

Managing unreasonable conduct by customers

Tasmanian Local Government - Model policy

Acknowledgement

This model policy has been adapted, with permission, from the NSW Ombudsman's model policy *Managing unreasonable conduct by complainants* (2022).

Purpose

This model policy provides a clear, standardised, and consistent model that councils can use to inform and support their policy development processes. All councils – whether they are in the process of developing a new policy or procedure regarding unreasonable conduct by a customer (UCC) or already have one – should take time to review this document to ensure their policies and procedures are fair and consistent with this model policy. It is important to note that this document is only a guide. Each council will need to decide how best to implement it within existing organisational systems and protocols.

Important points and caveats

1. UCC policy and procedure must be in writing

To ensure transparency, accountability, fairness, and consistency in the management of UCC incidents, councils are strongly recommended to have a written UCC policy and procedure(s) for its staff. This will ensure staff are aware of their roles and responsibilities and have clear guidance.

Written policies and procedures also provide a reference point for customers – as well as review bodies, courts or tribunals that may subsequently be tasked with reviewing their application.

2. Avoiding misuse and overuse of UCC policies

UCC policies should be applied cautiously and sparingly and should never be seen as a quick solution for dealing with customers who are angry or frustrated or who are regarded as being annoying or a nuisance. People who are making enquiries, raising concerns or complaints should always be treated with respect, regardless of their behaviour. Cultural factors should also be considered to rule out any miscommunication or misinterpretation around the behaviour being shown. The policy should only apply when a customer's conduct raises the types of safety, resource and equity issues identified in the NSW Ombudsman's manual: *Managing unreasonable conduct by a complainant manual (3rd edition)*¹ and supporting documents. For most councils, these cases are likely to be very few in number.

UCC policies must always take the customer's personal circumstances into account and should never be applied in ways that go beyond what is appropriate and necessary to manage a customer's conduct. The aim is not to punish the customer, but to manage the impacts of their conduct.

For example, it would be inappropriate for a council to restrict a customer's access to 'writing only' if that customer is not proficient in English, is illiterate or vision impaired. It would be equally inappropriate to impose access restrictions in ways that would limit a customer's ability to exercise a right that has been provided to them by statute.

To guard against misuses or overuses of UCC policies, councils should have effective systems for:

¹ <https://www.ombo.nsw.gov.au/guidance-for-agencies/managing-unreasonable-conduct-by-a-complainant> - accessed 9 August 2023

- **Recording and reporting all UCC incidents** – this includes ensuring staff are trained in appropriate and consistent record keeping practices and ensuring they have in place a Customer Relationship Management system where UCC incidents can be easily reported, recorded, and accessed.

A system that is capable of delivering timely and accurate information about customers and their complaints is essential to properly responding to instances of UCC, particularly if a customer's access to a council has been modified or restricted. It can facilitate the sharing and dissemination of information among staff and ensure a consistent approach.

A good Customer Relationship Management system is:

- easily accessible and searchable
 - capable of being easily updated with contemporaneous information
 - contains information and documentation relating to all complaints and customers
 - includes a system of alerts and notifications that promptly alert staff to any access changes or restrictions along with contextual information (in summary form) of the nature and reasons for those restrictions
 - includes a tracking system for monitoring incidents of UCC and their progress.
- **Recognising cultural issues** – this includes ensuring that staff are trained in recognising behavioural traits and communication patterns that are common in a range of cultural groups.
 - **Tracking and monitoring all uses of their policies** – one staff member (e.g., a Corporate Services or Governance Manager) should be responsible for tracking and monitoring all uses of the UCC policy to ensure that it is being applied consistently, appropriately, and effectively and that UCC cases are reviewed at appropriate intervals.
 - **Reviewing all cases where the UCC policies and procedures are used** – the use of the policy and procedures should be reviewed regularly. This can help a council to ensure the policy is necessary, appropriate, and effective in the circumstances.

3. Handling enquiries, and complaints in ways that will not trigger or exacerbate instances of UCC

Councils must acknowledge that sometimes they and their staff get it wrong and can, in fact, trigger or exacerbate instances of UCC. Mistakes can be made, enquiries, complaints and cases can be mishandled, delays can occur, and processes and procedures are sometimes overly complex, culturally inappropriate, or unresponsive to the needs of certain customers.

In these circumstances, and in any circumstance where a council contributes to a customer's unreasonable conduct, it should immediately rectify the problem – including providing the customer with an apology.

It is vital that councils and their staff treat customers with dignity and respect at all times, regardless of what the customer may do or say. This can help to ensure the complaint process is as smooth as possible, as well as helping to maintain an ongoing relationship between the council and the customer.

If remediation does not work and the council's relationship with the customer breaks down, the council may consider alternative dispute resolution approaches (such as conciliation) to resolve the issue and begin to rebuild the relationship with the customer where appropriate. See **section 6** below for more information.

Unreasonable conduct of customers

Model Policy

1. Introduction

1.1 Statement of support

[Council name] is committed to being accessible and responsive to all customers who approach our office 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 office depends on:

- our ability to do our work in the most effective and efficient ways possible
- the health, safety, and security of our staff
- our ability to allocate our resources fairly across all the complaints, enquiries and contact we receive.

When customers behave unreasonably, their conduct can significantly affect the successful conduct of our work. [Council name] will act proactively and decisively to manage any customer conduct that negatively and unreasonably affects us and will support our staff to do the same in accordance with this policy.

I authorise and expect all [Council name] staff to implement the strategies provided in this policy.

