

Complaints Handling Procedure

(To be read in conjunction with Complaints Handling Policy)

1. Purpose

Local Government provides an extensive range of services and infrastructure to communities, and discharges obligations under many pieces of legislation. Council is committed to the provision of quality service to customers and regards complaints as an opportunity to improve practices and procedures, as well as resolve the matter.

This Complaints Handling Procedure commences at the point that a complaint is received where a request for service or a service provided has not reach the standard stated, implied or expected through to the escalation of the complaint (level 1 and 2 complaints).

The aim of this procedure, which is available on Council’s website, is to ensure complainants receive a fair, consistent and structured process when staff are managing complaints about actions of the Council or its officers or representatives. This procedure does not apply to matters that do not fall within Council’s jurisdiction. These types of issues will be referred to other agencies.

2. Approval and Change History

Version	Approval Date	Approval by	Change
1.0	22 March 2016	Council	New Procedure
2.0	1 June 2016	Governance	Added to 5.3 <i>Note: If a complaint is received (Tier 2 or 3) but not marked ‘Confidential’, City of Playford will accept it as such and treat it confidentially.</i>

3. Scope

This procedure applies to all Council staff who may be involved in receiving or processing a complaint in the course of their work.

Officers will act reasonably and transparently, demonstrate good customer service, undertake their responsibilities in a proficient manner and use their judgement where necessary to ensure an outcome in line with Council’s Complaints Handling Policy.

Where Council has failed to meet the normal standards for a service which has been, or should have been, delivered this policy and the associated procedures apply.

4. Definitions

	Procedure No.:	NA	Version No.:	2.0
	ECM Document Set No.:	2380401	Initial Date of Adoption:	22/03/2016
	Authorised by:	Council (Resolution 2519)	Date of Current Version:	1/06/2016
	Document Maintained by:	Corporate Services, Governance	Next Review Date:	March 2020

Complaint - for the purposes of this policy, a complaint is defined as:

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.

Council also receives service requests and feedback across all areas of operations and clarification may be necessary to make the distinction for the purposes of this policy.

Complaints which are determined to be about matters that are not Council's responsibility, such as disputes between neighbours, will not be handled under this policy.

Council refers to the City of Playford Council

Employee includes 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.

Request for Service is an application to have Council or its representative take some form of action to provide a Council service. (See Request for Service Policy)

Council also receives service requests and feedback across all areas of operations and clarification may be necessary to make the distinction for the purposes of this procedure.

Feedback can take the form of comments, both positive and negative, about services provided by Council without necessarily requiring a corrective action, change of services or formal review of a decision. Feedback may, however, influence future service reviews and delivery methods.

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

5. Procedure

5.1 Principles

Council welcomes complaints as a way of improving its services and programs as well as providing an opportunity to put things right. The following steps are to be followed by staff 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 one is warranted
- Investigate the complaint
- Respond to the complainant with a clear decision (uphold grievance or uphold Council action)
- Follow up any customer service concerns
- Consider whether there are systemic issues which need correction.

5.2 Assisting with the Lodgement of a Complaint

It is essential that no one is excluded from lodging a complaint because of any difficulties they may have representing themselves. All staff are expected to offer assistance where

appropriate and provide it on request, including assistance in documenting the complaint in writing when circumstances warrant.

If necessary arrange access to interpreters, aids or advocates to ensure that a complainant is treated equitably.

5.3 Receiving a Complaint

Complaints handling consists of a three tiered scheme.

Tier 1. Immediate response to resolve the complaint

All staff 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 more senior officer

A complaint will be directed to a more senior officer in the 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 an issue that requires a decision to be made at a more senior level, or where a complaint concerns a matter that ranges across more than one Council work area.

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* [see Council's Internal Review Procedure]. 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 CEO.

- **Verbal Complaints**

Verbal complaints are generally an initial complaint that can be resolved at the frontline where the service has been provided. These types of complaints will not be managed under a formal investigation process. If such a complaint gives rise to a reasonable suspicion of corruption in public administration and/or serious or systemic misconduct/maladministration it will be reported to the Office for Public Integrity in accordance with the Directions and Guidelines adopted by ICAC.

- **Written Complaints**

Where a complainant presents, it is the responsibility of the officer present to determine whether the matter can be dealt with immediately by a frontline officer. (If yes, see 5.1) If not, the complainant should be encouraged to put the complaint in writing and assisted, where necessary, by a Council Officer.

