

POLICY NAME: COMPLAINTS MANAGEMENT

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1. OBJECTIVE

It is essential that Council provides quality customer service and if things go wrong, they can only be put right – and services improved – if we hear about it.

Complaints are important as they provide information about the effectiveness of the service being provided, help to identify areas that need improvement, and contribute to a better understanding about customer satisfaction and dissatisfaction. By responding positively to complaints, Council can improve its services and customer relations as well as the wellbeing of our employees.

Good complaint handling will:

- reassure all our stakeholders that Council is committed to properly addressing and resolving any problems
- maintain or help improve relationships with people who we deal with and
- improve transparency and accountability.

Organisations with a culture that value complaints are more likely to:

- **Have a people focus** – this involves being open to complaints from members of the public about standards of service delivery, the conduct of our employees, Council's policies, procedures and practices, as well as being committed to promoting and implementing an accessible complaints system as a means to address problems and enhance the performance of the Council
- **Be responsive** – responding to complaints in a timely manner and recognising and rewarding good complaint handling by our employees
- **Act fairly and objectively** – addressing each complaint with integrity and in an objective and impartial way
- **Ensure no detriment** – taking all reasonable steps to ensure that people making complaints are not adversely affected because they made a complaint, or one that is made on their behalf.

It is important for Council to have a comprehensive complaint management framework to provide a clear structure for receiving, assessing, responding to, reporting on, and using complaints to improve services.

When handling complaints, it is critical for our employees to recognise the inherent dignity of the person who has made the complaint and treat them with courtesy and respect. They should be given clear and comprehensive information about the process that will be followed to manage their complaint, as well as the possible outcome – including options to have the matter reviewed and how they are treated.

It is well recognised that people are likely to care as much about how their complaint is dealt with, as they do about the issue that triggered the complaint. This means that following a process that is seen to be fair, treating complainants in ways they perceive to be reasonable (including with respect), and providing adequate information at appropriate times, is likely to be as important to complainants as getting the outcome they are seeking.

The objective of this policy is to provide a framework that ensures that Council has robust systems in place for defining complaints and for the management and review of complaints.

2. DEFINITION

The NSW Ombudsman defines complaints as follows (page vi “Effective Complaint Handling Guidelines – February 2017):

The Australian and New Zealand Standard Guidelines for complaint management in organisations - AS/NZS 10002:2014 (AS/NZS Complaint Management Standard) defines complaints as an:

Expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.

Based on this standard, a complaint includes:

- *A complaint about conduct, service or product – such expressions of dissatisfaction may relate to customer service, quality of service/product, failure to provide information, competence or conduct of staff, errors of judgement or misinterpretation of information, decisions being unfair, unreasonable or lacking in merit, poor administrative processes etc.*
- *An internal review of a complaint – a request for a review of the merits of a decision on an earlier complaint.*
- *An internal review about how a complaint was handled.*
- *An external review of a complaint or how the complaint was handled – for example, a complaint to the Ombudsman or another oversight agency.*

It is also important to clarify what will not be registered as a complaint. This includes:

- a request for a service or services – unless it is a second request where there has been no response to the first
- a request for information or an explanation of policies or procedures
- a request for a review of a decision in accordance with Council’s procedures or policies – unless this is recorded as a complaint about the Council’s decision-making process
- an expression of concern – where a response is not explicitly or implicitly expected
- an expression of opinion – for example, a submission or feedback (where a response or resolution is not explicitly or implicitly expected).

3. POLICY

Council policy is to minimise complaints by ensuring our services, policies and procedures are based on community engagement, they are effectively communicated and delivered to the community and we are responsive to community feedback and correspondence.

We will also enable complaints by publicising this policy on our website and through other reference material. We will simplify the complaint process to reduce barriers to making complaints, especially for vulnerable people and people who may be reluctant to raise concerns.

Where a complaint does eventuate we will ensure that the complaint is dealt with on a prompt and equitable basis based on the following framework.

4. LODGING A COMPLAINT

Complaints may be lodged with Council by:

- Person
- Email
- Telephone
- Letter
- Website

Complaint information should detail the name, email, address and contact phone numbers of the complainant together with sufficient information to outline the complaint.

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

4.1 The Public Officer

The NSW Local Government Act states that the Council's Public Officer (currently the Director – Corporate and Community) may deal with requests from the public concerning the council's affairs (clause 343 (1)).

The General Manager and the Public Officer are responsible for overseeing the management of complaints. Council's General Manager or Public Officer can be contacted at Council's Administration Centre on 1300 864 444.

