

# POLICY REGISTER

## COMPLAINTS MANAGEMENT POLICY

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## 1. PURPOSE AND SCOPE

To provide guidance on the management of complaints that facilitates a consistent, fair and equitable process for resolution.

### 1.1 Applies to:

This Policy applies to complaints covered by the following definition;

*A complaint is generally any formal expression of dissatisfaction with Council's policies and procedures, quality of service or follow up communication. It includes dissatisfaction with the outcome of a decision, level or quality of service, the failure to adhere to a policy or a procedure or the behaviour of an employee or agent that can be acted upon.*

The following are regarded by Council as requests rather than complaints and as such are not covered by this Policy.

- Requests for service e.g. collection of waste, repairing of pothole or clearing of drains
- Reports of hazards e.g. fallen trees
- Requests for information or explanation of policies, procedures or decisions of Council
- Concerns about neighbours or neighbouring properties e.g. barking dogs, unauthorised works
- An objection to a Council decision
- Submissions relating to an item on public exhibition or a notification
- An internal grievance (Governed by Council's internal policy framework)

## 2. REFERENCE

Legislation / Recognized Standards	Ombudsman NSW complaint handler's toolkit Practice Note 9 – Complaints Management in Councils
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## 3. DEFINITIONS

### 3.1 Complaint

An expression of dissatisfaction with the Council's policies, procedures, charges, agents, or quality of service presenting the opportunity to improve in these areas.

### 3.2 Complainant

Person or organisation making a complaint.

### 3.3 Grievance

An expression of dissatisfaction by an employee of Council about the way in which they have been treated by another member of staff (including a supervisor).

### 3.4 Public Interest Disclosure

An allegation of corrupt conduct, maladministration, and serious and substantial waste that may be subject to the Public Interest Disclosures Act 1994.

#### **4. TYPES OF COMPLAINTS**

Listed below are the different types of complaints that may be received by Council. Complaints classified as ‘General complaints’ will be dealt with under this policy.

The other types of complaints listed below are covered under separate policies because they may have external reporting requirements, or they may be required to be dealt with by an external agency therefore are not dealt with under this policy.

##### **4.1 General Complaints**

General complaints are an expression of dissatisfaction with Council’s policies, procedures or quality of service. They will be dealt with and resolved by the organisation and have no specific statutory reporting obligations.

##### **4.2 Complaints against staff**

Complaints made against a member of staff are to be directed to the Public Officer in writing.

The complaint will then be referred to the Executive Managers and managed in accordance with the Local Government State Award and the appropriate policy or protocol (see above for related policies/protocols/procedures).

All complaints made against staff will be documented on the employee’s personnel file. A response regarding the complaint will be provided to the customer in writing.

If a complaint against a staff member is in breach of the Code of Conduct the complaint will be managed under section 4.3 of this policy.

##### **4.3 Complaints with statutory reporting requirements**

###### **4.3.1 Complaints concerning the Code of Conduct**

Complaints concerning corrupt conduct, maladministration, serious or substantial waste or misuse by Councillors or Staff are covered under the Code of Conduct and will be dealt with in accordance with these requirements. The complaint handling procedure for code of conduct complaints is specified in Council’s Code of Conduct.

###### **4.3.2 Public Interest Disclosures**

Public Interest Disclosures are covered by Council’s Public Interest Disclosures – Internal Reporting Policy and will be handled in accordance with that policy.

###### **4.3.3 Allegations Under Child Protection Legislation**

Complaints relating to child protection are dealt with in accordance with Council’s Child Protection Policy.

###### **4.3.4 Competitive Neutrality Complaints**

An actual or potential competitor of a Council business may make a complaint if it believes that it is being adversely affected through a failure to adopt competitive neutrality – that is, Council is operating with an unfair competitive advantage.

Competitive Neutrality complaints must be in writing and will be referred to Council’s Public Officer who will acknowledge and investigate the complaint and will provide a response within twenty-one (21) days.

