

COMPLAINTS POLICY	
Council Policy	
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1. POLICY STATEMENT

Council is committed to the provision of quality service to customers and regards complaints as an opportunity to improve practices and procedures as well as resolve the matter.

2. PURPOSE

2.1 Purpose

2.1.1 The aim of this policy is to provide a fair, consistent and structured process for Council's customers if they are dissatisfied with a Council action, decision or service. Lessons learnt from complaint investigations will be used to directly inform service improvements.

2.1.2 Emphasis will be placed on resolving complaints as quickly as possible. However, where complaints cannot be settled in the first instance Council will ensure that they are dealt with through appropriate, more formal procedures by staff with the authority to make decisions.

2.2 Scope

2.2.1 Where Council has failed to meet the normal standards for a service which has been, or should have been, delivered this policy will apply.

2.2.2 Complaints which are determined to be about matters that are not Council's responsibility, such as disputes between neighbours, will not be handled under this policy.

2.2.3 Council also receives service requests and feedback across all areas of operations and clarification may be necessary to make the distinction for the purposes of this policy. Requests for Service are covered by the Request for Service Policy.

2.3 Definitions

Complaint is an expression of dissatisfaction with a product or service delivered by the Council or its representatives, that has failed to reach the standard stated, implied or expected. This includes complaints about a service that has been, or should have been delivered.

Employee includes a person employed directly by Council (whether that position is permanent or contractual) and persons providing services to, or on behalf of, the Council even though they may be employed by another party.

Feedback can take the form of comments, both positive and negative, about services provided by Council without necessarily requiring a corrective action, change of services or formal review of a decision. Feedback may, however, influence future service reviews and delivery methods.

Request for Service is an application to have Council or its representative take some form of action to provide a Council service (refer Request for Service Policy).

2.4 Strategic Reference

5 Governance and Financial Sustainability

- 5.4 We put the customer first and give each customer a great experience of Council's services.
- 5.5 We meet or exceed legislative and accreditation requirements for all relevant programs.

3. PRINCIPLES

3.1 PRINCIPLES

This policy is based on five principles, which will be fundamental in the way Council approaches complaint handling. They are:

- a) Fairness: treating complainants fairly requires impartiality, confidentiality, and transparency at all stages of the process
- b) Accessibility: to be accessible there must be broad public awareness about Council's Policy and a range of contact options.
- c) Responsiveness: this will be achieved by providing sufficient resources, well trained staff and review and improvement of the systems.
- d) Efficiency: complaints will be resolved as quickly as possible, while ensuring that they are dealt with at a level that reflects their level of complexity.
- e) Integration: cooperation of different areas of Council where the complaint overlaps functional responsibilities.

3.2 COUNCIL'S COMMITMENT TO COMPLAINT HANDLING

- 3.2.1 Council welcomes complaints as a way of improving its services and programs as well as providing an opportunity to put things right.
- 3.2.2 This policy will be made widely accessible to ensure that customers are fully aware of their right to complain. Information about how to lodge a complaint will be placed in a prominent position on Council's website.
- 3.2.3 Except for minor Tier 1 responses, Council will, whenever possible, have complaints handled independently of the original decision-maker or officer involved in the matter that is the subject of the complaint.
- 3.2.4 A person can make a complaint in a number of ways:
 - a) Complete the appropriate form on Council's Website
 - b) Telephone
 - c) Email
 - d) Letter
 - e) Visit a Council customer service office.
- 3.2.5 Complainants will be advised of the likely timeframe required to investigate and resolve a complaint and regularly updated as to progress where necessary.
- 3.2.6 Employees will be trained to manage complaints efficiently and effectively, and provided with a level of delegated authority appropriate for the nature of complaints they are expected to resolve.
- 3.2.7 Communication with the complainant is an important ongoing process while undertaking the actions necessary to resolve a complaint.

3.3 COMPLAINT HANDLING PROCESS

- 3.3.1 The following steps will be followed by staff to ensure complaints are dealt with efficiently and effectively:
 - a) Acknowledge complaints promptly

- b) Assess the complaint - simple problems may not need to be investigated
- c) Plan the investigation where one is warranted
- d) Investigate the complaint
- e) Respond to the complainant with a clear decision
- f) Follow up any customer service concerns
- g) Consider whether there are systemic issues which need correction.