[General Manager] APPROVAL

[Signature]

2. Objectives

2.1 Policy aims

This policy was developed to assist all staff members to better manage unreasonable and challenging conduct by customers (**UCC**). It aims to help staff:

- feel confident and supported in taking action to manage UCC
- act fairly, consistently, honestly, and appropriately when responding to UCC
- understand their roles and responsibilities in relation to the management of UCC, and how this policy will be used
- understand the types of circumstances when it may be appropriate to manage UCC using one or more of the following mechanisms:
 - the strategies provided in the NSW Ombudsman's *Managing unreasonable conduct by a customer manual* (3rd edition)² including the strategies to change or restrict a customer's access to our services
 - alternative dispute resolution strategies to deal with conflicts involving customers and members of our council
 - legal instruments such as trespass laws or other legislation to prevent a customer from coming onto our premises, and orders to protect specific staff members from any actual or apprehended personal violence, intimidation, or stalking
 - guidelines to managing unreasonable conduct of the public in council meetings,

² <https://www.ombo.nsw.gov.au/guidance-for-agencies/managing-unreasonable-conduct-by-a-complainant> - accessed 19 March 2024

including public question time

- understand the criteria we will consider before we decide to change or restrict a customer's access to our services
- be aware of the processes that will be followed to record and report UCC incidents, and the procedures for consulting and notifying customers about any proposed action or decision to change or restrict their access to our services
- understand the procedures for reviewing decisions made under this policy, including specific timeframes for review.

3. Defining unreasonable conduct by a customer

3.1 Unreasonable conduct by a customer

Most customers act reasonably and responsibly in their interactions with us, even when they are experiencing high levels of distress, frustration, and anger about their concern or matter. However, despite our best efforts to help them, in a very small number of cases customers display inappropriate and unacceptable behaviour. They can be aggressive and verbally abusive towards our staff, threaten harm and violence or bombard our offices with unnecessary and excessive phone calls and emails. They may make inappropriate demands on our time and resources or refuse to accept our decisions and recommendations in relation to their complaints. When customers behave in these ways (and where there are no cultural factors that could reasonably explain their behaviour) we consider their conduct to be 'unreasonable'.

In short, unreasonable conduct by a customer is any behaviour by a current or former customer which, because of its nature or frequency raises substantial health, safety, resource or equity issues for our council, our staff, other service users and customers or the customer themselves.

UCC can be divided into 5 categories of conduct:

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

3.1.1 Unreasonable persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a customer that has a disproportionate and unreasonable impact on our council, staff, services, time, or resources. 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 (even when it is evident the customer does understand the information provided).
- Persistently demanding a review simply because it is available, and without arguing or presenting a case for one.
- Pursuing and exhausting all available review options, even after we have explained that a review is not warranted – and refusing to accept that we cannot or will not take further action on their complaint.
- Reframing a complaint in an effort to get it taken up again.
- Multiple and repeated phone calls, visits, letters, emails (including cc'd correspondence) after we have repeatedly asked them not to.
- Contacting different people within or outside our council to get a different outcome or a more sympathetic response to their enquiry, complaint or concern – this is known as internal and external 'forum shopping'. This can include excessive communications with councillors and elected members.

3.1.2 Unreasonable demands

Unreasonable demands are any demands expressly made by a customer that have a disproportionate and unreasonable impact on our council, staff, services, time, or resources. Some examples of unreasonable demands include:

- Issuing instructions and making demands about how to handle their complaint or enquiry, the priority it should be given, or the outcome to be achieved.
- Insisting on talking to a senior manager or the General Manager personally when the reasons that this is not appropriate or warranted have been carefully explained to the customer.
- Emotional blackmail and manipulation resulting in intimidation, harassment, shaming, seduction or portraying themselves as being victimised when this is not the case.
- Insisting on outcomes that are not possible or appropriate in the circumstances, for example asking for someone to be fired or prosecuted, or for an apology or compensation when there is no reasonable basis for this.
- Demanding services of a nature or scale that we cannot provide, even after we have explained this to them repeatedly.

3.1.3 Unreasonable lack of cooperation

Unreasonable lack of cooperation is when a customer is unwilling or unable to cooperate with us, our staff, or our complaints process – resulting in a disproportionate and unreasonable use of our services, time, or resources. Some examples of unreasonable lack of cooperation include:

- Sending us a constant stream of complex or disorganised information without clearly defining the issue at hand or explaining how the material provided relates to their complaint or enquiry (where the customer is clearly capable of doing this).
- Providing little or no detail around their complaint or enquiry, or providing information in ‘drips and drabs’.
- Refusing to follow or accept our instructions, suggestions, or advice without a clear or justifiable reason for doing so.
- Arguing that a particular solution is the correct one in the face of valid contrary arguments and explanations.
- Unhelpful behaviour such as withholding information, acting dishonestly and misquoting others.

3.1.4 Unreasonable arguments

Unreasonable arguments include any arguments that are not based on any reason or logic, that are incomprehensible, false, or inflammatory, trivial, or delirious, and that disproportionately and unreasonably impact upon our council, staff, services, time, or resources. Arguments are unreasonable when they:

- fail to follow a logical sequence that the customer is able to explain to staff
- are not supported by any evidence or are based on conspiracy theories
- lead a customer to reject all other valid and contrary arguments

- are trivial when compared to the amount of time, resources, and attention that the customer demands
- are false, inflammatory, or defamatory.

3.1.5 Unreasonable behaviour

Unreasonable behaviour is conduct that is unreasonable in all circumstances (regardless of how stressed, angry, or frustrated a customer is) because it unreasonably compromises the health, safety and security of our staff, other service users or the customer themselves. Some examples of unreasonable behaviours include:

- acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks
- harassment, intimidation, or physical violence
- rude, confronting, or threatening 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.

All staff should note that *[Council name]* has a zero-tolerance policy towards any harm, abuse or threats directed towards them. Any conduct of this kind will be dealt with under this policy, *[insert any other relevant security policy or procedure if applicable]* and in accordance with our duty of care and work health and safety responsibilities under the Tasmanian *Work Health and Safety Act 2012*.