All written complaints are to be forwarded to Records Management for registration and assignment.

Except for minor Tier 1, complaints must:

- a) Be in writing;
- b) Be clearly marked 'Confidential';

- c) Identify issue and if applicable who is the subject of the complaint;
- d) Identify the complainant by Name, Address, Contact Number(s) and/or Email Address;
- e) Be specific and provide as much supporting evidence as possible to substantiate the complaint and to assist with an assessment and/or investigation.

Note: If a complaint is received (Tier 2 or 3) but not marked 'Confidential', City of Playford will accept it as such and treat it confidentially.

5.4 Acknowledging Complaints

Where a complaint cannot be resolved immediately the person who received the initial contact is responsible for:

- a) advising the complainant of the process to be undertaken and the time of the next contact when taking a verbal report; or
- b) sending an automatic response to electronic lodgement; or
- c) ensuring the complaint is properly lodged and assigned.

Written complaints must be responded to within [10] business days, acknowledging receipt of the complaint and, where possible, resolving it at that time.

5.5 Anonymous Complaints

Anonymous complaints will not be investigated by Council. If such a complaint gives rise to a reasonable suspicion of corruption in public administration and/or serious or systemic misconduct/maladministration it will be reported to the Office for Public Integrity in accordance with the Directions and Guidelines adopted by ICAC.

5.6 Assignment of Complaints

Assignment of the complaint will include determining who will investigate and at what level the complaint should be dealt with in the first instance. Wherever possible complaints will be handled independently of the original decision-maker or officer involved in the matter that is the subject of the complaint.

5.7 Responsibilities of all staff when dealing with complaints

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 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
- Inform complainant of any further avenues of review

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
- Keep them informed of progress and the reasons for any delays
- Resolve or make further enquiries as soon as possible
- Where a complaint is not resolved to the customer's satisfaction, explain the decision clearly and offer any possible alternative actions or review opportunities

Council must handle complaint information according to the privacy policy, which is set out in Council's Complaints Handling 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.

Information gathered during the complaint process will only be:

- Used in order to deal with and resolve the complaint or to address systemic issues arising from a complaint
- Shared with Council staff on a need to know basis
- Disclosed only in accordance with legal requirements, including the Freedom of Information Act, and after consultation with person affected.

Information may be disclosed publicly in a de-identified format for annual reporting, training and other purposes required by legislation.

5.8 Responsibility of Council Members when handling complaints

Council Members are to forward customer complaints to the Chief Executive Officer for action.

5.9 Frontline resolution of a complaint

All staff 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. Dealing with a complaint at this level can include referral to another officer who has had no involvement in the matter, or to the relevant Manager.

Staff dealing with complaints are required to capture the complaint in the Governance Complaint Register.

5.10 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
- Giving an apology, regardless of rights or wrongs, to acknowledge that the complainant feels aggrieved, without passing judgement on the nature of the grievance or alluding to any likely outcome.

5.11 Transfer Required

If it is necessary to refer the matter to another staff member (either at the same tier, or as a Tier 2 or 3 process), ensure that this person is fully briefed and able to make a decision. Having their complaint transferred can be frustrating for the complainant, so ensure that they do not have to explain everything again.

Advise the complainant of the reason for the transfer of responsibility and explain the process and timeframes which will be followed.

5.12 When to Immediately Transfer a Complaint

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

- Freedom of Information applications
- Insurance claims
- Decisions made under legislation other than the Local Government Act, such as the Development Act 1993 or Expiation of Offences Act 1996.

Ensure that the complainant has sufficient information to initiate the alternative process.

There are some types of complaints which must be automatically transferred to Tier 2 or 3. These include:

- Complaints about a decision of the Elected Council
- Complaints in relation to a Council Member or the Chief Executive Officer
- Where the problem is clearly outside of the staff member's delegation or area of expertise
- Complaints alleging fraud, corruption or other criminal behaviour, which should be referred to the Anti-Corruption Branch or other relevant branch of SAPOL
- Complaints involving an allegation of serious or controversial conduct by a staff member where disciplinary action is a possible outcome

Ensure that the complaint is documented and lodged with records management, or request immediate assistance from a senior officer for, depending on the circumstances and nature of the complaint.