4.2 Complaints that will not be investigated

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

- is considered frivolous, trivial, vexatious or not made in good faith
- 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 the 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.

If 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, in writing.

4.3 Anonymous Complaints

Anonymous complaints will not be accepted to reduce the number of frivolous or vexatious complaints.

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.

4.4 Serious complaints

All complaints, including those received verbally, alleging corrupt conduct, pecuniary interest breaches, improper use of position, criminal action or maladministration will be registered as outlined 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.

Complaints against Councillors and the General Manager will be managed in accordance with Council's Code of Conduct.

Council has in place an Internal Reporting Policy to receive, assess and deal with public interest disclosures in accordance with the *Public Interest Disclosures Act 1994*.

4.5 Managing expectations and perceptions

It is not uncommon for complainants to be unaware of Council's role, procedures or practices for dealing with complaints.

They may believe – without realising that these expectations are inappropriate – that they have the right to dictate:

- how the organisation will handle their complaint, including the priority it will be given and who will deal with it
- the type and level of involvement that they will have with their complaint
- how long it will take to deal with the complaint
- what the outcome of their complaint will be.

It is important to test and manage complainant expectations at the earliest possible opportunity to minimise the likelihood of disappointment, anger or frustration.

At the beginning of the complaints process, all complainants should be informed in general terms of:

- the person managing the complaint and the responsibilities of Council
- the complaints processes and procedures that will be followed
- how the complaint will be dealt with
- the likely timeframe

4.6 Confidentiality

Confidentiality will be given to complaints according to the principles in the Government Information (Public Access) Act 2009 (GIPA).

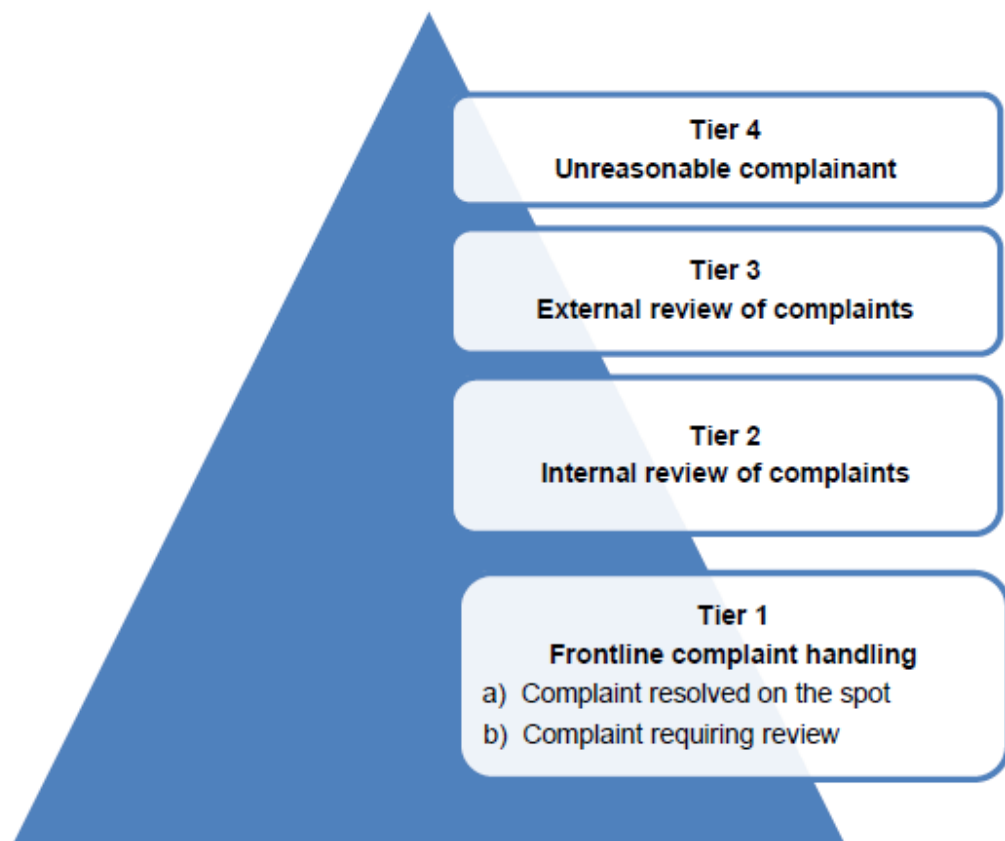
Wherever possible complaints will be resolved and reviewed locally and have the fewest people necessary involved.

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
- the use is authorised by law.

