

Complaints Handling Policy

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1. Title

Complaints Handling Policy

2. Preamble

Council delivers a large and diverse range of services and strives to ensure its decision-making processes result in fair and reasonable outcomes for the community. We understand that in some circumstances our services or actions may not meet the expectations of all community members and are committed to ensuring that there are appropriate mechanisms in place for complaints to be raised. Complaints provide important insights about Council services and a valuable opportunity to identify areas that may need improvement.

This Complaint Handling Policy aims to ensure that community members can feel confident to raise complaints with Council easily with an understanding that Council will listen, be respectful and responsive and handle their complaints fairly and objectively.

3. Objective

The objectives of this Policy are to:

- 3.1 assist Council to comply with the requirements of s107 of the *Local Government Act*;
- 3.2 assist Council staff to identify and manage Complaints appropriately and consistently and establish processes for handling Complaints concerning actions taken, decisions made, and services provided by Council, Council staff and Contractors fairly and objectively;
- 3.3 ensure that members of the public understand how to make Complaints and how Council will respond to their Complaints; and
- 3.4 set out Council's approach to managing Unreasonable Complainants and assist Council staff to identify Unreasonable Complainant Conduct and to apply strategies to manage such behaviour in a way that is reasonable and proportionate.

4. Scope

This Policy applies to all employees, Contractors, agents, volunteers and customers of Council.

5. Definitions

In this Policy, the following words and phrases have the following meaning:

- 5.1 "Act" means the *Local Government Act 2020*;
- 5.2 "CEO" means the Chief Executive Officer of Council and includes a person acting in that position;
- 5.3 "Complainant" means a person who makes a Complaint;
- 5.4 "Complaint" includes the communication, whether orally or in writing, to Council by a person of their dissatisfaction with:
 - 5.4.1 the quality of an action taken, decision made or service provided by a member of Council staff or a Contractor engaged by Council;
 - 5.4.2 the delay by a member of Council staff or a Contractor in taking an action, making a decision or providing a service; or
 - 5.4.3 a policy or decision made by Council or a member of Council staff or a Contractor;
- 5.5 "Complaints Officer" means the officer appointed as the Complaints Officer by the CEO for the purposes of this Policy;
- 5.6 "Contractor" means a third party engaged by Council to carry out services, supply goods or perform works or functions on behalf of Council;
- 5.7 "FOI" means Freedom of Information;
- 5.8 "Outcome" means the action to be taken to resolve the issues identified in a Complaint;

- 5.9 “Request for Service” means a request by a customer seeking assistance, access to a new service or advice, or to inform Council of, or make a report about something for which Council has responsibility, but does not include a Complaint;
- 5.10 “Unreasonable Complainant” means a Complainant whose conduct is considered to be Unreasonable Complainant Conduct;
- 5.11 “Unreasonable Complainant Conduct” means conduct by a Complainant which, because of its nature or frequency, raises health, safety, resource or equity issues for Council, Council staff, Councillors and other people who use Council services.

6. What constitutes a Complaint?

- 6.1 This Policy is only concerned with Complaints, as defined in clause 5.4 above. In simple terms, a Complaint is any communication which:
- 6.1.1 is an expression of dissatisfaction;
- 6.1.2 is about an action, decision, policy or service; and
- 6.1.3 relates to the conduct of Council staff, including the CEO, a Contractor, or the Council as a decision-making body (but not individual Councillors).
- 6.2 The following matters are not Complaints to which this Policy applies:
- 6.2.1 Requests for Service – while a Complaint may lead to a Request for Service,¹ Requests for Service are not handled under this Policy;
- 6.2.2 Complaints regarding individual Councillors – Councillor conduct is dealt with under Part 6 of the *Act* and is outside the scope of this Policy; and
- 6.2.3 subject to clause 9.5, Complaints regarding an action, decision or service that is otherwise subject to statutory review, for example:
- (a) infringements issued by an authorised officer may be subject to review under the *Infringements Act 2006*; and
- (b) planning decisions are subject to review under the *Planning and Environment Act 1987*.

