be notified of any incident where police attendance was sought.

**8.2** Customers may cause offence by speaking or acting in an offensive manner, using offensive language/body language, or both. Workers do not have to accept this. The following response is acceptable:

8.2.1 If the customer is abusive or offensive using either verbal or non-verbal communication, the worker may say "Your language (or manner/gesture) is offensive to me. I would like to be able to assist you with your request but will not until this behaviour ceases."

8.2.2 If such behaviour continues, advise the customer that the meeting, call, discussion or interaction will be immediately terminated should the behaviour continue.

8.2.3 Where a meeting, call or interaction is terminated, the worker will notify their Manager in a timely manner.

**8.3** If a customer makes specific threats (i.e. an intention to cause harm or damage), the following procedure should be followed:

8.3.1 If the threat is in person, contact the Police immediately.

8.3.2 If the threat is over the phone, workers are encouraged not to hang up, and to listen carefully; making detailed notes about the threat (specific words used), the caller, any background noises (at the caller's end) and the time that the call was received.

8.3.3 Do not hang up after the call has been terminated by the customer. Review 'call history' if available and note down the number the call came from, if not listed as a private number.

8.3.4 Immediately inform the Police and the direct Manager.

8.3.5 Workers should record details of any threats, using the "Unreasonable Customer Behaviour - Threat Checklist" (Attachment 2) to enable Council to conduct investigations where appropriate.

8.3.6 Complete an incident report (Skytrust).

Unreasonable Conduct Between Customers

**8.4** Where unreasonable conduct occurs between customers, Council workers must prioritise the health, safety, security and wellbeing of all persons present. Council workers are not required to physically intervene or place themselves at risk.

**8.5** If a customer behaves in a rude, offensive, threatening or aggressive manner toward another customer. The following response is acceptable:

8.5.1 the worker may give clear verbal directions for the behaviour to stop and advise that the behaviour is unacceptable.

8.5.2 Workers may direct one or more customers to move away, leave the immediate area, or leave the Council facility or activity.

8.5.3 If the behaviour continues, the worker may terminate the interaction or activity and notify their Manager as soon as practicable.

**8.6** If a customer fails to comply with directions, or the behaviour escalates or presents a safety risk:

8.6.1 Council workers have the right to contact Police or emergency services at their discretion. This action does not require prior approval.

8.6.2 Managers are to be notified of any incident where Police attendance was sought.

8.6.3 An incident report must be completed in accordance with Council's WHS Incident Reporting and Investigation Procedure.

**8.7** Unreasonable conduct between customers is to be documented and assessed by the Manager and/or Director to determine whether the conduct meets the definition of unreasonable conduct and whether warnings, limitations, or restrictions on access are required under this Procedure.

**8.8** Council workers are not required to mediate disputes between customers, but may act where conduct impacts safety, equitable access to services, or the reasonable use of Council resources.

# 9. Communication and Right of appeal

**9.1** Affected individuals will be notified of any restrictions and how they may request a review or appeal any decisions made under the Procedure.

**9.2** Customers are entitled to one internal appeal of a decision to change/restrict their access to Mid Murray Council. The CEO will undertake this review and will consider the customer's perspective along with all relevant records regarding the customer's past conduct. The CEO will advise the customer of the outcome of their appeal by letter.

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

# 10. Procedure Responsibility

The Chief Executive Officer is responsible for ensuring the proper operation of this Procedure.

# 11. Availability/Accessibility

**11.1** This Procedure and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: www.mid-murray.sa.gov.au.

**11.2** This Procedure is available for inspection at Council's principal office during ordinary business hours. Hard copies, for a fee in accordance with Council's schedule of Fees and Charges, can be provided upon request.

