



ADMINISTRATIVE PROCEDURE

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| Procedure Name | Complaint Handling Procedure |
| Department / Officer | Office of Chief Executive Officer /Group Manager Governance and Finance |
| Date Adopted | 27 April 2011 |
| Date/s Reviewed | 27 July 2015; 6 October 2015 (SMT), 30 April 2018 (SMT); 20 July 2020 (SMT) |
| Next Preview | Every Three Years |
| Attachments | |

1. Purpose

The purpose of this procedure is to ensure:

- complainants receive a fair, consistent and structured process commencing at the first point of contact.
- that the complaint process includes using complaint investigations to directly inform service improvements.

2. Scope

This Procedure applies to complaints about the decisions or actions of employees or other persons acting on behalf of Council.

A person dissatisfied with the outcome of a complaint under this procedure may make a formal application under Council's *Internal Review of a Council Decision Procedure*.

This procedure does not apply to:

- Requests for services/works requests – refer to Council's *Requests for Service Policy and Procedure*.
- A review of a decision of the Council itself – refer Council's *Internal Review of a Council Decision Procedure*.
- Complaints of Fraud, Corruption Maladministration, or Misconduct - refer Council's Fraud, Corruption, Misconduct and Maladministration Prevention Policy or Public Interest Disclosure Policy and Procedure.

Note: Complainants with behaviour which, because of its nature of frequency raises substantial health, safety, resource or equity issues for Council or staff including complaints that are vexatious or frivolous will be dealt with under Council's Unreasonable Complainant Conduct Policy.

3. Definitions

Business Day means a day that is not a Saturday, Sunday or Public Holiday

Complaint means 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.

Note: Council receives service requests and feedback across all areas of its operations, a distinction between a complaint and a request for service is outlined in Council's Request for Service Policy.

Council - refers to the City of Victor Harbor.

Customer means ratepayer, resident, visitor or business

Council Employee is a person employed directly by the Council in a full time, part time or casual capacity (whether the 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.

Relative of an Employee is defined in Schedule 3 of the *Local Government Act 1999*

Feedback means those comments, which are sometimes framed as complaints, where the intent is clearly for the matter to be noted, but where there may not be an implied or expressed expectation to follow up, review or action.

Note: Where written feedback is received from the community that could be used to improve Council services or operations these requests should be captured and used in accordance with this Procedure.

Mediation and conciliation is an intervention of a neutral third party to help parties in a dispute to resolve the matter.

Neutral Evaluation is a process where parties present their cases to a neutral third party (with expertise) who renders a non-binding reasoned evaluation on the merit of the case. During the process, the neutral may be invited to serve as mediator or facilitator.

Internal Review Officer – refers to the individual or entity responsible for administering a request for review of a decision under the Council's Internal Review of a Council Procedure.

Note: Mediation, conciliation and neutral evaluation provisions are set out in Section 271 of the Local Government Act 1999 and provided at Attachment 1 to this Policy.

Request for Service means a request to have Council or its representative take some form of action to provide or improve a Council service.

Requests for service are not considered to be 'complaints' however if agreed timeframes are not met under the 'Request for Service Policy' then a person could make a complaint under this Policy.

Note: Complaints about the activities of third parties [e.g. barking dogs or food premises] are to be treated as Requests for Service in the first instance. However if the request is a

complaint about the way in which Council has dealt with a matter concerning the activities of a third party, this will be dealt with as a complaint under this Procedure.

Review of a Council Decision means a process where a customer can seek a review of a decision made by the Council, an employee of the Council, or persons acting on behalf of the Council. Formal applications for a review are dealt with under Council's 'Internal Review of a Council Decision Procedure'.

Unreasonable Complainant Conduct means any behaviour by a current or former complainant which, because of its nature or frequency raises substantial health, safety resource or equity issues for the Council, its employees or other service users and complainants or the complainant himself/herself. Unreasonable Complainant Conduct can be divided into five categories of conduct, persistence, demands, lack of cooperation, arguments and behaviours.

Frivolous or vexatious complaints means those complaints which are made without sufficient grounds, are untenable or are made without an apparent purpose and are submitted only to cause disruption, delay or annoyance.