#### 4.3.5 Privacy Complaints

Complaints relating to privacy and breaches of the Privacy & Personal Information Protection Act 1998 are to be referred to the Public Officer. Complaints regarding privacy are dealt with in accordance with Council's Privacy Management Plan.

#### 4.4 Anonymous Complaints

While anonymous complaints will be recorded, Council will generally only act on them where the matter is of a safety or serious nature and there is sufficient information in the complaint to enable an investigation to be undertaken. The decision on whether to investigate will be made at the discretion of the Public Officer.

### 5. PROCESSES AND TIMEFRAMES FOR COMPLAINTS RECEIVED

Timeframe	Action
<b>Immediate</b>	Complaints lodged by phone and 'in person' will be acknowledged at time of receipt.
<b>Within 1 day</b>	All complaints will be recorded in Council's electronic document management system. All complainants who provide contact details will be provided with written acknowledgement of the complaint.
<b>Within 10 days</b>	Written or electronic complaints - the staff member dealing with the complaint will provide acknowledgement and aim to give a timeframe for resolution of the matter where it is complex or requires investigation.
<b>Within 28 days</b>	Council will aim to address the full complaint or keep the complainant informed of progress. For long and complicated issues updates will be provided at periodic intervals with the interval determined by the nature of the issue.
<b>Within 28 days</b>	Internal reviews should be completed within 28 days of the lodgment for a request for an internal review. For long and complicated reviews, an estimate of the time required and periodic updates should be provided by the Public Officer.

**Please note:** Where a complaint relates to matters of a criminal nature, the investigation of such complaints is at the behest of an agency external to Council and the above timeframes should only be used as a guide.

### 6. UNREASONABLE COMPLAINANT CONDUCT

Unreasonable complainant conduct is any behaviour by a complainant which, because of its nature or frequency raises substantial health, safety or resource issues for the organisation or staff.

Such conduct can be categorised as unreasonable persistence, unreasonable demands, unreasonable lack of co-operation, unreasonable arguments or unreasonable behaviour. Council's strategy will depend on the circumstances of the unreasonable conduct in question.

The following strategies/processes may assist staff in dealing with the different types of unreasonable conduct that may be displayed;

*Unreasonable Persistence/vexatious complaints*

- Telling the complainant firmly that something “is not going to happen”.
- Requiring the complainant who wants an internal review to provide sound reasons for one (i.e. explain how the complaint handler erred or the provision of new information if not the file remains closed).
- Making it very clear that following an internal review that, for better or worse, Council has made its decision and if the complainant remains dissatisfied, they should seek an external review with the appropriate external agency.
- Adopting a firm “no further correspondence/contact stance”.
- Not allowing the complainant to reframe the complaint to re-enter the process unless they raise new and important issues.
- Ending phone calls that are unproductive.
- Adopting a firm and authoritative communication style both in writing and verbally.

*Unreasonable Demands*

- Letting complainants know in advance how Council intends to deal with the complaint.
- Letting the complainant know that it is Council who decides how a complaint will be handled.
- Avoid being drawn into hypothesis, hysteria, conspiracy theories, unproductive arguments and personal attacks.
- Restricting contact to defined times and prescribed staff members.
- Responding only to emails and mail addressed to the Council directly.
- Ending unproductive phone calls.
- Limit contact to written only.
- NOT doing for unreasonably demanding complainants something the Council would not normally do for any other complainant, just to appease them.
- Setting defined limits for any further contact.

*Unreasonable Lack of Co-operation/willfully misleading*

- Requiring complainant to summarise the information they have provided before you look at the complaint.
- Telling complainants that you will not look at their complaint until all the information has been presented.
- Ending the complaint management process where it is discovered that the complainant has been willfully misleading or untruthful in a significant way and inviting them to raise their concerns with the appropriate external agency if unhappy with Council’s response.

*Unreasonable Arguments/ complaints made not in good faith*

- Decline from the outset or discontinued as soon as it becomes clear that the arguments are unreasonable or groundless.
- Alternatively, if unreasonable arguments are mixed with reasonable ones, the strategy should be to refuse to deal with the unreasonable portion.
- Again, if the complainant is unhappy with Council’s response, the complainant

should be invited to raise their concerns with the appropriate external agency.