4. Roles and responsibilities

4.1 All staff

All staff are responsible for familiarising themselves with this policy as well as expectations of council and customers, as detailed within council customer service charters. Staff are also encouraged to explain the contents of this document to all customers, particularly those who engage in UCC or exhibit the early warning signs of UCC.

Staff are also encouraged and authorised to use the strategies and scripts provided at the NSW Ombudsman's website – see Part 2 of the *Managing unreasonable conduct by a complainant Manual (3rd edition)*³:

- Strategies and scripts for managing unreasonable persistence
- Strategies and scripts for managing unreasonable demands
- Strategies and scripts for managing unreasonable lack of cooperation
- Strategies and scripts for managing unreasonable arguments
- Strategies and scripts for managing unreasonable behaviours

Any strategies that change or restrict a customer's access to our services must be considered by the General Manager, or their delegate, as provided in this policy.

Staff are also responsible for recording and reporting all UCC incidents they experience or witness (as appropriate) to the General Manager, or their delegate, within 24 hours of the incident occurring, using the Sample UCC incident form in **Appendix A**. A file note of the incident should also be copied into the council Customer Relationship Management system.

4.2 The General Manager

The General Manager, in consultation with relevant staff, has the responsibility and authority to change or restrict a customer's access to our services in the circumstances identified in this policy. When doing so they will consider the criteria in **section 7.2** below (adapted into a checklist in **Appendix B**) 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 customer, but rather to manage the impacts of their conduct. Under this policy, the General Manager is able to delegate certain responsibilities to another Senior Manager, however the final decision regarding service limitation should always be a responsibility of the General Manager.

When applying this policy, the General Manager, or their delegate, will also aim to keep at least one open line of communication with a customer. However, we do recognise that in extreme situations all forms of contact may need to be restricted for some time to ensure the health, safety, and security of our staff or third parties.

The General Manager, or their delegate, is also responsible for recording, monitoring, and reviewing all cases where this policy is applied to ensure consistency, transparency, and accountability for the application of this policy. They will manage and keep a file record of all cases where this policy is applied.

4.3 Senior managers and team leaders

All senior managers and team leaders are responsible for supporting staff to apply the strategies in this policy, as well as those in the manual. Senior managers and team leaders are also responsible for ensuring compliance with the procedures outlined in this policy, and that all

³ <https://www.ombo.nsw.gov.au/guidance-for-agencies/managing-unreasonable-conduct-by-a-complainant> - accessed 19 March 2024

staff members are trained to deal with UCC – including on induction.

After a stressful interaction with a customer, senior managers and team leaders should provide affected staff members with the opportunity to debrief their concerns either formally or informally. Senior managers and team leaders will also ensure that staff are provided with proper support and assistance including medical or police assistance, and if necessary, support through programs like the Employee Assistance Program.

Senior managers and team leaders may also be responsible for arranging other forms of support for staff, such as appropriate communication or intercultural training.

4.4 Councillors

Councillors hold a vital role in upholding the principles outlined in this policy, contributing to a safe and respectful community environment. Councillors have a responsibility to advocate for the implementation and adherence to the policy within the community.

5. Responding to and managing UCC

5.1 Changing or restricting a customer's access to our services

UCC incidents will generally be managed by limiting or adapting the ways we interact with or deliver services to customers by restricting:

- **Who they have contact with** – limiting a customer to a sole contact person or staff member in our council.
- **What they can raise with us** – restricting the subject matter of communications that we will consider and respond to.
- **When they can have contact** – limiting a customer's contact with our council to a particular time, day, or length of time, or curbing the frequency of their contact with us.
- **Where they can make contact** – limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office.
- **How they can make contact** – limiting or modifying the forms of contact that the customer 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 provision of 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 customer's personal circumstances such as level of competency, literacy skills, and cultural background. In this regard, we also recognise that more than one strategy may be needed in individual cases to ensure their appropriateness and efficacy.

5.2 Who: limiting the customer to a sole contact point

Where a customer tries to forum-shop within our council, changes their issues of complaint or their enquiry repeatedly, constantly reframes their issues, or raises an excessive number of issues, it may be appropriate to restrict their access to a single staff member (a sole contact point) who will manage their correspondence and interaction with our office. This may help ensure they are dealt with consistently and may minimise the incidence of misunderstandings, contradictions, and manipulation.

To avoid staff 'burnout', the sole contact officer's supervisor will provide them with regular support and guidance as needed. The General Manager, or their delegate, will also review the arrangement every six months to ensure that the officer is managing/coping with the arrangement.

Customers who are restricted to a sole contact person will, however, be given the contact details of one additional staff member who they can contact if their primary contact is unavailable – for example if they go on leave or are otherwise unavailable for an extended period of time.

5.3 What: restricting the subject matter of communications that we will consider

Where customers repeatedly send letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content, or relate to an issue that has already been comprehensively considered or reviewed (at least once) by our office, we may restrict the issues the customer can raise with us. For example, we may:

- Refuse to respond to correspondence that raises an issue that has already been dealt with, that raises a trivial issue, or is not supported by evidence. The customer 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 customer to one complaint or enquiry per month. Any attempts to circumvent this restriction (for example by raising multiple complaints or issues in the one letter) may result in modifications or further restrictions being placed on their access.
- Return the correspondence to the customer and require them to remove any inappropriate content before we agree to consider its contents. We will also keep a copy of the inappropriate correspondence for our records to help identify repeat UCC incidents.

5.4 When and how: limiting when and how a customer can contact us

If a customer’s contact with our council places an unreasonable demand on our time or resources, 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 or how the customer can interact with us. This may include:

- Limiting their telephone calls or face-to-face interactions 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 interactions. 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 [10] typed or written pages, single sided, font size 12 or it will be sent back to the customer to be organised and summarised – This option is only appropriate in cases where the customer is capable of summarising the information and refuses to do so.
 - Limiting face-to-face interactions to a maximum of [15] minutes.
- Limiting the frequency of their telephone calls, written correspondence, or face-to-face interviews. Depending on the natures of the service(s) provided we may limit:
 - Telephone calls to [1] every 2 weeks/month.
 - Written communications to [1] every 2 weeks/month.
 - Face-to-face interviews to [1] every 2 weeks/month.