4. Operating Procedure

Council welcomes complaints as a way of improving its services and programs as well as providing an opportunity to put things right. The following steps are to be followed by employees to ensure complaints are dealt with efficiently and effectively:

- Acknowledge complaints promptly
- Assess the complaint – simple problems may not need to be investigated
- Plan the investigation where one is warranted
- Investigate the complaint
- Respond to the complainant with a clear decision (uphold grievance or uphold Council action)
- Follow up any customer service concerns
- Consider whether there are systemic issues which need correction

4.1 Assisting with the lodgment of a complaint

All Council employees are expected to offer assistance where appropriate and provide it on request, including assistance in documenting the complaint in writing when circumstances warrant. All complaints are to be treated equitably.

4.2 Receiving a Complaint

A person can make a complaint in a number of ways:

- Completing the appropriate online form on Council's website;
- Telephone – 8551 0500
- Email – localgov@victor.sa.gov.au
- In Writing – PO Box 11, Victor Harbor SA 5211
- In person – Civic Centre, 1 Bay Road, Victor Harbor

4.2.1 Written Complaints

All written complaints, whether received by letter, email or Councils website are to be registered in Council's Records Management Module.

Where a complainant presents at Council it is the responsibility of the officer present to determine whether the matter can be dealt with immediately by a frontline officer (refer to Clause 4.5).

If not, the complainant should be encouraged to put the complaint in writing and assisted, where necessary, by a Council employee.

4.2.2 Verbal Complaints

Verbal complaints received by Council must be recorded in Councils Record Management System and forwarded to the Manager of the service area to which the complaint relates.

Record comprehensive details of the complaint, including:

- Date and time of call
- The employees name who took the complaint
- Complainant's Name, address (postal or email address) and phone number
- Details of the complaint

Verbal complaints may also be received by employees in the course of their work. All employees are expected to resolve, reassign or report these complaints as appropriate, including ensuring that they are properly recorded for future analysis.

4.2.3 Anonymous Complaints

It can be difficult to effectively deal with an anonymous complaint. When taking details of a complaint, encourage the customer to provide their identity in order for their complaint to be fully processed.

Anonymous complaints must still be logged and addressed by the service area involved in order to identify possible areas for service improvement.

4.2.4 Acknowledging complaints

Where a complaint cannot be resolved immediately the complainant will be advised of the process to be undertaken. Council will respond within five business days, acknowledging receipt of the complaint and, where possible, resolving it at the time.

If a resolution is not possible at that time, the complainant will be kept regularly informed of progress, either by email, letter or personal contact.

4.2.5 Assignment of Complaints

Assignment of the complaint will include determining who will investigate and at what level the complaint should be dealt with in the first instance. Wherever

possible complaints will be handled independently of the original decision maker or officer involved in the matter that is the subject of the complaint.

4.3 Responsibilities of Council Employees when handling complaints

Employees will act reasonably and transparently, demonstrate good customer service, undertake their responsibilities in a proficient manner and use their judgment where necessary to ensure an outcome in line with Council's Complaints Handling Policy.

Council expects that the complaint handling system will be fair to the complainant, the Council and any person against whom a complaint is made.

The rules of fairness, reasonableness and unbiased decision-making should be applied and all parties involved should be given the opportunity to respond to any issues raised.

To this end staff are expected to:

- Treat complaints seriously and complainants with sensitivity, respect and courtesy
- Give the complainant an opportunity to have their complaint dealt with by an officer not previously involved in the matter
- Ensure all conflicts of interest are disclosed to the Chief Executive Officer and acted upon
- Judge complaints on their merits and facts, after obtaining and considering all relevant information
- Give equal treatment to all people
- Ensure an appropriate remedy is provided where the complaint is substantiated
- Provide all parties with clear reasons as to why any actions have been taken or decisions to uphold or overturn the original decision, whether or not required by law.
- Inform complainant of any further avenues of review

4.3.1 Providing 'Procedural Fairness'

The principles of procedural fairness, also called natural justice, must be observed when exercising statutory powers which could affect the rights and interests of individuals. This involves:

- Informing people of the case against them;
- Giving people a right to be heard (put their case forward);
- Decision-makers not having a personal interest in the outcome (not being biased); and
- Acting only on proper evidence that is capable of proving the case.