5. COMPLAINT HANDLING SYSTEM AND PROCEDURE

Council has a four tier approach to handling complaints as per the following diagram.



Tier 1 – Frontline complaint handling

(a) Complaint resolved on the spot

Any employee approached by persons enquiring how to lodge a complaint must advise the methods available. There is no need to record the enquiry. A record is typically made when the complaint is lodged.

Upon receipt of a complaint, the employee receiving the complaint must ensure that the complaint is registered in Council's electronic data management system and indexed under the Complaints Subject container 139 and tasked to the General Manager.

(b) Complaint requiring review

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 and referred to the General Manager.

The General Manager, or Public Officer, if nominated by the General Manager, will then refer the matter to the relevant Director for investigation, action and a response to the complainant.

The General Manager, or Public Officer, will also 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.

The Director investigating, or overseeing the investigation of 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.

Where a manager has conducted the investigation, the relevant Director must sign off this report.

This process is to be completed within 15 working days of receipt of the complaint, excepting where further information is waiting to be received.

Tier 2 – Unresolved complaint referred for internal review

A Council officer upon being advised, by the complainant, that the complaint has not been dealt with satisfactorily must refer the matter to the relevant section Manager and Director. The relevant Section Manager or Director will advise the complainant that the matter will undergo an internal review.

The internal review will be conducted by the relevant Section Manager, or a senior officer nominated by the relevant Director, to review the unresolved complaint, with the focus being on resolving the complaint wherever possible.

The Director, or nominated 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.

The internal review must be conducted within 15 working days of referral of the matter to the relevant Manager or Director.

The Section Manager, or relevant Director, shall forward a letter to the complainant advising of the result of the review, any action taken and the right to an external review.

Tier 3 – External review

Should an internal 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.

Alternatively, the General Manager, or Public Officer, will advise the complainant that the complaint may be referred to an external agency for review.

Complaints, dependent on their nature, can be referred to the following external agencies for an external review:

Agency	Types of Complaint
The NSW Ombudsman	<ul style="list-style-type: none"> maladministration
NSW Office of Local Government	<ul style="list-style-type: none"> serious noncompliance with the Act and regulations systematic and serious deficiencies in Council functions and operations pecuniary interests failure to disclose Councillor misconduct
The Independent Commission Against Corruption	<ul style="list-style-type: none"> corrupt conduct in the NSW public sector
Anti-Discrimination Board	<ul style="list-style-type: none"> discrimination disability vilification victimisation harassment
Australian Competition and Consumer Commission	<ul style="list-style-type: none"> competitive neutrality
Privacy NSW	<ul style="list-style-type: none"> breaches of the Privacy and Personal Information Act 1998
NSW Audit Office	<ul style="list-style-type: none"> serious and substantial waste of public money

Tier 4 – Unreasonable complainant

Where a complainant is determined to be an unreasonable complainant, as per Section 6 of this policy, the complainant will be:

- recorded in an internal Restricted Access Register
- notified in writing on the determination, including details of and duration of the restrictions proposed in respect to matters such as employee access, responses to correspondence
- provided with the opportunity to make a written submission to the General Manager, within 30 days of issuing of the Restricted Access correspondence, detailing any mitigating circumstances as to why the action is not appropriate.

Where the complainant submits a written submission within the 30 day period after receiving the determination from council, the General Manager will review the response. If it is determined that the restriction will be maintained, the General Manager, or Public Officer, will formally advise the complainant in writing.

If the complainant has additional concerns, they should put them in writing. The concerns will only be responded to, if it raises a valid issue, or provides substantial new evidence that affects the decision or outcome reached. Failing this, their correspondence will be read and filed without acknowledgement or response.

6. MANAGING UNREASONABLE COMPLAINTS CONDUCT

Many people who make complaints are frustrated and upset. They may have suffered harm through no fault of their own and may have received poor service, been given incorrect information, treated unfairly or suffered losses because of a decision made against them.

Despite this, the majority of people who make complaints are able to manage their frustration and anger and productively engage with the systems, processes and people they are interacting with.

For some people, however, anger about their complaint is translated into aggressive or abusive behaviour towards Council and the employee handling their complaint.

They may threaten harm, withhold information, provide misleading information, act dishonestly, bombard Council with extraneous information, or demand outcomes that are not possible or appropriate in the circumstances.

At the end of the process, these same complainants are often unwilling to accept decisions and continue to demand further action on their complaints – even though they have exhausted all available internal review options.