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

- Require the customer 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 customers can send emails or other written communications to our office.
- Restrict a customer to sending emails to a particular email account (e.g., the council’s main email account) or block their email access altogether and require that any further correspondence be sent through Australia Post only.

We may, in accordance with our policies and guidelines surrounding social media, remove inappropriate content posted on council social media accounts, and any person who repeatedly violates such guidelines may be blocked from the council social media accounts.

‘Writing only’ restrictions

When a customer 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
- Hand delivery, where appropriate

If a customer's contact is restricted to writing only, the General Manager, or their delegate, will clearly identify the specific means that the customer can use to contact our office (e.g., Australia Post only). If it is not appropriate for a customer to enter our premises to hand deliver their written communication this must be communicated to them as well.

Any communications received by our office in a manner that contravenes a 'writing only' restriction will be read and filed without acknowledgement.

5.5 Where: limiting face-to-face interviews

If a customer 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 can include:

- Restricting access to particular secured premises or areas of the office such as the reception area or a secured room or facility.
- Restricting their ability to attend our premises to specified times of the day or days of the week only – for example, when additional security is available or to times or days that are less busy.
- Allowing them to attend our office on an 'appointment only' basis, and only with specified staff (for these meetings, staff should enlist the support and assistance of a colleague for added safety and security.)
- Banning the customer from attending our premises altogether and allowing some other form of contact, e.g., 'writing only' or 'telephone only' contact.

5.6 Terminating a customer's direct access to our services

In rare cases, and as a last resort when all other strategies have been considered, the General Manager may decide that it is necessary for our council to restrict a customer's direct contact or access to our services. In these situations, an intermediary body, such as an independent mediator, should be nominated by the General Manager.

A decision for a council to terminate direct contact with a customer will only be made if it appears that the customer is unlikely to modify their conduct, 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 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 customer will be sent a letter notifying them that their access has been restricted as outlined in **section 7.4** below.

A customer's access to our services and our premises may also be restricted (directly or

indirectly) using legal mechanisms like trespass laws and other legislation or legal orders to protect members of our staff from personal violence, intimidation or stalking by a customer.

5.7 Managing disruptive behaviour in council meetings

The *Local Government Act 1993* (the Act) promotes participation of the community in council meetings through public question time and observation of the decision-making process which should be conducted in an open and transparent way.

It is however, at this time in the meeting where it is most likely issues with unreasonable and disruptive conduct will arise.

Sometimes, members of public fail to show respect or consideration for the chairperson, elected members, council staff and other members of the public. Such unreasonable conduct makes the running of council business more difficult and stressful, reducing the efficiency and effectiveness of council meetings.

Unreasonable and disruptive conduct can also deny other members of the public the opportunity to participate in and observe council proceedings.

The Tasmanian *Local Government (Meeting Procedures) Regulations 2015* state that if a member of the public:

- a) hinders or disrupts a meeting; or
- b) tries to hinder or disrupt a meeting; or
- c) fails or refuses to leave a closed meeting –

then the chairperson may take reasonable steps to remove the person from the meeting or closed meeting, including requesting the assistance of a police officer in removing the person.

The chairperson and General Manager should familiarise themselves with *Guidelines - Disruptive behaviour by the public at council meetings*⁴, prior to taking any decisive action regarding behaviour of customers in council meetings.

⁴ PLACEHOLDER Link to: Disruptive behaviour by the public at council meetings guidelines
Managing unreasonable conduct by customers - model policy | May 2024

6. Alternative dispute resolution

6.1 Using alternative dispute resolution strategies to manage conflicts with customers

If the General Manager, or their delegate, determines that we cannot terminate our services to a customer in a particular case or that we or our staff bear some responsibility for causing or exacerbating their conduct, they may consider using alternative dispute resolution strategies (**ADRs**) such as mediation and conciliation to resolve the conflict with the customer 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.

However, we recognise that in UCC situations an ADR may not be an appropriate or effective strategy – particularly if the customer is uncooperative or resistant to compromise. Therefore, each case will be assessed on its own facts to determine the appropriateness of this approach.

7. Procedure to be followed when changing or restricting a customer's access to our services

7.1 Consulting with relevant staff

When the General Manager, or their delegate, receives a UCC incident form from a staff member, they will contact the staff member to discuss the incident. They will discuss:

- The circumstances that gave rise to the UCC incident, including the customer's situation, personal and cultural background, and perspective.
- The impact of the customer's conduct on our council, relevant staff, our time, resources etc.
- The customer's response to the staff member's warnings or requests to stop the unreasonable behaviour.
- What the staff member has done to manage the customer's conduct (if applicable).
- Any suggestions made by relevant staff on ways that the situation could be managed.

7.2 Criteria to be considered

Following a consultation with relevant staff the General Manager, or their delegate, will search the council Customer Relationship Management system for information about the customer's prior conduct and history with our council. They will also consider the following criteria:

- Whether the conduct in question involved overt anger, aggression, violence, or assault (which is unacceptable in all circumstances).
- Whether the customer's case has merit.
- The likelihood that the customer 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 customer's behaviour.
- Whether changing or restricting access to our services will affect the customer'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 customer's welfare, livelihood, or dependents etc.
- Whether the customer's personal circumstances have contributed to the behaviour – For example, the customer's cultural background may mean their communication patterns differ from those of our staff or our council's standards, or the customer 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 customer's response or conduct was moderately disproportionate, grossly disproportionate, or not at all disproportionate in the circumstances.
- Whether there are any statutory provisions that would limit the types of limitations that can be applied to the customer's contact with, or access to our services.