Being responsive to complainants reflects Council's commitment to quality service and can prevent the escalation of complaints. Complaints are to be dealt with quickly, transparently and within established timelines.

Advise complainants of the process to be followed and how long it will take to deal with the complaint.

Council will handle complaint information according to the privacy policy. Council's policy states that the identity of complainants will be made known only to those who need to consider or know about the complaint and will not be revealed to any other person or made public by the Council, except where required by law.

Confidentiality is not to be used as an excuse to avoid dealing with a complaint, where possible a complaint should be managed in accordance with this Policy without revealing personal information of a third party or releasing confidential information.

Information gathered during the complaint process will only be used to deal with and resolve the complaint or to respond to legal requirements including Freedom of Information.

Information may be disclosed publicly in a de-identified format for annual reporting or other purposes required by legislation.

4.4 Responsibility of Council Members when handling complaints

Council Members are to forward customer complaints to the Chief Executive Officer for action.

4.5 Frontline Resolution of a Complaint

All employees 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 level. Dealing with a complaint at this level can include referral to another employee who has had no involvement in the matter, or to a Team Leader or Manager.

4.5.1 Understanding Complainants

Make contact with the complainant as soon as possible and arrange to meet if necessary to fully understand the concerns. How the first contact with a complainant is handled is extremely important.

When people complain they want to:

- Feel secure
- Be listened to
- Be heard but not judged
- Have their point of view understood and acknowledged
- Be treated as an individual, with respect and courtesy
- Be provided with an explanation
- Be given an apology
- Have corrective action taken as soon as possible
- Make sure the problem never happens again

Even when the outcome is not what they want, people should feel that they have been treated decently and that the process has been fair.

Sometimes resolving the complaint involves:

- Giving more information
- Providing an explanation
- Suggesting a solution
- Expressing empathy and understanding where there is no solution
- Acknowledge that the complainant feels aggrieved, without passing judgment on the nature of the complaint or alluding to any likely outcome.

4.5.2 Transfer Required

If it is necessary to refer the matter to another council employee (either at the same tier, or as a Tier 2 or 3 process), ensure that the Council employee is fully briefed and able to make a decision. Having their complaint transferred can be frustrating for the complainant, so ensure that they do not have to explain everything again.

4.5.3 When to immediately transfer a complaint

There are other complaint procedures which apply to particular types of complaints. If the complaint would be more properly dealt with by another process this should be explained to the complainant at the beginning. For example:

- Freedom of Information applications
- Insurance Claims
- Decisions made under legislation other than the Local Government Act 1999, such as the *Development Act 1993*, *Planning, Development and Infrastructure Act 2016* and *Expiations of Offences Act 1996*.

Ensure the complainant has sufficient information to initiate the alternative process.

There are some types of complaints which must be automatically be transferred to Tier 2 or 3, which include:

- Complaints about a decision of the Council
- Complaints in relation to a Council Member or the Chief Executive Officer
- Where the complaint is clearly outside of the employees delegation or area of expertise
- Complaints alleging fraud, corruption, maladministration, misconduct or other criminal behaviour, which should be referred to the OPI or other relevant authorities.
- Complaints involving an allegation of serious or controversial conduct by a staff member where disciplinary action is a possible outcome.

Ensure that the complaint is documented and lodged with records management, or request immediate assistance from a manager or director, depending on the circumstances and nature of the complaint.

4.6 Handling Complaints at a Senior Level

A complaint should be directed to a senior employee, where circumstances indicate that the complaint would be more appropriately handled at a higher level. Examples include where the complaint:

- Ranges across more than one department within Council;
- Concerns regarding a contractor or consultant
- Allegations of improper conduct by a Council employee
- Has a high degree of complexity; and
- If a complainant is not satisfied with the outcome or handling of the complaint at the frontline level.

4.6.1 Process of assigning a Senior Employee

Complaints should be escalated to the appropriate manager of the area/s to which the complaint is directed, provided that the manager has not been involved in the matter that is the subject of the complaint and is able to bring an objective mind to the resolution of the complaint.

Ensure that the referral occurs promptly and the complainant understands the process and timeline for the next action.

Employees will need to document their involvement in the records management system, within the action tab.

