

POLICY

Policy Name	Complaint Handling Policy
Policy Category	Statutory Policy
Department / Officer	Office of Chief Executive Officer/Group Manager Governance and Finance
Date Adopted	27 April 2011
Date/s Reviewed	28 September 2015, 23 April 2018, 27 July 2020
Review Frequency	Every 3 Years
Strategic Plan Reference	Objective 5 – An innovative Council empowering the community Approach 5.3 – Provide effective and efficient levels of service delivery Strategy 5.3.1 – Support continuous improvement, innovation and excellence in service delivery.
Attachments	nil

1. Purpose

The purpose of the policy is to ensure that Council handles complaints fairly, efficiently and effectively and provides guidance to Council employees and people who wish to make a complaint on the key principles and concepts of Councils management system.

2. Scope

This policy applies to all Council employees receiving or managing complaints from the public made to or about Council, regarding an action, decision or service, a Council employee; and is to be read in conjunction with other relevant Council policies, especially in making the distinction between a complaint and request for a review of a Council decision.

3. Policy Statement (Summary)

The City of Victor Harbor recognises that complaint handling or service feedback is a key component of sound corporate governance and is fundamental to ensuring an appropriate level of accountability in the exercise of its functions.

4. Legislation and Compliance

Section 270 and 271 of the *Local Government Act 1999* sets out the legislative provisions that are required to be observed by Council in relation to managing complaints, requests for service and information received to improve Council's services.

5. 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.

Customer means ratepayer, resident, visitor or business

Council Employee means a person employed directly by the Council in a full time, part time or casual capacity (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 means comments, both positive and negative, about services provided by council without necessarily requiring a corrective action, change of services or a formal review of a decision. Feedback may, however influence future service reviews and delivery methods.

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

Neutral Evaluation means 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 party may be invited to serve as a mediator or facilitator.

Note: Mediation, conciliation and neutral evaluation provisions are set out in section 271 of the Local Government Act 1999

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 him/herself. Unreasonable Complainant Conduct can be divided into five categories of conduct, persistence, demands, and lack of cooperation, arguments and behaviours.

6. Policy Content

Complaints may arise as a result of dissatisfaction in relation to a decision, action or inaction of Council, its employees or other persons acting on behalf of the Council.

6.1 Guiding Principles

The following five principles are fundamental to how Council approaches complaint Handling:

- **Fairness:** treating complainants fairly requires impartiality, confidentiality and transparency at all stages of the process.

- **Accessibility:** to be accessible there must be broad public awareness about Councils policy and a range of contact options.
- **Responsiveness:** This will be achieved by providing sufficient resources, well trained staff, review and improvement of systems.
- **Efficiency:** Complaints will be resolved as quickly as possible, while ensuring that they are dealt in a manner reflective of their level of complexity.
- **Integration** of different areas of Council where the complaint overlaps functional responsibilities.

6.2 Complaint Process

Complaints may vary depending on their level of complexity and seriousness. Wherever possible complaints will be resolved when first lodged, but if necessary employees will escalate complaint handling as set out below:

- **Tier 1 - Immediate response to resolve the complaint**
All Council 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 officer level.
- **Tier 2 - Complaint escalated to a Manager/Director**
A complaint will be directed to a senior employee in Council, where circumstances indicate that the complaint would be more appropriately handled at a higher level. This may occur, for example where an officer has been involved in the matter that is the subject of the complaint, where the complaint is about a matter that requires a decision to be made at a high level, or where a complaint concerns a matter that ranges across more than one Department within Council.
- **Tier 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*. 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 if 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.

6.3 Complaint Handling Procedure

The Complaint Handling Procedure will outline the following steps that will 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 warranted)
- Investigate the complaint
- Respond to the complainant with a clear decision
- Follow up any customer service concerns
- Consider whether there are systemic issues which need correction.

6.4 Mediation, Conciliation and Neutral Evaluation

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.

Where a complaint is unable to be resolved the Chief Executive Officer may appoint a suitably experienced/trained officer, who is not involved in the decision which is under review, to act in the capacity of mediator. For more complex matters, the Chief Executive Officer or the Council may consider that a matter be dealt with through external mediation, conciliation or neutral evaluation in accordance with Section 271 of the *Local Government Act 1999*.

Costs and expenses associated with the appointment and work of a mediator or evaluator will be shared equally between the Council and the other party in accordance with Section 271(7) of the *Local Government Act 1999*.

