

POLICY

Policy Name	Complaint Handling Policy
Policy Category	Statutory Policy
Department / Officer	Office of Chief Executive/Governance Officer
Date Adopted	27 April 2011
Date/s Reviewed	28 September 2015, 23 April 2018
Review Frequency	Every 2 years
Strategic Plan Reference	4.2 Ensure efficient legislative compliance 4.8 Engage with the community to identify its needs and expectations 4.9 Ensure a high and efficient level of service delivery across the organization
Attachments	Complaint Handling flowchart

1. Purpose

This Policy aims to

- Provide a fair, consistent and structured process for Council's customers if they are dissatisfied with a Council action, decision or service.
- Use complaint investigations to directly inform service improvements.

2. Scope

Unless stated otherwise, this Policy applies to all public complaints about a decision under Council's responsibility, including complaints under Council's Internal Review of a Council Decision Procedure and Council's Complaints Handling Procedure.

3. Policy Statement

Council 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.

Effective complaint handling and resolution is fundamental to positive relationships between Council and residents.

4. Legislation and Compliance

Section 270 and 271 of the Local Government Act (Attachment 1I) sets out the legislative provisions to be observed by Council for managing complaints, requests for service and information received to improve Council's services.

5. Definitions

Business Day means a day when the Council is normally open for business, i.e. Monday to Friday, excluding public holidays.

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 and therefore 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 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 agency.

Relative of an Employee is defined in *Schedule 3 of the Local Government Act 1999* as a person related to an employee means:

- a) A member of the employee's family
- b) A family company of the member
- c) A trustee of a family trust of the member

Feedback means those comments, which are sometimes framed as complaints, where the intent is clearly for the matter to be noted, but where there is no implied or expressed expectation to follow up, review or action.

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.

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.

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.

Request for Service is a request to have Council or its representative take some form of action to provide or improve a Council service – refer Council's Request for Service Policy.

Note: 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 Policy.

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. These are dealt with under Council's 'Internal Review of a Council Decision Procedure'.

Unreasonable Complainant Conduct – is 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 staff or other service users and may relate to unreasonable persistence; behaviour; demands; lack of co-operation and arguments.

Frivolous or vexatious complaints mean 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.

6. Policy Content

Complaints may arise as a result of dissatisfaction about the decisions, actions or inactions of the Council, its employees or other persons acting on behalf of the Council.

6.1 Principles underlying this Policy

Council will apply the following complaint handling principles:

1. Fairness

All complainants will be treated fairly with impartiality and transparency at all stages of the process. Complaints will be treated on their merits, with an open mind and without prejudice.

The principles of procedural fairness will be reflected in all Council's complaint handling practices.

2. Accessibility

Information about how to make a complaint should be freely available.

People can make a complaint in a variety of ways including by in person, telephone, mail or via the Council's website.

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. Responsiveness

Council believes in being responsive to the needs of its community and all attempts will be made to resolve complaints quickly and efficiently in accordance with Council's Complaint Handling Procedures.

Complainants will be treated with dignity and respect. .

Council will seek to ensure that its resources are used fairly, effectively and efficiently.

Elected Members may receive complaints from constituents from time to time and may advise constituents of options available to them to raise their concerns. Elected Members may also provide feedback to senior officers regarding complaints they receive.

4. Efficiency

Complaints should be resolved as quickly as possible, preferably on first contact if the complaint is straightforward.

Complaints will be used as one measure of community satisfaction which provides a useful source of information and feedback for improving Council's services.

Complaint handling is integrated with other business activities and 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.

Council will support staff who are confronted with unreasonable complaint conduct and which raises substantial health, safety, resource or equity issues for the Council.

5. Privacy and Confidentiality

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 and resolving the complaint. The complaint will not be revealed or made public by Council, except where required by legislation.

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

6.4 Complaint Process

Council's complaints handling process will generally commence at the **Department level**, and may progress to a formal application for an ***Internal Review of a Decision***, these processes are summarised below:

6.3.1 Department level (Tier 1)

In the first instance a general complaint to the Council will be dealt with at the local level by a Council officer so that the matter can be dealt with promptly at the initial point of contact. Council officers will follow the procedure set out in Council's ***Complaint Handling Procedure***. If a matter cannot be resolved with the appropriate officer the matter should be escalated to the Manager and/or Director.

In addition if the matter is not resolved by the Department the complainant will be advised of their option to make a formal application for an ***Internal Review of a Council Decision***.

Note: Although it is preferred to manage a complaint at the Department level in the first instance this does not prevent a complainant lodging an application for an Internal Review of a Council decision directly – by-passing Tier 1 - Department level.

6.3.2 Formal application for an Internal Review of a Council Decision

Any person can make a formal application for an *Internal Review of a Council Decision*. The CEO (or delegate) is appointed as the Internal Review Officer and will apply the Council's ***Internal Review of a Council Decision Procedure***.

6.3.3 Matters that should be directed to the Council itself

Applications for the review of a Council decision provides Council with an opportunity to revisit a decision, which has aggrieved an interested party and who is the direct subject of the decision (unless determined otherwise by Council).

This point in the complaint handling process is determined as a Tier 3 complaint and is generally a last resort in the complaint handling process.

The CEO or delegate will refer the following matters to the Council itself for review:

- A decision made by a resolution of Council
- A decision made regarding Council endorsed objectives and policies.
- A decision in relation to a recommendation for external mediation, conciliation or neutral evaluation.
- Any other matters at the discretion of the CEO or the Council.

Council provides the CEO with the discretion to resolve a relatively minor matter, despite falling into the above categories where this is possible, and to report these items to Council for information purposes only.

6.3.4 Employee Code of Conduct Complaints

Where a person alleges –

- 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 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 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.

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 principle member of the Council, except in circumstance 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.

6.5 When does this Policy not apply?

This Policy will not apply in circumstances where specific procedures are prescribed in Local Government or other relevant legislation such as the Development Act or the Expiation of Offences Act, particularly if the applicant is already using these processes.

Other examples may include:

- Applications from an employee that relates to their employment.
- Frivolous or vexatious complaints (refer Council's Unreasonable Complainant Conduct Policy).
- Applications where the applicant does not have sufficient interest in the matter.

6.6 Mediation, conciliation and neutral evaluation

Where a complaint is unable to be resolved the CEO may appoint a suitably experienced/trained officer, who is not involved in the decision under review, to act in the capacity of mediator. Alternatively, for complex matters, the CEO or the Council may consider that a matter be dealt with through external mediation, conciliation or neutral evaluation (S271) (refer item 6.4 above).

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 Act.

The above process will not negate a citizens' rights to make a complaint to the Ombudsman at any time under the Ombudsman Act 1972 (S271(9)) or the Minister.

6.7 Reporting

- All complaints will be registered to inform opportunities for service improvement.
- Internal Review of Council Decisions will be reported to Council annually.

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.

- Strategic Risk Management – Council’s ability to meet its strategic outcomes and deliver its core services.

8. Implementation/Delegations

The Chief Executive Officer is provided with delegated authority to implement this Policy and may sub-delegate powers and functions in accordance with the Local Government Act.

9. Related Documents

- Internal Review of a Council Decision Procedure
- Complaints Handling Procedure
- Requests for Service Policy
- Unreasonable Complainant Conduct Management Policy
- Whistleblower Protection Policy
- Fraud and Corruption Prevention Policy
- Records Management Policy

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.