# 12. Legislative Framework / Other References

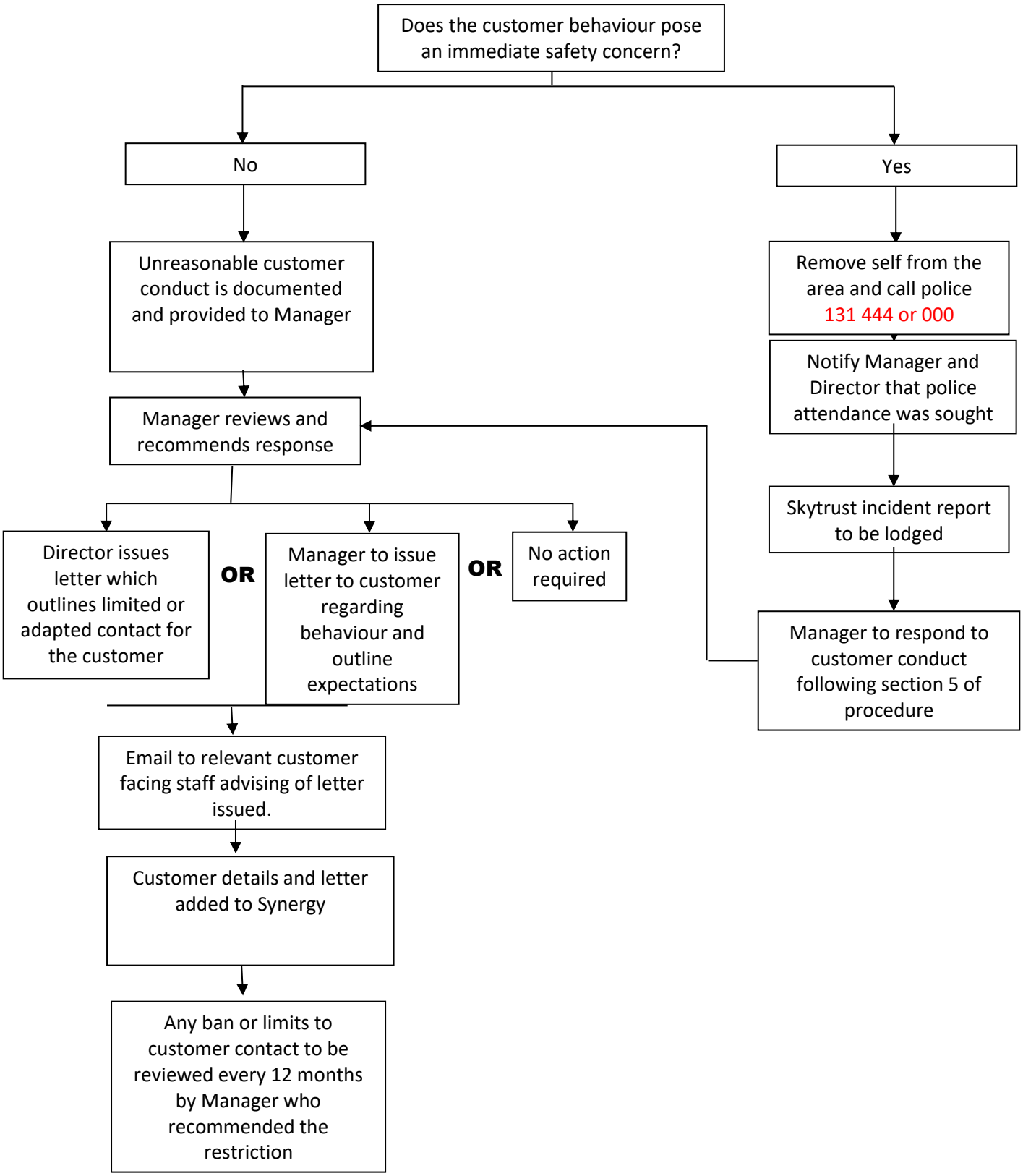
- *Complaints Policy*
- *Complaints Procedure*
- *Work Health and Safety Act 2012 (SA)*
- *Work Health and Safety Regulations 2012 (SA)*
- *Section 270 of the Local Government Act 1999*
- WHS 3.1 Incident Reporting and Investigation Procedure

# 13. Document History

This Procedure shall be reviewed at least every four (4) years or more frequently if legislation or Council requires.

| Version | Adopted | Minute | Description of Change |
|---|---|---|---|
| 1 | 15 August 2023 | C08-23/017 | Adopted |
| 2 | 18 August 2026 | C08-26/020 | Modification and addition of clauses throughout the Procedure providing clearer definition and guidance for managing unreasonable conduct. |

## Attachment 1 - Unreasonable Conduct Process Map



| ATTACHMENT 2 – UNREASONABLE CONDUCT – THREAT CHECKLIST | | | |
|---|---|---|---|
| **GENERAL QUESTIONS TO ASK CUSTOMER** | **DESCRIPTION** | **CUSTOMER VOICE** | **DESCRIPTION** |
| What is the threat?<br>When?<br>Where?<br>How?<br>Why?<br>What does it look like? | | Any impediment (specify)<br>Voice (loud, soft, etc.)<br>Speech (fast, slow, etc.)<br>Diction (clear, muffled)<br>Manner (calm, emotional, etc.)<br>Did you recognise the caller/customer?<br>Did the caller/customer appear familiar with the area? | |
| **LANGUAGE** | **DESCRIPTION** | **PHYSICAL APPEARANCE** | **DESCRIPTION** |
| Accent (Specify)<br>Well spoken<br>Incoherent<br>Irrational<br>Recorded<br>Message read by customer?<br>Other? | | Gender<br>Estimated age<br>Colour of eyes<br>Any distinctive markings such as Tattoos, scars, etc.<br>Clothing and shoe type<br>Height (height marker on doors)<br>Other belongings | |
| **EXACT WORDING OF THREAT** | | | |
| Date of incident | | Time of incident | |
| Duration of call / interactions | | Number customer called | |
| Name of staff member reporting | | | |
| Other witnesses of interaction | | | |