This process will not negate a citizens rights to make a complaint to the Ombudsman at any time under section 271(9) of the *Ombudsman Act 1972* of the Minister.

6.5 Alternative Procedures

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

- Complaints against a Council Member, the Chief Executive Officer or Council employees
- Freedom of Information applications
- Insurance claims
- Decisions made under legislation other than the *Local Government Act 1999*, such as the *Development Act 1993* or *Expiation of Offences Act 1996* or *Planning, Development and Infrastructure Act 2016*.

6.6 Privacy and Confidentiality

Complainants have a right to expect that their complaint will be investigated in private. The identity of complainants will be made known only to those who need to know in the process of investigating and resolving the complaint. The complaint will not be revealed or made public by the Council, except where it is required by law.

All complaints lodged with Council are subject to the *Freedom of Information Act 1991* and confidentiality cannot be guaranteed under the provisions of this Act.

6.7 Unreasonable complaints

All complaints received by Council will be treated seriously and complainants will be treated courteously.

What can be termed unreasonable will vary depending on a number of factors and the Council aims to manage these situations in a fair and equitable manner. Unreasonable complainant conduct includes but is not limited to:

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

- **Unreasonable Demands** by insisting on outcomes that are unattainable (for example 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 (eg 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.

- **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 (for example withholding information, acting dishonestly, misquoting others);
 - Refusing to define the issues(s) subject of the complainant's complaint; and/or
 - Remaining resistant to any reasonable explanation that counters the complainant's views

- **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.

- **Unreasonable Behaviours** including:
 - Confrontational behaviour that shows a lack of respect for others and otherwise constitutes rude and/or aggressive conduct;
 - Making threats (whether implied or express) or including inappropriate, offensive, or abusive content in or associated with a complaint;
 - Continuing with a complaint which is not supported by any evidence and is unsubstantiated;
 - 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; and/or
 - Alleging bias and/or corruption on the part of the Council in connection with the complainant, including complaint to third parties simply because the Council's decision was not what the complainant desired or expected.

Where a complainant's behaviour consumes an unwarranted amount of Council resources or impedes the investigation of their complaint, or is considered to be a work, health and safety hazard, a decision may be made to apply restrictions on contact with the complainant. Before making any decision to restrict contact, the complainant will be warned that, if the specified behaviour(s) or actions continue restrictions may be applied.

In the event that after a warning the behaviour continues, the Chief Executive Officer or delegate may take action to mitigate the risk to council and any Council Employee. This action will be communicated in writing to the Complainant in accordance with complaints that escalate to unreasonable complainant conduct and will be dealt with in accordance with *Council's Unreasonable Complainant Conduct Procedure*.

6.8 Employee Code of Conduct Complaints

Where a person alleges that:

- An employee (or a relative of an employee) has sought or received a gift or benefit that is, or could reasonable 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
- 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
- The Chief Executive Officer 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*.

A complaint must be given to the Chief Executive Officer. It will be investigated and resolved according to the industrial and human resource procedures of the Council.

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). In such circumstances the matter should be dealt with in accordance with the legislative requirements.

6.9 Council Member Code of Conduct Complaints

Where a person alleges a Council Members has breached the provisions of the Code of Conduct for Council Members, the complaint should be made to the Chief Executive Officer in accordance with the Code of Conduct Complaint Handling procedure.

6.10 Reporting

The number of Internal Reviews of Councils decisions under Section 270 of the *Local Government Act 1999*, will be reported in Council's Annual Report.

7. Risk Management

The implementation of this policy assists Council to mitigate the following risks:

- Public relations – Poor customer relations
- Compliance – Section 270 of the *Local Government Act 1999*
- Governance – systems, practices to ensure accountability and transparency
- Business Development – lack of business development/continuous improvement
- Work Health and safety – Managing unreasonable complainants

8. Implementation/Delegations

The Chief Executive Officer is delegated responsibility to implement this policy.

9. Related Documents

Complaints Handling Procedure
Internal Review of a Council Decision Procedure
Fraud, Corruption, Misconduct and Maladministration Prevention Policy
Records Management Policy
Requests for Service Policy and Procedure
Unreasonable Complainant Conduct Procedure

10. Availability of Policy

This policy is available on Council's website at www.victor.sa.gov.au. It may also be inspected or purchased at the Principal Office of the Council at 1 Bay Road, Victor Harbor.