Although complainants who display such unreasonable conduct may make up a small percentage of the people that Council has to deal with, the resources directed towards dealing with their complaints can be significant – and the people who display such behaviour can place a heavy burden on employees.

The NSW Ombudsman outlines unreasonable conduct as follows (page 29 “Effective Complaint Handling Guidelines – February 2017):

Unreasonable conduct by a complainant can be defined as any behaviour by a current or former complainant that – because of its nature or frequency – raises substantial health, safety, resource or equity issues for relevant parties. The parties that might be detrimentally affected include the organisation responsible for handling the complaint, the person responsible for dealing with the complaint, the person making the complaint (and possibly his or her family members), and other complainants and service users. Unreasonable conduct may take the form of unreasonable persistence, unreasonable demands, unreasonable lack of cooperation, unreasonable arguments and unreasonable behaviours.

To assist in managing unreasonable complaint conduct Council has categorised this behaviour under five main categories:

a) Unreasonable Persistence

Unreasonable persistence is continued, incessant and unrelenting conduct that has a disproportionate and unreasonable impact on Council through:

- an unwillingness to accept reasonable explanations including the final decision
- demanding further reviews
- reframing a complaint to recommence the process
- bombarding Council with phone calls, correspondence and visits
- contacting different employees to achieve a different outcome

b) Unreasonable Demands

Unreasonable demands (express or implied) can have a disproportionate and unreasonable impact on Council by:

- making demands about how a complaint should be managed, the priority it should be given, or the outcome that be achieved
- emotional blackmail and manipulation with the intention to intimidate, harass, shame, seduce or portray themselves as victimised, when this is not the case.

c) Unreasonable Lack of Cooperation

Unreasonable lack of cooperation can have a disproportionate and unreasonable impact on Council through:

- sending a constant stream of information without clearly defining any issues or explaining how they relate to the core issues being complained about
- providing insufficient information or presenting information in “drips and drabs”
- refusing to follow Council policies and procedures
- arguing frequently and extreme intensity that a particular solution is correct
- withholding information, acting dishonestly, misquoting others.

d) Unreasonable Arguments

Unreasonable arguments disproportionately and unreasonably impact on Council by:

- not being supported by any evidence
- rejecting valid and contrary arguments
- raising trivial matters
- false, inflammatory or defamatory behaviour.

e) Unreasonable Behaviour

Unreasonable behaviour can compromise the health, safety and security of employees, other service users or the complainant. This includes:

- Acts of aggression, verbal abuse, derogatory, racist or defamatory remarks
- Harassment, intimidation or physical violence
- Rude, confronting and threatening correspondence
- Threats of harm to self or others (including property damage and bomb threats)
- Stalking (in person or online)

The General Manager has the authority to classify a complainant as unreasonable based on a review of their interactions with Council and feedback from employees.

Where a complainant is classified as unreasonable the General Manager has the authority to limit employee access or Council responses to matters raised by the complainant, where those matters are related to the reason why they have been classified as unreasonable.

Council will maintain a register of the complaint's details along with the access restrictions placed on the complainant (the Restricted Access Register).

7. CHILD SAFETY

Council is a child safe organisation that supports and promotes the safety, wellbeing and empowerment of children and young people.

Council has a responsibility to ensure our activities and services are carried out in a manner that provides appropriate child safe environments for children and young people. This is in adherence to child protection legislation in the following areas:

- Allegations against staff – *Children's Guardian Act 2019*
- Mandatory reporting of risk of significant harm – *Children and Young Persons (Care and Protection) Act 1998*
- Selection and recruitment – *Child Protection (Working with Children) Act 2012*
- Child-safe organisation – principles for child-safe organisations and the Royal Commission recommendations report (2017)

If concerns are raised in relation to the safety and welfare of children or young people, the relevant reporting procedures should be followed.

All allegations or convictions in relation to staff abusing or harming children or young people (an allegation of reportable conduct) must be immediately reported to the General Manager or Child Safety Officer. They will inform the relevant Agency such as Office of the Children's Guardian, Department of Communities and Justice or the Police. The Child Safety Officer will investigate or engage an external investigator and report the matter to the relevant agencies in accordance with Council's child safe reporting obligations.

8. SCOPE OF POLICY

This policy applies to:

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

9. RELATED DOCUMENTATION

- Code of Conduct
- Child Safety Policy
- Government Information (Public Access) Act 2009
- Independent Commission Against Corruption (ICAC) Act 1988
- Ombudsman NSW – Effective Complaint Handling Guidelines (February 2017)

10. REVIEW OF POLICY

The Complaints Management Policy is to be reviewed every four years.