7. How to make a Complaint

- 7.1 Any member of the public can make a Complaint. Complaints can be made by:

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| Phone | 9524 3333 |
| Online | https://www.gleneira.vic.gov.au/contact-us/lodge-a-complaint |
| Email | Mail@gleneira.vic.gov.au |
| In person | Glen Eira City Council Town Hall, Corner Glen Eira and Hawthorn Roads, Caulfield |
| Post | PO Box 42, Caulfield South 3162 |

- 7.2 Council will handle any communication that constitutes a Complaint in accordance with this Policy, regardless of the way it is made. To ensure Complaints are identified and handled quickly, it is recommended written Complaints should be addressed to the Complaints Officer and are clearly identified as a Complaint (e.g. by including ‘Complaint’ in the subject line).
- 7.3 To facilitate the efficient handling of a Complaint, Complainants are encouraged to include the following details when submitting a Complaint:

¹ For example, a Complaint about a missed bin might result in a request for the bin to be collected (i.e. a Request for Service).

- 7.3.1 name and contact details (Complaints may be made anonymously);
 - 7.3.2 a brief description of the action, decision, service, delay or policy that is the subject of the Complaint;
 - 7.3.3 any relevant details that support the Complaint (e.g. dates, times, location, reference numbers and documents);
 - 7.3.4 the reason(s) why the Complainant is dissatisfied;
 - 7.3.5 the desired Outcome; and
 - 7.3.6 any accessibility or other communication needs, including if the Complainant wishes to be represented by another person.
- 7.4 Council is committed to ensuring its Complaints process is accessible to everyone. Complainants are encouraged to identify any specific communication needs they may have or barriers they may experience to help Council to meet their needs. The Complainant will be provided with the help they need to make and resolve the Complaint.
- 7.5 Complaints may be made anonymously. Anonymous Complaints will be accepted and dealt with if sufficient information is provided to do so. Anonymous Complainants will not be advised of the progress or outcome of their Complaint.
- 7.6 To enable easy access for complainants, Council will maintain a dedicated accessible webpage on its website where complaints may be lodged at any time.

8. Complaint handling process

Council applies a four-tiered approach to managing Complaints. Where possible, Council will seek to resolve a Complaint at the time it is received. If that is not possible, the Complaint will be referred to the Complaints Officer and escalated, as appropriate.

8.1 First-contact complaint resolution

- 8.1.1 The member of Council staff who receives a Complaint will, if they can easily and immediately take steps to resolve the Complaint, take responsibility for managing the Complaint and handle it as appropriate (e.g. by lodging a Request for Service then and there or advising the Complainant that no action will be taken by Council). This may be completed over the phone.
- 8.1.2 No acknowledgement of resolution will be sent to a complainant if a complaint is resolved at first point of contact.
- 8.1.3 If the member of Council staff who receives a Complaint cannot reasonably resolve it, or cannot refer it to the appropriate department or Manager to resolve it, the member of Council staff will refer the Complaint to the Complaints Officer.
- 8.1.4 If a Complaint is referred to the Complaints Officer, the Complaints Officer will issue an acknowledgement to the Complainant within 5 working days advising of the likely time frame and next steps and who the Complainant can contact about the handling of their Complaint.

8.2 Escalation to the Complaints Officer and investigation

- 8.2.1 If a Complaint is referred to the Complaints Officer, the Complaints Officer will assess the Complaint and decide how it will be handled, including by:
 - (a) assigning it to the appropriate Council officer for investigation and resolution (which, depending on the nature of the Complaint, may be the Complaints Officer);
 - (b) deciding that no action is required and advising the Complainant accordingly; or
 - (c) if there is an alternative statutory pathway for the Complaint, referring the Complainant to the appropriate pathway.
- 8.2.2 If the Complaints Officer decides that the Complaint should be investigated by a Council officer, the investigation will be assigned to an officer:

- (a) with appropriate experience and seniority, having regard to the nature and subject of the Complaint and the Outcome sought; and
- (b) where possible, who is independent of the action, decision, service, delay or policy that is the subject of the Complaint.

8.2.3 Council is committed to resolving all Complaints within 28 working days of receipt. Complainants will be advised if the investigation will take longer and will be updated about the progress of the investigation every 10 working days until the Complaint is resolved.