3.3.2 In addition to the above, it is also essential that upon receipt of a complaint that the application of the Public Interest Disclosure Policy, should also be considered.

3.3.3 Timeframes

Where a complaint cannot be resolved immediately the complainant will be advised of the process to be undertaken. **Council will respond within ten (10) business days**, acknowledging receipt of the complaint and, where possible, resolving it at that time. If a resolution is not possible at that time, the complainant will be kept regularly informed of progress by email, letter or personal contact.

3.3.4 It is essential that no one is excluded from lodging a complaint because of any difficulties they may have representing themselves. All staff are expected to offer assistance where appropriate and provide it on request, including assistance in documenting the complaint in writing when circumstances warrant.

If necessary arrange access to interpreters, aids or advocates to ensure that a complainant is treated equitably.

3.3.5 There are also other complaint procedures which apply to particular types of complaints. If a complaint would be more properly dealt with by another process, this will be explained to the complainant at the outset. For example:

- a) Complaints against the conduct of a Councillor or Employee
- b) Freedom of Information applications
- c) Insurance Claims
- d) Decisions made under legislation other than the *Local Government Act 1999*, such as the *Planning Development and Infrastructure Act 2016* or *Expiation of Offences Act 1996*.

3.3.6 In some instances, it may be appropriate to consider mediation, conciliation or neutral evaluation under the Council's scheme authorised by Section 271 of the *Local Government Act 1999*. Costs and expenses of the appointment and work of a mediator, conciliator or evaluator will be shared equally between the Council and the other party.

3.4 PROCEDURES FOR RESOLVING COMPLAINTS

3.4.1 *Immediate response to resolve the complaint*

All staff are empowered to handle complaints in the first instance and it is preferable that they are dealt with promptly at the initial point of contact and at the appropriate officer level.

3.4.2 *Complaint escalated to a more senior officer*

A complaint will be directed to a more senior officer in the Council, where circumstances indicate that the complaint would be more appropriately handled at a higher level. This may occur where an officer has been involved in the matter that is the subject of the complaint, where the complaint is about an issue that requires a decision to be made at a more senior level, or where a complaint concerns a matter that ranges across more than one Council work area.

3.4.3 *Internal review of a Council decision by statutory process*

Internal review of a Council decision is available under Section 270 of the *Local Government Act 1999* (refer Council's Internal Review Policy). This is a process established by legislation that enables a Council to reconsider all the evidence relied on to make a decision, including new evidence where relevant. This process is generally a last resort in the complaint handling process, but may also be used in situations which are not able to be resolved by other means, such as a complaint about a decision of the Chief Executive Officer.

- 3.4.4 While Council prefers to work with its customers to resolve complaints quickly and effectively, a complainant will always retain the right to seek other forms of resolution, such as contacting the Ombudsman, or taking legal action at any time. Note however, that as a general rule, the Ombudsman prefers a complaint to be addressed by Council in the first instance.

3.5 UNREASONABLE COMPLAINANT CONDUCT

- 3.5.1 Occasionally a complainant may engage in unreasonable complainant conduct.

- 3.5.2 A complainant's conduct is unreasonable if it has unacceptable consequences for the Council, the Council officers who may be involved in managing his/her complaint(s) and/or any other person.

- 3.5.3 **Unreasonable complainant conduct** includes, but is not limited to:

a. Using unreasonable persistence by:

- persisting with a complaint with the Council even though it has been comprehensively considered by the Council and the Council has notified the complainant of and provided reasons for its position in respect of that complaint; and/or
- even where all avenues of internal review have been exhausted, showing an inability to accept the Council's decision in respect of the complaint.

b. Using unreasonable demands by insisting on outcomes that are unattainable, (e.g. demanding outcomes that are beyond the Council's power to deliver and/or demanding unreasonable outcomes that the Council is not in a position to deliver). Other examples include insisting on a 'moral' outcome, (e.g. Justice in the community interest, when really a personal interest is at stake) and demanding an apology and/or compensation when no reasonable basis for expecting such an outcome exists.

