

POLICY NAME: (DRAFT REVIEW September Meeting)
COMPLAINTS MANAGEMENT

POLICY REF: C09

MEETING ADOPTED: 23 September 2010
Resolution No. 230910/22

POLICY HISTORY: 230206/025/026



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1.0 OBJECTIVE

The aim of this policy is to define complaints and the system for dealing with complaints submitted or referred to Ballina Shire Council. The basis of this policy is to conduct an internal review of complaints where complainants are dissatisfied with the initial contact with Council, thus providing a satisfactory system of redress for complainants.

The internal review serves to ensure that the complaint is dealt with fairly and impartially. The review strives to resolve disputes between Council and complainants without the need for the complainant to make representations directly to external agencies such as the NSW Ombudsman, the Minister for Local Government or the Independent Commission Against Corruption (ICAC). Referral to an external agency is viewed as an action of last resort. This policy does not override the General Manager's obligation, under Section 11 of the ICAC Act 1988, to notify the Commission of possible corrupt conduct.

Complaints and (compliments) are welcomed feedback by Council and assist in the planning and improvement of Council's systems, procedures and policies.

2.0 DEFINITIONS

Complaint

2.0.1 For the purpose of the policy a complaint is any expression of dissatisfaction with:

- Level and quality of service or policies or procedures.
- Service provided by Council staff, contractors and systems.
- Impact of a particular policy and procedure.
- Council's decision making process.
- Corrupt conduct or failure to declare pecuniary interest/conflict of interest.
- Breach of Code of Conduct.
- Wrong or misleading advice.

2.0.2 Additionally, a valid complaint is one where Council has or would appear to have failed to respond appropriately to a request for a service or a report.

2.0.3 A complaint for the purpose of this policy does not include:

- Matters or services not related to Council, Council staff or Councillors
- A request for services
- A request for information or explanation of policies or procedures or decisions of Council
- Reports of damaged or faulty infrastructure (eg. road pothole)
- Reports of hazards (eg. fallen tree branch)
- Reports concerning neighbours or neighbouring property (eg. noise or unauthorised building works)

- Lodgment of an appeal to a Council decision, policy or procedure (eg. a complaint about an approved development or draft policy or plan – unless this is recorded as a complaint about Council's decision making process).

3.0 SCOPE OF POLICY

This policy applies to:

- Council employees
- Councillors
- Council consultants and contractors
- Council owned businesses
- Community members

4.0 RELATED DOCUMENTATION

- Commission Against Corruption (ICAC) Act 1988
- DLG - Practice Note 9 - Complaints Management in Council (July 2009)
- Council's Internal Procedure - Competitive Neutrality Complaints Handling

5.0 POLICY

Council's policy is to firstly minimise the possibility of complaints by ensuring all services, policies and procedures are effectively communicated and delivered to the community. However Council recognises that at times complaints will arise. The policy that follows provides clear guidelines for the management of complaints to ensure all complaints are dealt with on a prompt and equitable basis.

6.0 LODGING A COMPLAINT

6.01 Complaints may be lodged with Council by:

- person
- telephone
- facsimile
- email
- letter

Complaints should detail the name, address and contact phone numbers of the complainant together with a brief description of the problem.

6.02 Any staff member may receive a complaint and must follow the procedures set out in this policy.

6.03 Any Councillor in receipt of a complaint should (preferably in writing) refer the matter directly to the General Manager.

6.1 The Public Officer

Council's Public Officer is charged under the Local Government Act with the responsibility of overseeing the management of complaints from the public concerning Council's affairs. Council's General Manager or Public Officer can be contacted at Council's Customer Service Centre 6686 4444.