8.2.4 As part of the investigation, the officer assigned to investigate the Complaint will:

- (a) impartially assess the content of the Complaint against any relevant legislation, guidelines, policies and procedures to determine whether Council acted lawfully, fairly and appropriately;
- (b) gather additional information, as required, which may include contacting the Complainant;
- (c) determine whether, on balance, the Complaint is reasonably substantiated;
- (d) determine an Outcome that is practical and proportionate; and
- (e) advise the Complainant in writing of the Outcome, the reasons and options for internal and external review.

8.3 Internal review

8.3.1 If the Complainant is dissatisfied with the decision on, and Council's response to, their Complaint, the Complainant can request an internal review. A request for internal review should set out the reason(s) why the Complainant is dissatisfied with the way their Complaint was handled.

8.3.2 A request for internal review will be acknowledged by the Complaints Officer within 5 working days of receipt and Council intends to complete internal reviews within 28 working days.

8.3.3 Subject to clause 8.3.4, the Complaints Officer will refer requests for internal review to a senior Council officer who has not had any prior involvement with the Complaint (unless the complaint is related to a claim against Council).

8.3.4 If the internal review relates to a decision in respect of a legal claim against Council which is not subject to statutory review in accordance with clause 9.5, the internal review will be undertaken by a qualified legal officer within the Corporate Counsel business unit.

8.3.5 As part of the internal review, the senior Council officer will:

- (a) consider whether the Complaint was managed appropriately and whether the Outcome was sound; and
- (b) advise the Complainant in writing of the Outcome (i.e. whether the original decision is upheld, partially upheld or overturned) the reasons and options for external review.

8.3.6 The Complaints Officer will not conduct an internal review.

8.4 External review

8.4.1 There are many external bodies to whom a Complaint may be referred. The appropriate body depends on the nature of the relevant Complaint. The following bodies are responsible for the following kinds of Complaints:

| Complaint | Appropriate external body |
|---|---|
| Actions or decisions of Council, Council staff and Contractors, including the handling or review of a Complaint. This includes failure to consider human rights or failure to act compatibly with a human right under the <i>Charter of Human Rights and Responsibilities Act 2006</i> | Victorian Ombudsman https://www.ombudsman.vic.gov.au |
| Breaches of the <i>Act</i> or the <i>Local Government Act 1989</i> | Local Government Inspectorate www.lgi.vic.gov.au |
| Breach of privacy or an FOI Complaint | Office of the Victorian Information Commission www.ovic.vic.gov.au |
| Corruption or public interest disclosure ('whistleblower') complaints | Independent Broad-based Anti-corruption Commission www.ibac.vic.gov.au |
| Discrimination | Victorian Human Rights and Equal Opportunity Commission www.humanrights.vic.gov.au |
| Council elections | Victorian Electoral Commission www.vec.vic.gov.au |

9. Handling of specific categories of Complaints

Certain kinds of Complaints are subject to different treatment than that outlined in clause 8 above.

9.1 Complaints about Councillors

9.1.1 Complaints about individual Councillors are not Complaints for the purposes of this Policy. Complaints about individual Councillors will be referred to:

- (a) the Mayor; or
- (b) if the Complaint is about the Mayor, to the Deputy Mayor.

9.1.2 Councillor(s) who are the subject of a complaint will be notified of the Complaint by the Mayor or Deputy Mayor, as the case may be.

9.2 Complaints received by Councillors

9.2.1 Where a Councillor receives a Complaint directly, the Councillor will refer the Complaint to the Coordinator, Councillor Business for handling in accordance with this Policy.

9.2.2 The Councillor may advise the Complainant that their Complaint has been referred to the appropriate person for handling in accordance with this Policy. Councillors will not otherwise be involved in the Complaint handling process, but will be involved in responses to non-operational Councillor Requests.

9.2.3 Complaints received by Councillors and referred to Council staff will be handled in accordance with either clause 8 or clause 9.1 of this Policy, depending on its subject matter. The member of Council staff responsible for handling the Complaint will inform the relevant Councillor of the Outcome of the Complaint after it is resolved.

9.3 Complaints about the CEO

9.3.1 The CEO is employed by, and accountable to, Council and stands outside the usual oversight and reporting lines. Therefore, Complaints regarding the CEO must be subject to specific processes.