Once the General Manager, or their delegate, has considered these criteria, they will decide on the appropriate course of action. They may suggest formal or informal options for dealing with

the customer's conduct which may include one or more of the strategies provided in the manual and this policy.

See **Appendix B** – Sample checklist for General Manager, or their delegate, to consider when deciding to modify or restrict a customer's access.

7.3 Providing a warning letter

Unless a customer's conduct poses a substantial risk to the health and safety of staff or other third parties, the General Manager will provide them with a written warning about their conduct in the first instance. If the customer 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, time, and location of the UCC incident(s).
- Explain why the customer's conduct/UCC 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 council's ground rules and/or briefly state the standard of behaviour that is expected of the customer. See Council Customer Service Charter.
- Provide the name and contact details of the staff member who they can contact about the letter.
- Be signed by the General Manager.

See **Appendix C** – Sample warning letter.

7.4 Providing a notification letter

If a customer'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 General Manager has the discretion to send a notification letter immediately restricting the customer's access to our services (without prior or further written warning). If the customer 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, using an interpreter if necessary. The customer should at this point also be provided an opportunity to give a written response to any restrictions.

This notification letter will:

- Specify the date, time, and location of the UCC incident(s).

- Explain why the customer's conduct is problematic.
- Identify the change and/or restriction that will be imposed and what it means for the customer.
- 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 General Manager.

See **Appendix D** – Sample letter notifying customers of a decision to change or restrict their access to our services after a warning.

7.5 Notifying relevant staff about access changes/restrictions

The General Manager, or their delegate, will notify relevant staff about any decisions to change or restrict a customer's access to our services, in particular reception and security staff in cases where a customer is prohibited from entering our premises. This process includes notification to current elected members of the situation.

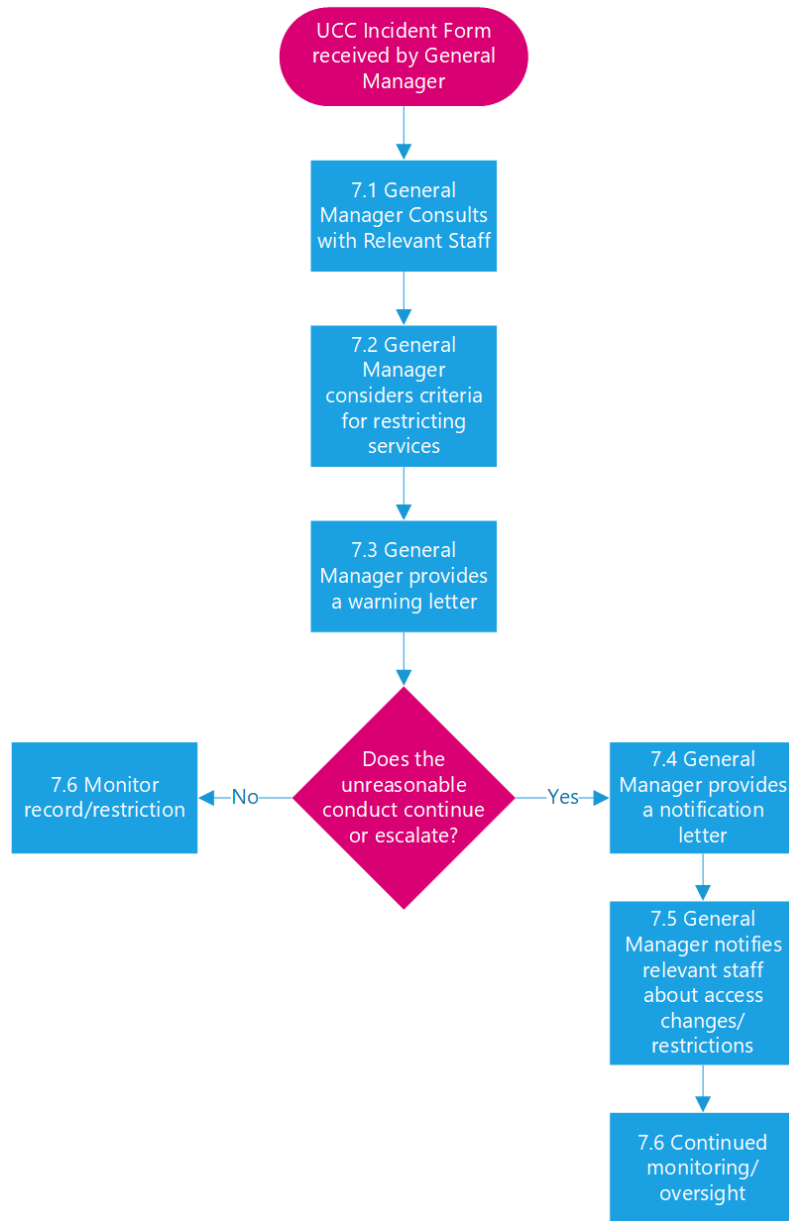
The General Manager or their delegate, will also update the council Customer Relationship Management system with a record outlining the nature of the restriction imposed and its duration.

7.6 Continued monitoring/oversight responsibilities

Once a customer has been issued with a warning letter or notification letter the General Manager, or their delegate, will review the customer's record/restriction every [3 months], on request by a staff member, or following any further incidents of UCC that involve the particular customer to ensure that they are complying with the restrictions/the arrangement is working.

If the General Manager, or their delegate, determines that the restrictions have been ineffective in managing the customer's conduct or are otherwise inappropriate they may decide to either modify the restrictions, impose further restrictions, or terminate the customer's access to our services altogether.

Figure 1: Modifying/ Restricting Access of Customers to Council Services



8. Appealing a decision to change or restrict access to our services

8.1 Right of appeal

People who have their access changed or restricted are entitled to one appeal of a decision to change or restrict their access to our services. This review will be undertaken by a senior staff member who was not involved in the original decision to change or restrict the customer's access. This staff member will consider the customer's arguments and personal circumstances, including cultural background, along with all relevant records regarding the customer's past conduct. They will advise the customer of the outcome of their appeal by letter, which must be signed off by the General Manager. The staff member will then refer any materials or records relating to the appeal to the General Manager to be kept in the appropriate file.