5.13 Handling Complaints at Senior Level

A complaint should be directed to a more senior officer in the Council, where circumstances indicate that the complaint would be more appropriately handled at a higher level. Examples include where the complaint:

- ranges across more than one service area within Council
- concerns a contractor or consultant
- alleges improper conduct by a staff member
- has a high degree of complexity and
- if a complainant is not satisfied with the outcome or handling of the complaint at the frontline level

In the great majority of cases, complaints should be resolved to the satisfaction of all parties at this level.

5.14 Process of Assigning Senior Officer to Complaint

Council's records management staff are trained to assign complaints to an appropriate officer with the skills, knowledge and authority to investigate and determine the matter.

As a matter of good practice, complaints should be escalated to the appropriate manager of the areas to which the complaint is directed, provided that the manager has not been involved in the matter that is the subject of the complaint and is able to bring an objective mind to the resolution of the complaint.

Ensure that the referral occurs promptly and the complainant understands the process and timeline for the next action.

Document your involvement to date in the Governance Complaints Register.

5.15 Deciding how to proceed

Each complaint must be assessed to determine its nature, how it should be dealt with, when it should be dealt with, who should be involved and whether further information or investigation is required.

The first step is to assess the nature of the complaint, as not all complaints require investigation. 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.

Determine what course of action is most appropriate in the particular circumstances.

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.

5.16 Undertaking an investigation

For more guidance on planning an investigation, gathering evidence and making a decision see **Attachment A**.

Every effort should be made to finalise the complaint at this level. See section 5.20 Remedies below.

Ensure that the complainant receives regular updates about the progress of the investigation and a formal response including reasons for the decision.

5.17 Internal Review

Internal review (Tier 3) of a Council decision is available under section 270 of the *Local Government Act 1999*. This more formal process, which is established and mandated by statute, is generally a last resort in the complaint handling process. However, this process may also be used in relation to more serious situations which require an immediate, high level response, such as a complaint about a decision of the CEO or a resolution of Council. [see Council's Internal Review Procedure]

5.18 Remedies

Where a complaint is considered justified, the next step is to determine an appropriate remedy or response to the complaint. By working to address the complaint, Council is making a commitment to meeting the complainant's needs, improving internal processes and maintaining its reputation.

An apology which is not an acceptance of liability is normally appropriate. Other remedies offered should be fair and reasonable for both Council and the complainant. The range of possible outcomes includes:

- an explanation
- an apology
- mediation
- an admission of fault
- a change in decision
- a change to policy, procedure or practice
- a correction of misleading records
- financial compensation, including a refund of any fees
- the waiving of a debt
- the remission of a penalty
- protection to the complainant
- disciplinary action
- referral of a matter to an external agency for further investigation or prosecution.

The remedy or response may be just one, or a combination of these actions. The chosen remedy needs to be proportionate and appropriate to the failure in service and take account of what people are looking for when they complain. Normally remedies other than compensation will satisfy a complainant. Compensation is therefore a final option and will apply only in cases where the loss or suffering is considered substantial.

Refer all recommendations for financial compensation to the CEO.

Ideally, remedies should be implemented as soon as possible. In cases where a remedy is provided to a complainant, it may also be necessary to provide a remedy to other people similarly affected, even if they have not made a complaint.

If an apology is required the best thing to do is apologise promptly and advise the complainant that appropriate action will be taken to ensure the problem is not repeated.

5.19 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.

5.20 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. Council therefore should have systems to:

- record, analyse and report on the outcomes of complaints and remedies and
- apply the information to improve customer service

Part of a remedy may be to ensure that changes are made to policies, procedures, systems, staff training or all of these, to ensure that the maladministration or poor service is not repeated. It is important to ensure that lessons learnt are put into practice.

All Tier 2 and 3 complaints must be recorded in Council's records management system and the Governance Complaints Register in such a way that the information can also be analysed for service improvement opportunities.