6.2 Complaints that will not be investigated

6.2.1 The General Manager or Public Officer may determine that a complaint will not be investigated where that complaint:

- is considered frivolous, vexatious or not made in good faith or concerns a trivial matter
- involves a matter where an adequate remedy or right of appeal already exists, whether or not the complainant uses the remedy or right of appeal
- relates to a decision of elected Council
- relates to conduct before a court, coroner or tribunal
- relates to matters under investigation by the Minister for Local Government, ICAC, the NSW Ombudsman's office, a Minister of the Crown or government department or the NSW Police Service
- relates to the appointment or dismissal of any employee or an industrial or disciplinary issue
- relates to a decision, recommendation, act or omission which is more than one year old unless the complainant can show to the satisfaction of the General Manager that there were strong and extenuating circumstances that prevented the complaint being made within the one year period
- relates to a matter awaiting determination by the elected Council
- relates to the actions or conduct of private individuals
- relates to a matter where there is insufficient information available or
- involves a matter where the complainant declines or refuses to provide further information and/or there are threats made against Council.

6.2.2 Should the General Manager or Public Officer determine that a complaint will not be investigated, the complainant will be advised of the reason for this decision.

6.3 Anonymous Complaints

6.3.1 Anonymous complaints will not be accepted. Any person making a verbal anonymous complaint, or who can be identified despite the claim for anonymous standing, shall be advised that strict confidentiality will be applied to their complaint and their name will not be disclosed BUT anonymity will not be permitted.

6.4 Serious complaints

6.4.1 All complaints, including those received verbally, alleging corrupt conduct, pecuniary interest breaches, improper use of position, criminal action or maladministration are to be registered as detailed in the Procedure section of this Policy (Section 4) and referred to the General Manager or Public Officer. If the allegation relates to the General Manager, the matter must be reported to the Mayor.

6.4.2 Complaints of this nature will be dealt in accordance with Council's Code of Conduct and Council's **Public Interest Disclosure** Policy. Complaints against the General Manager will be managed in accordance with Section 6 of this policy.

6.5 Confidentiality

6.5.1 Confidentiality will be given to complaints according to the principles in the **Government Information (Public Access) Act**

Wherever possible complaints are to be resolved and reviewed locally and have the fewest people necessary involved. Complaints are treated confidentially and information is only used for the purposes for which it was collected unless:

- either the consent of the individual(s) is obtained
- Council has reasonable grounds for believing the use of the information will reduce a threat to the life or health of any person, or
- the use is authorised by law.

7.0 COMPLAINT HANDLING SYSTEM

The procedure for handling complaints against the General Manager and Councillors is covered in Section 6 of this Policy. For all other complaints Council has adopted a three-tier approach:

- **Tier 1 - Frontline complaint handling**
Staff resolve complaints wherever possible at first contact. Staff will register all complaints and the resolution/action taken in the Records Electronic Document Management System.
- **Tier 2 - Internal review**
The General Manager, Public Officer or a designated senior officer designated by the General Manager reviews unresolved complaints.
- **Tier 3 - External review**
Unresolved complaints referred externally. This may take the form of:
 - Alternative dispute resolution procedure, such as mediation or conciliation
 - Complaint referred to external agency, such as the Ombudsman
 - Complainant informed of appeal procedure or other legal remedy

8.0 COMPLAINT HANDLING PROCEDURE

8.1 Tier 1a - Complaint resolved on the spot

8.1.1 Any staff member approached by persons enquiring how to lodge a complaint must advise that person of the methods available. There is no need to record the enquiry. A record is only made when the complaint is lodged regardless of how minor the complaint may be.