If a customer is still dissatisfied after the appeal 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.

9. Non-compliance with a change or restriction on access to our services

9.1 Recording and reporting incidents of non-compliance

All staff members are responsible for recording and reporting incidents of non-compliance by customers. This should be recorded in a file note in the council Customer Relationship Management system and a copy forwarded to the General Manager, or their delegate, who will decide whether any action needs to be taken to modify or further restrict the customer's access to our services.

10. Periodic reviews of all cases where this policy is applied

10.1 Period for review

All cases where this policy is used will be reviewed every 3 months or 6 months (depending on the nature of the service provided) and not more than 12 months after the service change or restriction was initially imposed or upheld.

10.2 Notifying the customer of an upcoming review

The General Manager, or their delegate, will ask customers if they would like to participate in the review process unless they determine that this invitation will provoke a negative response from the customer (i.e., further UCC). The invitation will be given, and the review will be conducted in accordance with the customer's access restrictions. See **Appendix E** – Sample letter notifying a customer of an upcoming review.

10.3 Criteria to be considered during a review

When conducting a review, the General Manager, or their delegate, will consider:

- Whether the customer has had any contact with the council during the restriction period.
- The customer's conduct during the restriction period.
- Any information or arguments put forward by the customer for review.
- Any other information that may be relevant in the circumstances.

The General Manager, or their delegate, may also consult any staff members who have had contact with the customer during the restriction period.

Sometimes a customer 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 customer has not contacted our council during their restriction period may not be an accurate representation of their level of compliance/reformed behaviour. This should be taken into consideration, in relevant situations.

See **Appendix F** – Sample checklist for reviewing an access change or restriction.

10.4 Notifying a customer of the outcome of a review

The General Manager, or their delegate, will tell the customer the outcome of their review using an appropriate method of communication, as well as a written letter explaining the outcome. The review letter will:

- Briefly explain the review process.
- Identify the factors that have been considered during the review.
- Explain the decision or outcome of the review and the reasons for it.
- Explain the appeals option for the customer, notably contact with the Ombudsman.

If the outcome of the review is to maintain or modify the restriction, the review letter will also:

- Indicate the nature of the new or continued restriction.
- State the duration of the new restriction period.
- Provide the name and contact details of the General Manager or relevant officer who the customer can contact to discuss the letter.
- Be signed by the General Manager.

See **Appendix G** – Sample letter advising the customer of the outcome of a review.

10.5 Recording the outcome of a review and notifying relevant staff

The General Manager, or their delegate, is responsible for keeping a record of the outcome of the review, updating the council Customer Relationship Management system and notifying all relevant staff of the outcome of the review including if the restriction has been withdrawn. This process includes notification to current elected members of the situation.

See **sections 4.2** and **7.5** above.

11. Managing staff stress

11.1 Staff reactions to stressful situations

Dealing with demanding, abusive, aggressive, or violent customers can be extremely stressful, distressing and even frightening for our staff. It is perfectly normal to get upset or stressed when dealing with difficult situations.

As a council, we have a responsibility to support staff members who experience stress as a result of situations arising at work and we will do our best to provide staff with debriefing and counselling opportunities, when needed. However, to do this we also need the help of all *[name of council]* staff to identify stressful incidents and situations. All staff have a responsibility to tell relevant supervisors and senior managers about UCC incidents, and any other stressful incidents that they believe require management to be involved.

11.2 Debriefing

Debriefing means talking things through following a difficult or stressful incident. It is an important way of dealing with stress. Many staff do this naturally with colleagues after a difficult telephone call, but staff can also debrief with a supervisor or senior manager (or as a team) following a significant incident. We encourage all staff to engage in an appropriate level of debriefing, when necessary.

Staff may also access an external professional service if required. *[Include relevant employee assistance information here].*

12. Training and awareness

[Name of council] is committed to ensuring that all staff are aware of and know how to use this policy. All staff who deal with customers in the course of their work will also receive appropriate training and information on using this policy and on managing UCC on a regular basis and on induction. This should include training to support culturally appropriate communication.

13. Policy review

All staff are encouraged to forward any suggestions they have in relation to this policy to the General Manager, or their delegate, who along with relevant senior managers will review it biennially (every 2 years).

14. Supporting documents and policies

14.1 Statement of compliance

This policy is compliant with and supported by the following documents:

- [Council name] Customer Service Charter
- [Council name] Work Health and Safety Policy
- [Council name] Complaint Handling Policy and Procedures
- [Council name] Alternative Dispute Resolution Policy and Procedure
- Managing unreasonable conduct by a customer manual (3rd edition)⁵

⁵ <https://www.ombo.nsw.gov.au/guidance-for-agencies/managing-unreasonable-conduct-by-a-complainant> - accessed 9 August 2023

Appendix A – Sample UCC incident form

This form should only be filled out if you encounter unreasonable conduct by a customer and consider that steps may need to be taken to change or restrict a customer’s access to services.

Complete this form and send it electronically or by hand to the General Manager or their delegate within 24 hours of a UCC incident. They will decide on the necessary and appropriate course of action for responding to and managing the customer’s conduct.

Date: _____ Case officer’s name: _____

Name of customer: _____ Customer’s case file number: _____

Details of the customer’s conduct/incident including whether emergency services were contacted:

Why do you consider this conduct to be unreasonable?

For example – has it occurred before/repeatedly, caused significant disruptions to our council, has or could it raise significant health and safety issues for our staff or other persons.

What action, if any, have you taken to manage the customer’s conduct?

For example – warning the customer ‘verbally’ about their conduct, previous attempts to manage the behaviour etc.