9.3.2 Complaints about the CEO will be referred to the Mayor and notified to all Councillors. After the Mayor receives a referral, they must, as appropriate:

- (a) determine that the Complaint is to be managed internally and how it will be handled; or
- (b) refer the Complainant to the appropriate external body (e.g. the Victorian Ombudsman or the Independent Broad-based Anti-corruption Commission).

9.3.3 If the complaint alleges serious misconduct, consideration should be given as to whether the CEO Employment Matters Committee should be convened to consider the matter.

9.3.4 If a Complaint about the CEO is to be handled internally in accordance with clause 9.3.2(a), the CEO may, by giving written notice to the Mayor, request Council to appoint an external probity auditor in relation to a Complaint to:

- (a) assist Council to ensure probity in dealing with the Complaint; and
- (b) provide a written report to Council regarding the extent to which Council has observed due probity in dealing with the Complaint.

9.3.5 If Council considers that the appointment of a probity auditor could assist in ensuring probity in dealing with the Complaint, Council may appoint a suitably qualified person to be a probity auditor in relation to the Complaint and to perform the duties described in clause 9.3.3, independently of a request made by the CEO. The Complainant will be advised, in writing, of the Outcome, the reasons and the relevant external options for review.

9.4 Complaints about Council decisions

9.4.1 Where a decision is made by Council Resolution at a Council meeting, it cannot be varied or overturned without a further Council Resolution.

9.4.2 The merits or virtues of decisions made, or policies adopted, by Council Resolution cannot be revisited by an officer responsible for managing Complaints made in respect of them.

9.4.3 Therefore, Complaints regarding decisions made, or policies adopted, by Council Resolution will be handled as follows:

- (a) Complaints that express disagreement with, or criticism of, a decision made, or policy adopted, by Council Resolution will be recorded as feedback but no substantive action will be taken in response; and

- (b) Complaints regarding the way a Council decision was made, including whether the decision was lawful, will be referred to Corporate Counsel for consideration as to whether the decision was made lawfully, having regard to the applicable laws, processes and procedures.

9.5 Complaints otherwise subject to statutory review

- 9.5.1 Council has the discretion to refuse to deal with Complaints regarding an action, decision or service that can otherwise go through a statutory review process.
- 9.5.2 This includes, for example, Complaints where an Act or regulation provides for the relevant action, decision or service to be reviewed by the Victorian Civil and Administrative Tribunal or a court. Complaints of this type usually concern a particular subject matter, such as infringements, planning, or public health.
- 9.5.3 Council will always refer Complaints that are otherwise subject to statutory review to the appropriate statutory process, unless the Complaints Officer reasonably considers that it is appropriate to manage the Complaint in accordance with this Policy, having regard to:
 - (a) the time and cost required to resolve the matter through external review; and
 - (b) the complexity of the Complaint and whether there is relevant and clear precedent for how it should be managed.
- 9.5.4 In making a decision under clause 9.5.3 to accept and deal with something as a Complaint, even though a statutory right of review is available in respect of it, the Complaints Officer will also have regard to the following:
 - (a) the subject matter of the Complaint;
 - (b) the impact that the subject matter of the Complaint has on the Complainant;
 - (c) Council's capacity to finally resolve the Complaint and the likelihood that the Complainant may nonetheless proceed with the statutory review process;
 - (d) the volume of Complaints received about the same or similar subject matter; and
 - (e) such other matters as the Complaints Officer considers relevant.

10. Recording Complaints

- 10.1 Where practicable, Council will record all Complaints that it receives, including details with respect to how each Complaint was handled, the steps taken to resolve the Complaint and whether the Complainant was satisfied with the Outcome.
- 10.2 Each year, Council will maintain the following data regarding the Complaints that it receives:
 - 10.2.1 the number of Complaints received;
 - 10.2.2 internal review Outcomes, including the number of Outcomes upheld, partially upheld or overturned; and
 - 10.2.3 the number of Complaints escalated to external review.

11. Privacy and confidentiality

- 11.1 Council collects a range of personal information about Complainants for the purpose of administering its Complaints handling processes, including name, address, contact information and demographic data.
- 11.2 Council uses the information submitted by Complainants to respond to their Complaints and may also analyse the information for the purpose of improving Council services.
- 11.3 Any Complaints data included in publicly accessible reports will be deidentified before publication.
- 11.4 For further information, please refer to Council's Privacy Policy.

