



# ADMINISTRATIVE PROCEDURE

Procedure Name	<b>Complaint Handling Procedure</b>
Department / Officer	<b>Chief Executive Officer Section/Governance Officer</b>
Date Adopted	<b>27 April 2011</b>
Date/s Reviewed	<b>27 July 2015; 6 October 2015 (SMT)</b>
Next Preview	<b>Biennially or sooner to reflect current practice</b>
Attachments	<b>Flowchart</b>

## 1. Purpose

The aim of this procedure is to:

- Ensure complainants receive a fair, consistent and structured process commencing at the first point of contact.
- Ensure 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 or maladministration - refer Council's *Fraud and Corruption Prevention Policy* or *Whistleblower Protection Policy*.

*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

**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** – ratepayer, resident, visitor or business

**Employee** is a person employed directly by the Council (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 agency.

**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 it.

**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** is 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** is 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** – is any behaviour by a complainant which, because of its nature of frequency raises substantial health, safety resource or equity issues for the Council, its staff or other service users and may relate to unreasonable persistence; behaviour; demands; lack of co-operation and arguments – refer Council's Unreasonable Complainant Conduct Management Policy.

**Frivolous or vexatious complaints** - is 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.

**Whistleblower** means any person who makes an appropriate disclosure of public interest information under the Whistleblowers Act 1993 (refer Council's Whistleblower Protection Policy).

#### 4. Operating Procedure

All staff are empowered to handle complaints in the first instance for immediate, informal resolution in accordance with this Procedure.

This Procedure sets out the steps for managing complaints at the Department level and the factors that must be applied by staff in this process.

##### Step 1

##### **Decide how to proceed – refer item 4.5 below**

Low level grievances can be resolved informally by customer service officers or forwarded to the original decision maker who should re-visit the issue/decision and explore other possible outcomes. If the original decision is upheld and the customer is dissatisfied then step 2 should be implemented.

##### Step 2

The complaint will be escalated to an appropriate Team Leader/Manager or Director of the area to which the complaint is directed.

The review of the matter should be conducted, where possible, by a person who was not directly involved in the making of the original decision, who is not subordinate to the original decision-maker and who has the delegation to override the original decision.

The Chief Executive Officer (CEO) should be advised of all complaints associated with:

- Concerns of a contractor or consultant
- Allegations of improper conduct by a staff member
- Matters of a high degree of risk and complexity.

Matters that are unresolved, where the customer is dissatisfied should be provided with the option under step 3:

### Step 3

The customer may make application under Council's Internal Review of a Council Decision Procedure. A formal application form should be completed and forwarded to the CEO or delegate.

#### 4.2 Assisting with the lodgment of a complaint

All staff are expected to offer assistance where appropriate and provide it on request. All complaints are to be treated equitably.

#### 4.3 Receiving a Complaint

A person can make a complaint verbally or in writing (form on website, telephone, email, letter, fax, customer service office). All requests must be registered in Council's Customer Service Request module or if received by email/mail in the Records Management module.

Written and verbal complaints should be treated equally and staff are expected to resolve, reassign or report these complaints as set out in this Procedure including ensuring that they are properly recorded for future analysis and reporting.

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

#### 4.4 Timeframes

Complaints will be managed and/or acknowledged in accordance with Council's Customer Service Philosophy.

#### 4.5 Deciding how to Proceed

The first step is to assess the nature of the complaint. Many complaints involve communication problems or misunderstandings 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 whistleblower 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.

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 in accordance with Council's Policy and Procedures.

Document all actions as necessary and record in Council's Customer Service Request or Records Management module as relevant.

#### **4.6 Responsibilities of all Staff when handling complaints**

Officers 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 CEO 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

#### **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.

#### **4.7 Responsibility of Elected Members when handling complaints**

Council members are to forward customer complaints to the CEO for action.

#### **4.8 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.

#### **4.9 When to transfer a complaint**

It is appropriate to transfer a complaint if a statutory process other than the Local Government Act is relevant, for Freedom of Information applications; Elected Member or Employee Code of Conduct issues; allegations of Fraud, Corruption or Maladministration or Whistleblower protection.

#### **4.10 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 Policy).

#### **4.11 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 (including flowchart)
- Requests for Service Procedure
- Unreasonable Complainant Conduct Policy.
- Privacy Policy
- Records Management Policy
- FOI Procedure
- Whistleblower Protection Policy
- Fraud and Corruption Prevention Policy
- Local Government Act 1999 and Ombudsman's website