What do you think should be done to effectively manage the customer’s conduct?

Note – the final decision on the appropriate course of action will be made by the General Manager.

Is there any other information that might be relevant to this case? Please include information on any personal or cultural background issues that may have affected the customer's conduct. If necessary, attach any supporting documentation.

Appendix B – Sample checklist - modify or restrict a customer’s access

[To be completed by the General Manager after receiving UCC Incident Form (Appendix A)]

- I have received a signed and completed incident form from the case officer(s) involved (attach copy).
- I have spoken with relevant case officer(s) to obtain further information, as needed.
- I have reviewed the customer’s record and all the relevant information in it.
- I have referred to and considered **section 7.2 criteria to be considered** which includes an assessment of the following:

- The merits of the customers case

- The customer’s circumstances

- Jurisdictional issues

- Proportionality

- Council or case officer responsibility

- Responsiveness, including previous conduct

- Case officer's personal boundaries

- Conduct that is unreasonable in all circumstances (assault, threats of harm etc.)

- I have completed the Unreasonable and Inappropriate Behaviour WHS Risk Assessment⁶.
- Along with the case officer concerned and any other nominated senior officers, I have considered all reasonable options for managing the customer's conduct, including those that do not involve restricting their access to our services.

- The customer has been warned about their conduct in writing, and the letter has been signed by the General Manager if applicable.
- The customer has been advised in writing, and by other culturally, linguistically, or personally appropriate means, of our decision to restrict their access to our council, and the letter has been signed by the General Manager if applicable.
- I have made a record of my assessment and decision about the customer's conduct and all relevant staff members have been notified of my decision.
- An electronic alert has been created in the council Customer Relationship Management system that notifies any staff dealing with this customer of the nature of the conduct that caused us to be concerned, the nature of the restriction that has been placed on their access, its duration, how they are to deal with the customer (including who they should direct any communications from the customer to).

Date: _____

Signature: _____

⁶ The WHS Risk Assessment is available on the Local Government Association of Tasmania's Member Portal.

Appendix C – Sample warning letter

[To be signed by the General Manager]

Our reference: *[reference]*
Contact: *[case officer]*
Telephone: *[number]*

[Date]

[Name of customer] [Address of customer]

Dear *[name of customer]*

Your contact with *[name of council]*

You recently had *[state the form of contact – e.g., telephone, written or face-to-face]* with staff at *[name of Council]* on *[date]*. *[During/In that telephone call/appointment/letter]*, I understand that you *[explain the nature of the conduct that has caused the council to be concerned]*.

We consider this type of behaviour to be inappropriate and it must stop. If you continue to behave in this way or in any other way that my staff consider to be unreasonable, we will impose restrictions on your contact with our office. This may involve restricting your contact to *[apply the relevant option(s)]*:

- ‘Writing only’ – this means that we will only accept communications from you in writing, delivered by Australia Post *[if online or other written communications are preferred then explain]*.
- ‘Telephone contact only’ – this means that you will only be able to contact us by telephone on a specified time and day of the week.
- ‘Face-to-face contact only’ – this means that your contact will be limited to scheduled face-to-face meetings with a specified member of our staff.

Or any other restriction that we consider to be appropriate in the circumstances.

I have attached a copy of a document called Council Customer Service Charter for your reference. We expect everyone who complains to this office to act in the ways described in this document.

If you have any questions about this letter, please contact me on *[phone number of the General Manager/council]*.

Yours sincerely,
[General Manager]

Appendix D – Sample letter notifying a customer of a decision to change or restrict their access to our services

Note: This letter can be amended and utilised without a warning, should an act of unreasonable conduct occur and it warrants immediate change or restriction of customer access.

[To be signed by the General Manager]

Our reference: *[reference]*
Contact: *[case officer]*
Telephone: *[number]*

[Date]

[Name of customer] [Address of customer]

Dear *[name of customer]*

Decision to restrict your contact with *[name of council]*

It has come to my attention that you *[describe the nature of the unreasonable conduct and its impact – e.g., if the customer has been sending emails to several members of my staff on a daily basis...]*

[apply if relevant]: I understand that my staff have previously told you that we consider this conduct to be unreasonable and unwarranted.

I also wrote to you on *[date]* and asked you to stop this behaviour. In that letter I advised you that if your behaviour continued, we would restrict your contact with council. At the time I also attached a copy of our Council Customer Service Charter which outlines your responsibilities as a customer.

Because your behaviour has continued, I now consider it necessary to impose certain restrictions on your future contact with council. I therefore give you notice that from *[date]*, and with the exception(s) detailed below, council will only accept communication from you *[identify permissible form of contact, if any]*.

[apply if relevant]: Because of the seriousness of this *[behaviour, incident]*, I now consider it necessary to impose certain restrictions on your future contact with council. I therefore give you notice that from *[date]*, and with the exception(s) detailed below, council will only accept communication from you *[identify permissible form of contact, if any]*.

What this means

This means that you are only to contact our council using *[describe the restriction in further details]*. Any communications that do not comply with this restriction will be *[describe what will happen – e.g., phone calls will be terminated immediately, or emails/written communications will be read and filed without acknowledgment, emails will be blocked or deleted, no interviews will be granted, etc]*.

[Note: the customer should be clearly informed how they can contact the council and how the council will contact them].

Your existing complaint/matter (if applicable)

This council currently has *[one]* file open in your name. This relates to *[state the subject of complaint and describe complaint]*. This file is being handled by *[name of officer and position title]*. While you are able to contact *[name of officer]* *[state nature of contact – e.g., by email]* about this specific matter, all other contact with my council, including any future complaints, must be *[state restriction – e.g., in writing through Australia Post]* *[provide contact details – e.g., address of council where post can be sent]*.

Review of this decision

My decision to restrict your contact with this council is effective immediately and will last for *[3 months/6 months/12 months]*. At that time, we will review your restriction and decide if it should be

maintained, amended, or withdrawn.