c. Using unreasonable arguments including making irrational assertions that are not based on fact and/or insisting that a particular solution is the only correct one, without consideration for valid contrary or alternative arguments.

d. Using unreasonable behaviour including:

- confrontational behaviour that shows a lack of respect for others and otherwise constitutes rude and/or aggressive conduct; or
- making threats (whether implied or express) or including inappropriate, offensive, or abusive content in or associated with a complaint; or
- continuing with a complaint which is not supported by any evidence and is unsubstantiated; or
- making a frivolous or vexatious complaint or a complaint about a matter that is beyond the Council's jurisdiction or outside of the Council's control;
- otherwise making excessive demands on Council's resources, including by making frequent and numerous complaints to the Council that are suggestive of a compulsive course of conduct that is, objectively, without basis other than to complain and consume resources; or

- alleging bias and/or corruption on the part of the Council in connection with his/her complaint to third parties simply because the Council's decision was not what the complainant desired or expected.
- e. *Using unreasonable lack of cooperation* including by:
 - sending excessive amounts of correspondence and large quantities of information which is not organised, sorted, classified or summarised, where the complainant is clearly capable of doing this;
 - displaying unhelpful behaviours (e.g. withholding information, acting dishonestly, misquoting others);
 - refusing to define the issue(s) subject of his/her complaint; and
 - remaining resistant to any reasonable explanation that counters the complainant's views.
- 3.5.4 Unreasonable complainant conduct does not arise if a complainant makes a complaint to an external authority.
- 3.5.5 Where the Council determines that a complainant has engaged in unreasonable complainant conduct the Council may choose to deal with the complainant in accordance with this policy.
- 3.6 **PROCEDURE FOR MANAGING MALICIOUS, FRIVOLOUS, AND/OR VEXATIOUS COMPLAINTS**
 - 3.6.1 If Council or the Chief Executive Officer determines that a complaint is malicious, frivolous, or vexatious, this is grounds to dismiss the complaint and not take any further action in relation to it.
 - 3.6.2 A determination that a complaint is malicious, frivolous and/or unreasonable, must take into account:
 - a. any similar complaints previously made by the complainant (about the same subject matter);
 - b. the response and outcome to previous complaints made by the complainant (if any);
 - c. whether the complaint has merit and/or is capable of being substantiated based on the information provided;
 - d. the outcomes sought by the complainant; and
 - e. the resources required to address the complaint (to ensure that it is not an unreasonable diversion of public resources).
 - f. A decision to take no further action in respect of a complaint that is malicious, frivolous and/or unreasonable will be communicated to the complainant in writing.
- 3.7 **DEALING WITH UNREASONABLE COMPLAINANT CONDUCT**
 - 3.7.1 The Council is entitled to expect that members of the public who have a complaint will behave in an acceptable manner that demonstrates respect towards Council staff. In certain circumstances the Council may limit communication between the Council and a complainant in relation to complaints. Such limitations may be imposed on a complainant whose behaviour:
 - a. constitutes unreasonable complainant conduct; or
 - b. gives rise to a risk to the safety and/or welfare of Council staff and/or other persons and/or may reasonably be considered to be an excessive drain on Council resources.
 - 3.7.2 Where the Council imposes limitations on a complainant, the Council will notify the complainant in writing, specifying the limits, and the reasons for their imposition.

- 3.7.3 The options available to the Council in imposing limitations upon communication for the purposes of managing unreasonable complainant conduct are set out below. In making a decision to pursue one or more of these options in respect of a complainant, the Council (or the Chief Executive Officer as the case may be) will have regard to the following:
- a. The number of complaints made to the Council by the complainant and the period within which they have been made;
 - b. The nature of and outcome of any previous complaints made by the complainant to the Council;
 - c. The costs incurred by the Council (if any) in having addressed the complaints previously made by the complainant;
 - d. The principles of equity and procedural fairness; and
 - e. Any other matters that the Council (or the Chief Executive Officer) deems fit.
- 3.7.4 The Council is aware of the legitimate right of members of the public to access Council information under the *Freedom of Information Act 1991*. Any limitations imposed on a complainant under this Policy will not impede these statutory rights.