6. Supporting Documentation

- Local Government Act 1999, section 270
- Complaints Handling Policy
- Requests for Service Policy
- Council Member Mandatory Code of Conduct
- Employee Mandatory Code of Conduct
- Internal Review of Council Decisions Procedure
- Protocol – Ombudsman Enquiry Procedure
- Whistleblowers Policy
- Governance Complaint Register
- Commonwealth Ombudsman, *Better Practice Guide to Complaint Handling*;
- Ombudsman Victoria, *Good Practice Guide*;
- NSW Ombudsman, *Effective Complaint Handling Guidelines*, 2nd edition; and *Managing Unreasonable Complainant Conduct Practice Manual 2009*;
- Australian Standard ISO 10002-2006, Customer satisfaction –guidelines for complaint handling in organisations.
- Workflow of Complaints Handling Procedure (attachment B)

How to investigate a complaint

* extracted from the 'Better Practice Guide to Complaint Handling' endorsed by Australian Parliamentary Ombudsman

DME 73911

Planning

Complaints that are straightforward can often be resolved on first contact. If this is not the case and the complaint requires investigation, a short written plan should be prepared. The plan should:

- define what is to be investigated
- list the steps involved in investigating the complaint and state whether further information is required, either from the complainant or from another person or organisation
- provide an estimate of the time it will take to resolve the complaint
- identify the remedy the complainant is seeking, whether the complainant's expectations are realistic or need to be managed, and other possible remedies
- note any special considerations that apply to the complaint—for example, if the complainant has asked for their identity to be withheld from others or if there is sensitive or confidential information that needs to be safeguarded

A written plan will focus attention on what is to be investigated. This will ensure that important matters are not overlooked and that the investigation does not wander off course. A plan also allows a supervisor and other officers to review the course of the investigation. This is especially important if the investigation cannot be completed by the officer to whom the complaint was initially assigned. A common cause of inefficiency and delay in complaint investigation is that responsibility for investigating a complaint is passed from one officer to another, without adequate handover or planning.

Planning and conducting an investigation is a dynamic and ongoing process. It is not always possible to know at the outset how an investigation will develop, and more complex investigations can take a long time. It is important to revisit the investigation plan regularly and make adjustments as circumstances change and new information becomes available.

Investigation

The purpose of an investigation is twofold: to resolve the complaint by reaching a fair and independent view on the issues raised by a complainant; and to provide an appropriate remedy.

The three principles of fair investigation are:

Impartiality Each complaint should be approached with an open mind, and the facts and contentions in support of a complaint should be weighed objectively.

Confidentiality A complaint should be investigated in private, and care should be taken when disclosing to others any identifying details of a complaint.

Transparency A complainant should be told about the steps in the complaint process and be given an opportunity to comment on adverse information before a complaint is dismissed.

These three principles echo the requirements of administrative law, which public sector agencies must also observe during complaint investigation. The administrative law

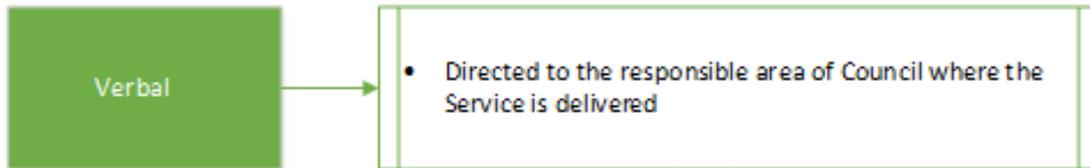
requirements are outlined in five best-practice guides published by the Administrative Review Council (at www.ag.gov.au/arc). The following are among the requirements that are relevant to complaint investigation:

- A finding on a disputed factual matter must be based on evidence that is relevant and logically capable of supporting the finding—not on guesswork, preconceptions, suspicion or questionable assumptions
- A written record should be kept of evidence that is provided orally
- A complainant is not obliged to substantiate each fact or element in their complaint, although it is reasonable for the investigator to ask them to assist the investigation by providing documents they have or explaining things they know
- The rules of evidence that apply in court proceedings do not apply to administrative investigation, and an investigator can use reliable information obtained from any source
- To accord natural justice, a complainant should be given an opportunity to comment on contrary information or claims from another source before a decision is made to dismiss the complaint

It is not always possible to resolve each disputed matter. The evidence available to the investigator might be scant, inconclusive or evenly balanced, and this should be explained to the complainant. Thought should also be given to resolving the complaint differently, by exploring the options for reaching a settlement or understanding between the complainant and those being complained about.

Version	Approval Date	Approval by	Change
1.0	22/03/2016	Ordinary Council Meeting	Nil
2.0	1/06/2016	Governance Team	Added a note to 5.3 <i>Note: If a complaint is received (Tier 2 or 3) but not marked 'Confidential', City of Playford will accept it as such and treat it confidentially.</i>

Tier 1



Tier 2