- Unreasonable behaviour (rude and intemperate language)
- Return letters framed in rude and intemperate language.
- End telephone calls and interviews.

## 7. ABUSIVE OR THREATENING COMPLAINANTS

Abusive and threatening behaviour by complainants **will not** be tolerated. Where personal abuse or vulgar language is being used the communication may be terminated at the **discretion of the subject** employee and may involve the employee walking away from the complainant, termination of a telephone call, blocking future emails from the sender or returning offending letters to the sender unanswered.

Such behavior should be reported to the officer's Manager and documentation/file notes kept in relation to the behavior of the complainant and any action undertaken by the staff member or other officer. A register of people whose access has been restricted should be kept by the Public Officer and staff should have access to the register and be familiar with its contents.

A complainant who has exhibited such behavior should be advised by formal letter from the General Manager that such conduct will not be tolerated and that the continuation of such behaviour will result in withdrawing or restricting access to Council and its staff.

Threats of harm to an employee or any other Council Official should be taken seriously and referred to the NSW Police Service immediately. A pragmatic approach to the staff member's safety and security should also be considered (depending on the nature of the threat) such as having the staff member arrive at or leave work whilst other staff are on duty, having the staff member escorted to their vehicle and vetting work calls if required.

## 8. COMPLAINANT RIGHTS OF REVIEW

**Internal Review** - Should the complainant be dissatisfied with the handling or determination of a complaint, the Public Officer will oversee the internal review process.

The Public Officer should advise the complainant that they may request in writing this type of internal review. If requested, a more senior officer or a specialist officer (if technical issues are raised) will review the matter and respond to the complainant accordingly.

The Public Officer will advise the complainant in writing of the expected turnaround times (after consultation with the officer conducting the review process) and keep the complainant updated if an extension or more information is required.

**External Review** – should the complainant be dissatisfied with the internal review they will be provided with the relevant information regarding rights of appeal and may seek a review by the:

- NSW Ombudsman on 1800 451 524 or at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au) - for complaints about the conduct of staff, enforcement matters and the administrative conduct of Council itself;
- Independent Commission Against Corruption (ICAC) on 1800 463 909 or at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) - for complaints that a Council official has acted corruptly.



- Office of Local Government (OLG) on 4428 4100 or at [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au) - for complaints about the overall functioning of Council, pecuniary interest issues, tendering or Councillor misconduct

Council should be mindful that under Section 11 of the *Independent Commission Against Corruption Act 1988*, the General Manager has a duty to report any matter that he or she suspects on reasonable grounds concerns or may concern corrupt conduct.

Further, if the matter complained about concerns an alleged breach of the pecuniary interest provisions of the *Local Government Act*; the OLG *Pecuniary Interest Guidelines 2006* make it clear that such matters must be reported by the General Manager after reviewing all information and determining that there is evidence consistent with a breach of the Act.

## **9. POLICY IMPLEMENTATION**

This policy will be implemented with reference to Council policies including, but not limited to:

- Code of Conduct
- Privacy Management Policy

## **10. REPORTING & IMPROVEMENT**

Monthly the Divisional Managers will provide succinct reports to the Senior Management Team on complaints received and subsequent follow-up and departmental action.

Reports will provide the following information on each complaint:

- the issue at the center of the complaint
- dates and history of complaint,
- action taken to address complainant's issues
- feedback from the complainant, where available, as to satisfactory resolution of the complaint or otherwise,
- information on internal reviews,
- on an annual basis, the Divisional Managers must collate the complaints data for inclusion in Council's Annual Report.

Complaints data should be captured, classified and analysed on a quarterly basis to assist in rectifying systemic and recurring problems. The Senior Management Team should review the data to identify areas that may need corrective action and process improvement within Council's operations.

## **11. POLICY REVIEW**

It is intended that this Policy will be reviewed periodically, at a minimum once every term of an elected Council, taking into account any further information or developments that may be to hand at that time.