3.8 REQUIRING COMMUNICATION IN WRITING

The Council and/or the Chief Executive Officer may:

- 3.8.1 request that a complainant provide all complaints in writing; and/or
- 3.8.2 decline to respond to any further communication from the complainant unless it is in writing.

3.9 NOT REPLYING TO CORRESPONDENCE

- 3.9.1 Where, following a written response to a complaint, the Council receives further complaints from the same complainant that detail the same or substantially similar matters, the Council may inform the complainant that the Council will not provide a substantive response to any similar complaints.
- 3.9.2 The Council will always notify the complainant of any alternative recourse that may be available to him/her (such as making a complaint to the Ombudsman).

3.10 UNREASONABLE TELEPHONE COMMUNICATION

- 3.10.1 In some circumstances it may be appropriate for a Council officer to inform a complainant that they will no longer deal with his/her complaints over the telephone, and to terminate the call. This will only be done in exceptional circumstances where the complainant is using unreasonable behaviour as described above.
- 3.10.2 Where a complainant repeatedly telephones a Council employee, or employs insulting, threatening or abusive language, they will be requested to limit their communications to written correspondence. This will be communicated to the complainant in writing.

3.11 LIMITING ALL CONTACT TO A NOMINATED PERSON

- 3.11.1 Where a complainant is making the same or a substantially similar complaint or multiple complaints to numerous Council officers, the Council or the Chief Executive Officer may nominate a particular officer to deal with the complainant.
- 3.11.2 The Council will notify the complainant in writing of the name and contact details of the office who will respond to his/her complaints, and specify that no other officer will respond to complaints made by the complainant.

3.12 RESTRICTIONS FOLLOWING REPEAT UNREASONABLE COMPLAINANT CONDUCT

3.12.1 In addition to implementing any of the options specified above, where a complainant repeatedly engages in unreasonable complainant conduct the Council may:

- a. inform the complainant that any further complaints will be acknowledged by the Council without further response unless they detail significant new information or new issues which in the opinion of the Council warrant action; and/or
- b. restrict the times and days that a complaint may be accepted from a complainant by refusing to respond to any complaint from him/her that is received outside the times and other than in the manner notified to the complainant.

3.12.2 This action will only be taken as a last resort; with the decision taken by the Chief Executive Officer after all other avenues have been exhausted, and where the complainant is making unacceptable demands on the Council's complaint handling resources.

3.13 SEEKING LEGAL ADVICE

In some instances it may be appropriate for Council management to seek legal advice with respect to the implications of a suspected malicious, frivolous and/or vexatious complaint and/or regarding unreasonable complainant conduct. A decision to seek legal advice will be made by the Chief Executive Officer.

3.14 NOTICE BEFORE ACTION

Before pursuing action in relation to a complainant under clause 7.9, the Council will write to the complainant to notify him/her of the action that the Council proposes to take and the reasons why and, will invite comments from the complainant within a specified period (that is not less than seven (7) days) as to why such action should not be taken. The Council will take any relevant comments provided by the complainant into account before determining whether to proceed with the proposed action.

3.15 REVIEW OF ACTION

3.15.1 Where a decision is made to pursue action in relation to a complainant, the Council will review the appropriateness of any restrictions imposed on the complainant every 12 months.

3.15.2 If, following a review, the Council considers that the restrictions imposed on the complainant are no longer necessary taking into account the complainant's conduct in the 12 months prior the Council will:

- a. revoke the restrictions; and
- b. notify the complainant of its decision in writing accordingly.

3.16 WARNING TO COMPLAINANT

Following the first occasion that a customer engages in unreasonable complainant conduct, wherever practicable, the Council will:

3.16.1 notify the customer (either verbally or in writing, depending on the circumstances) that his/her conduct constitutes unreasonable complainant conduct under this Policy;

3.16.2 depending on the circumstances, either provide the Customer with a copy of this Policy or refer him/her to the Policy on the Council's website; and

- 3.16.3 notify the customer either verbally or in writing, depending on the circumstances) that the Council may deal with his/her unreasonable complainant conduct in accordance with this Policy including, in the case of repeat unreasonable complainant conduct, by restricting his/her access to the Council for the purposes of making complaints.