I take these steps with the greatest reluctance, but *[state reason for restriction – e.g., the equity and safety of other customers and my staff]*, leaves me no alternative.

If you have any questions about this letter, you can contact me on *[General Manager phone number]*.

Yours sincerely,

[General Manager]

Appendix E – Sample letter notifying a customer of an upcoming review

[To be signed by the General Manager or their delegate]

Our reference: *[reference]*
Contact: *[case officer]*
Telephone: *[number]*

[Date]

[Name of customer] [Address of customer]

Dear *[name of customer]*

Upcoming review of the decision to restrict your contact with *[name of council]*

It has now been *[3 months/6 months/12 months]* since restrictions were *[imposed/upheld]* on your contact with our office. As advised in our letter dated *[date]*, we are now reviewing our decision to ascertain whether the restrictions should be maintained, amended, or withdrawn.

We consider it important to give you an opportunity to participate in the review process, so we are therefore inviting you to *[apply the relevant option(s)]*:

- make submissions in writing through Australia Post *[include contact person's name and address]*
- schedule a face-to-face interview with *[include name of staff member and provide instructions on how they should go about scheduling the appointment – e.g., calling though the reception line on xxx-xxx-xxxx]*
- schedule a telephone interview with *[include name of staff member and provide instructions on how they should go about scheduling the appointment – e.g., calling though the reception line on xxx-xxx-xxxx]*

In your letter, you should include information that would be relevant to our review. This includes information about *[.....]*/During the interview which will not last more than 30 minutes, we will discuss whether:

- you have complied with the current contact restrictions
- the current contact restrictions should be removed
- the current contact restrictions should be amended to better suit your personal circumstances
- the current contact restrictions should be maintained
- any other information that is relevant to our decision.

We must receive your letter by *[time and date]*/you should confirm your interview with *[name of case officer]* by *[time and date]*. If we do not receive it/hear from you by this date, we will assume that you do not wish to participate in this review and will undertake the review based on the information that we have available to us.

Once the review is completed, we will contact you again by letter notifying you of our decision.

If you have any questions about this letter, you can contact me on *[General Manager phone number]*.

Yours sincerely,

[General Manager or their delegate]

Appendix F – Sample checklist for reviewing a decision regarding an access change/restriction

- The customer has been sent a letter, or if necessary has been contacted by a more culturally and linguistically appropriate means, notifying them of the review.
- The customer will/will not participate in the review.
 - the customer has/has not scheduled a face-to-face interview
 - the customer has/has not made written submissions
 - the customer has/has not scheduled a telephone interview
- I have reviewed all the information in the council Customer Relationship Management system from the last 12 months
[or relevant period of the restriction] about the customer's:
 - contact with the office (explain form of contact)

- conduct during that contact (explain if conduct reasonable or unreasonable)

- I have spoken with the case officers who have had contact with the customer during the last 12 months about the customer's conduct during that period.
- I have considered the arguments/statements made by the customer, including the impact of the restrictions on them (explain customer's position, including if their circumstances have changed etc.) *Note: if the customer is arguing that their circumstances have changed, they should be required to submit evidence to support this claim.*

- I have considered whether there are other more reasonable/suitable options for managing the customer's conduct, including those that do not involve restricting their access to our services (list all that apply).

- I consider that the restriction should be (explain):
 - maintained – e.g., *because the conduct has continued or is likely to continue, is disproportionate etc.*
 - removed – e.g., *because the customer has complied with the restrictions etc.*
 - amended – e.g., *because the customer's circumstances have changed, and the current restriction is no longer appropriate.*

- I have discussed my decision with [*other nominated senior officers*]
- The customer has been advised in writing of my decision to maintain/remove/ amend the restriction.
- The council Customer Relationship Management system has been updated to reflect my decision.

Date: _____

Signature: _____

Appendix G – Sample letter advising the customer of the outcome of a review

[To be signed by the General Manager]

Our reference: [reference]
Contact: [case officer]
Telephone: [number]

[Date]

[Name of customer] [Address of customer]

Dear [name of customer]

Review of your contact with [name of council]

I am writing about a review that was undertaken by my council on [date] concerning your contact with this office. I understand that you [participated/did not participate] in that review.

Process of review

During the review you were given an opportunity to [explain in general terms how the review was undertaken].

Considerations

After your [interview/reading your submissions], we considered the concerns and suggestions raised in your [interview/letter, etc.], particularly your concerns about [include information that would be relevant – e.g., the customer said their circumstances had changed]. We also reviewed our records of your conduct and contact with our office over the last 12 months. Our records showed that [provide summary of relevant information – e.g. Our records show that you have continued to send emails to our office, sometimes up to 4 times a day, throughout the period of your restriction].

[apply if relevant]: These communications were in direct violation of your restriction which limited your contact with our office to [state nature restriction] [explain what the purpose of the restriction was, if appropriate, and the impact of their conduct].

[apply if relevant]: Our records show that you have complied with the restrictions that were imposed on your contact with our council.

Decision

[apply if relevant]: Due to [explain reasoning for the decision – e.g., the number of emails that you have sent to our council in the last 12 months and] I consider it necessary to maintain the restrictions on your contact with our office for a further 12 months, effective immediately.

[apply if relevant]: Due to [explain reasoning for the decision] I consider it necessary to amend the restrictions on your access to better suit your personal circumstances [explain, including providing clear instructions on how the customer is to contact us and how we will contact them]. The new restrictions will be effective immediately and will last for 12 months. If your circumstances change again during this period, you may [explain how the customer can notify of the change].

[apply if relevant]: Due to [explain reasoning for the decision] I consider it appropriate to remove the restrictions that have been placed on your access with our council, effective immediately. You may contact our council using any of our normal servicing options.

If you have any questions about this letter, you can contact me on *[General Manager phone number]*.

Yours sincerely

[General Manager]