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- 8.1.2 Upon receipt of a complaint, the staff member receiving the complaint must ensure that the complaint is registered in Council's electronic data management system and indexed under the Complaints Subject.
 - 8.1.3 Any **verbal complaint** should be recorded in full detail as a Customer Request in Council's electronic data management system and indexed to the Complaints Subject.
 - 8.1.4 Any **written complaint** in the form of a letter or facsimile must be referred to the Records Section to be registered in Council's electronic data management system.
 - 8.1.5 Any **electronic complaint** (email) if received via the corporate mailbox is registered by Records, or by the officer receiving the email if sent to an individual officer's mailbox.
 - 8.1.6 Upon receipt of a written complaint, the General Manager or Public Officer shall forward a letter of acknowledgement of receipt and course of action to be taken.
- 8.2 Tier 1b - Complaint resolved following investigation**
- 8.2.1 A staff member receiving a verbal complaint of a minor nature should deal with the complaint at that time or refer it immediately to the appropriate staff member who may be able to resolve the problem on the spot. The staff member who resolves the complaint should immediately register the complaint in Council's electronic data management system as a Customer Request and index to the Complaints Subject.
 - 8.2.2 All complaints of a more serious or complex nature or minor verbal complaints that cannot be resolved on the spot must be registered in Council's electronic data management system in accordance with the workflow procedure for complaints and referred to the relevant **Group Manager** for investigation, action and a response to the complainant.
 - 8.2.3 The complaint is also referred to the General Manager or Public Officer as part of the workflow process so that complaints may be monitored and followed up as necessary.
 - 8.2.4 The **General Manager or Public Officer** will determine if a complaint should be lodged with an external agency or authority and will contact the complainant to refer that person to the appropriate agency or authority.
 - 8.2.5 The **Group Manager** investigating the complaint will determine what, if any, remedial action will be taken and must ensure that all details of the investigation and remedial action taken or offered to the complainant and the subsequent response to the complainant are reported in Council's electronic data management system and linked to the original complaint registration.
 - 8.2.6 As a rule all complaints should be responded to in writing.

- 8.2.7 Where a manager has conducted the investigation, the relevant Group Manager must sign off this report.
- 8.2.8 This process must be completed within ten working days of receipt of the complaint, excepting where further information is waiting to be received.

8.3 Tier 2 - Unresolved complaint referred for internal review

- 8.3.1 Complaints that have not been resolved to the satisfaction of the complainant following completion of the Tier 1 procedure, will be then subject to internal review to provide an alternative means of address for the complainant. A Council officer upon being advised, by the complainant, that the complaint has not been dealt with satisfactorily must refer the matter to the General Manager or Public Officer. The General Manager or Public Officer will advise the complainant that the matter will undergo an internal review.
- 8.3.2 The internal review will be conducted by the General Manager or Public Officer or a senior officer designated by the General Manager to review and investigate the unresolved complaint, with the focus being on resolving the complaint wherever possible.
- 8.3.3 The General Manager or Public Officer or designated senior officer will have the delegation to:
- reconsider the original decision or remedial action afresh and take any appropriate corrective action
 - overturn previous decisions and apply remedies as considered necessary
 - apply appropriate redress in cases where the review reveals maladministration or detriment arising from the Council's dealing with the complainant.
- 8.3.4 The internal review must be conducted within fourteen days of referral of the matter in writing to the General Manager or Public Officer.
- 8.3.5 The General Manager or Public Officer shall forward a letter to the complainant advising of the result of the review, any action taken and of the right to an external review.

8.4 Tier 3 - External review

- 8.4.2 Should a complaint and subsequent review not be resolved to the satisfaction of the complainant, the General Manager or Public Officer may determine to offer a dispute resolution procedure, such as mediation or conciliation. Should an appeal procedure or other legal remedy exist, the General Manager or Public Officer will advise the complainant accordingly.
- 8.4.2 Alternatively, the General Manager or Public Officer will advise the complainant that the complaint may be referred to an external agency for review. Complaints, dependant on their nature, can be referred to the following external agencies for an external review:

10.6 Policy (Review) - Complaints Management.DOC

The NSW Ombudsman	Investigates complaints concerning maladministration.
NSW Office of Local Government	Investigates complaints concerning serious & substantial waste of public monies, pecuniary interests or competitive neutrality.
The Independent Commission Against Corruption	Investigates complaints concerning corrupt conduct.
Anti-Discrimination Board	Investigates complaints concerning discrimination, disability and harassment
Australian Competition and Consumer Commission	Investigates complaints concerning competitive neutrality
Privacy NSW	Investigates complaints concerning breaches of the Privacy and Personal Information Act 1998.

9.0 COMPLAINTS AGAINST THE GENERAL MANAGER AND COUNCILLORS

A complaint against a Councillor or the General Manager is to be managed in accordance with the Review of Council's Code of Conduct. This may involve referral to Council's Conduct Committee.

10.0 REVIEW OF POLICY

The Complaints Policy is to be reviewed at least every four years.