4.6.2 Deciding how to proceed

Each complaint must be assessed to determine its nature, how it should be dealt with, when it should be dealt with, who should be involved and whether further information or investigation is required.

The first step is to assess the nature of the complaint, as not all complaints require investigation. Many complaints involve communication problems or misunderstanding that can be resolved informally by talking to the complainant or discussion between the parties, or through other processes such as mediation.

Certain types of investigations such as public interest disclosure complaints are subject to particular legislative requirements. In these cases, the assessment of the complaint and the nature of the investigation must be undertaken in light of the relevant legislative framework.

Determine what course of action is most appropriate in the particular circumstances. Issues to consider in the assessment of a complaint include:

- How serious the complaint is and the significance it has for the complainant and for Council;
- The need and requirement of immediate action
- Complexity
- Whether it indicates the existence of a systemic problem
- Whether an alternative and satisfactory means of redress is available
- Whether the parties are agreeable to informal resolution of the complaint

- Whether the complaint is trivial, frivolous or without merit
- The time that has elapsed between event and complaint.

If an investigation is not warranted, contact the complainant to provide a formal response or propose other actions.

4.6.3 Undertaking an investigation

Every effort should be made to finalise the complaint at this level. Refer to Clause 4.8 remedies

Ensure that the complainant receives regular updates on the progress of the investigation and a formal response including reasons for the decision.

4.7 Internal Review

Internal review of a Council decision is available under Section 270 of the *Local Government Act 1999*. This is a more formal process, which is established and mandated by statute, is generally a last resort in the complaint handling process. However, this process may also be used in relation to more serious situations which require an immediate, high level response, such as a complainant about a decision of the Chief Executive Officer or a resolution of Council. Refer to Councils Internal Review of Council Decision procedure.

4.8 Remedies

Where a complaint is considered justified, the next is to determine an appropriate remedy or response to the complaint. By working to address the complaint, council is making a commitment to meeting the complainant's needs, improving internal processes and maintaining its reputation.

An apology which is not an acceptance of liability is normally appropriate. Other remedies offered should be fair and reasonable for both Council and the complainant. The range of possible outcomes includes:

- An explanation
- An apology
- Mediation
- An admission of fault
- A change in decision
- A change to policy, procedure or practice
- A correction of misleading records
- Financial compensation, including a refund of any fees
- The waiving of a debt
- The remission of a penalty
- Protection to the complainant
- Disciplinary action
- Referral of a matter to an external agency for further investigation or prosecution.

The remedy or response may be just one, or a combination of these actions. The chosen remedy needs to be proportionate and appropriate to the failure in service and take account of what people are looking for when they complain. Normally remedies

other than compensation will satisfy a complainant. Compensation is therefore a final option and will apply only in cases where the loss or suffering is considered substantial.

Refer all recommendations for financial compensation to the Chief executive Officer. Ideally, remedies should be implemented as soon as possible. In cases where a remedy is provided to a complainant, it may also be necessary to provide a remedy to other people similarly affected, even if they have not made a complaint.

If an apology is required the best thing to do is apologise promptly and advise the complainant that appropriate action will be taken to ensure the matter is not repeated.

4.9 Unreasonable Complainant Conduct

All complaints received by Council are treated seriously. However, there may be occasions when the conduct of a complainant is unreasonable, resulting in a decision to take no further action on a complaint (refer Councils Unreasonable Complainant Conduct Management Procedure).

4.10 Service Improvement

Learning from complaints is a powerful way of helping to improve Council's processes and procedures and increase trust among the people who use Council services.

All complaints, including those resolved, must be recorded in Council's Customer Service Request module (or Records management module if via email/mail) to ensure that information can be analysed for service improvement opportunities.

At intervals determined by the number of complaints received, the data on complaints should be reported to the relevant Manager in order to ensure that systemic problems are identified and addressed. Managers will review this data as part of the annual business planning process.

Council should be advised of proposed service improvements via the annual business planning process.

5. Related Documents and References

- Internal Review of a Council Decision Procedure
- Complaint Handling Procedure
- Requests for Service Procedure
- Privacy Policy
- Records Management Policy
- Freedom Of Information Procedure
- Fraud, Corruption, Misconduct and Maladministration Prevention Policy
- Local Government Act 1999 and Ombudsman's website