3.17 USING COMPLAINTS TO IMPROVE SERVICE

- 3.17.1 Quality of service is an important measure of Council's effectiveness. Learning from complaints is a powerful way of helping to develop the Council and increase trust among the people who use our services. Learnings may lead to changes in Council's Policies, procedures and practices where appropriate.

3.18 PRIVACY AND CONFIDENTIALITY

- 3.18.1 Complainants have a right to expect that their complaint will be investigated in private, to the extent possible. The identity of complainants will be made known only to those who need to know in the process of investigating the resolving the complaint. The complaint will not be revealed or made public by the Council, except where required by law.
- 3.18.2 All complaints lodged with Council are subject to the *Freedom of Information Act 1999* and confidentiality cannot be guaranteed under the provisions of that legislation.

3.19 REMEDIES

- 3.19.1 Where complaints are found to be justified Council will, where practicable, remedy the situation in a manner which is consistent and fair for both Council and complainants. The solution chosen will be proportionate and appropriate to the circumstances.
- 3.19.2 As a general principle the complainant should, so far as possible, be put in the position he or she would have been in, had things not gone wrong. This may mean providing the desired service or changing a decision. Sometimes, however, it may only be possible to offer an apology.
- 3.19.3 Compensation will only be offered in cases where the loss or suffering is considered substantial. The Elected Council and the Chief Executive Officer are the only representatives authorised to offer financial compensation and may consult with the Local Government Association Mutual Liability Scheme before taking any such action.
- 3.19.4 Council may seek to use alternative dispute resolution methods such as mediation to resolve a complaint in circumstances where the Chief Executive Officer or his/her delegate deems such a course of action appropriate and the complainant is amenable to that process.
- 3.19.5 When advising a complainant of the outcome of an investigation of a complaint, Council will provide information about alternative remedies, including any rights of appeal and the right to make a complaint to an external agency such as the SA Ombudsman.

3.20 REPORTING

- 3.20.1 Council will be provided with information from the 6 monthly Ombudsman Reports detailing the nature and category of complaints received.

3.21 COMPLAINTS REGARDING CODE OF CONDUCT FOR COUNCIL EMPLOYEES

- 3.21.1 Where a person alleges -

- a) an employee (or a relative of an employee) has sought or received a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or to influence the employee in the performance or discharge of the employees functions or duties; or
- b) an employee has failed to record, or correctly record, details of a gift or benefit received by the employee (or a relative of an employee) on the gift and benefits register; or
- c) the CEO has not appropriately maintained a register for gifts and benefits received by employees of the Council,

they may submit a complaint alleging that an employee of Council has contravened or failed to comply with the Code of Conduct for Council Employees, as prescribed in Schedule 2A of the *Local Government (General) Regulations 2013*.

3.21.2 A complaint must be given to the Chief Executive Officer. In the case of a complaint against the Chief Executive Officer, a complaint must be given to the principal member of the council, except in circumstances where it would be inappropriate to do so (such as where legislation requires the matter to which the complaint relates to remain confidential).

3.21.3 A complaint will be investigated and resolved according to the industrial and human resource procedures of the Council.

4. RESPONSIBILITY & REVIEW

4.1 Responsible Officer

- 4.1.1 All Council staff who may be involved in receiving or processing a complaint in the course of their work must adhere to this policy.
- 4.1.2 Officers will act reasonably and transparently, demonstrate good customer service, undertake their responsibilities in a proficient manner and use their judgement where necessary to ensure an outcome in line with this document.
- 4.1.3 The Chief Executive Officer is responsible for ensuring the adherence by staff to the provisions of this policy.

4.2 Availability

This policy will be available on Council's website.

4.3 Review

This policy will be reviewed within 12 months of a General Election for Local Government, or as required to meet other obligations.

5. REFERENCES

5.1 Legislation

Local Government Act 1999
Local Government (General) Regulations 2013

5.2 Other References

Behaviour Standards for Elected Members Policy
Employee Performance Standards Policy
Fraud and Corruption Prevention

Internal Review of Council Decision
Public Interest Disclosure Policy
Request for Service Policy