12. Managing Unreasonable Complainants

- 12.1 Council expects its staff to treat people with courtesy and respect and that this courtesy will be returned by Complainants. Council will not tolerate behaviour that is offensive, abusive or threatening, or which consumes disproportionate resources.
- 12.2 Examples of Unreasonable Complainant Conduct include, without limitation:
 - 12.2.1 persistent, unrelenting and incessant attempts to raise issues that have been comprehensively dealt with;
 - 12.2.2 making demands for unattainable or constantly changing Outcomes;
 - 12.2.3 a continual unwillingness to cooperate in the Complaints handling process;
 - 12.2.4 constant and repeated arguments that are not based on reason; and
 - 12.2.5 acts of aggression, threats, verbal abuse or derogatory, racist or defamatory remarks.
- 12.3 Council aims to prevent challenging behaviour and Unreasonable Complainant Conduct where possible by practising good complaint handling in accordance with this Policy and seeking to ensure that:
 - 12.3.1 Complainants feel heard and understood;
 - 12.3.2 Complainant expectations are clear and realistic, particularly in relation to what Council can do and cannot do in relation to a Complaint; and
 - 12.3.3 Council staff communicate clearly, including providing reasons.
- 12.4 If a Complainant's behaviour escalates to Unreasonable Complainant Conduct, Council staff will apply appropriate and proportionate strategies for managing the behaviour. The strategies will depend on the nature of the Unreasonable Complainant Conduct and may involve limiting one or more of:
 - 12.4.1 who the Unreasonable Complainant can contact, e.g. limiting contact to a named officer;
 - 12.4.2 what issues Council will respond to, e.g. not responding to issues that have already been the subject of an assessment and explanation, unless the Unreasonable Complainant raises new issues that warrant attention;
 - 12.4.3 when a person can contact Council or when a response will be provided, including time of day and frequency or duration of contact;
 - 12.4.4 access to Council facilities and staff, including restricting or prohibiting entry to Council premises or limiting access to or communication with Council staff; and
 - 12.4.5 the method of communication with Council, e.g. confining contact to writing where the person has been verbally abusive.
- 12.5 Nothing in this Policy limits the type of action Council may decide to take to manage Unreasonable Complainant Conduct, provided that the response is reasonable and proportionate.
- 12.6 Council will continue to handle an Unreasonable Complainant's Complaint in accordance with the relevant processes set out in this Policy, but such handling may be modified in accordance with this clause 12.
- 12.7 Decisions to limit an Unreasonable Complainant's access will only be made by the relevant Divisional Director, following consultation with Corporate Counsel.
- 12.8 Before approving any limits on an Unreasonable Complainant under clause 12.7, the Divisional Director must be satisfied that:
 - 12.8.1 the behaviour constitutes Unreasonable Complainant Conduct;
 - 12.8.2 alternative strategies have been, or are likely to be, ineffective in managing the risk;

- 12.8.3 all relevant factors have been considered, including the Unreasonable Complainant's history, the nature of the conduct, their personal circumstances and the impact of limiting access on their welfare and that of their dependants;
- 12.8.4 the limits are proportionate to the level of risk posed by the Unreasonable Complainant Conduct;
- 12.8.5 the limits are consistent with the *Charter of Human Rights and Responsibilities Act 2006*; and
- 12.8.6 if the Unreasonable Complainant Conduct may be a symptom or manifestation of a disability or other protected attribute, the limits are consistent with the *Equal Opportunity Act 2010*.

12.9 Warning and notification letters

- 12.9.1 In most cases, Council will send a warning letter to an Unreasonable Complainant, advising them:
 - (a) of the specific Unreasonable Complainant Conduct they have engaged in; and
 - (b) that, if their behaviour is not modified, Council may intervene to limit their access to Council and the proposed limitation (see clause 12.4).
- 12.9.2 If the behaviour of an Unreasonable Complainant is not modified in response to a warning letter, or if the behaviour poses an imminent, ongoing or escalating risk to any person or property, Council will inform affected staff and send a notification letter to the Unreasonable Complainant advising:
 - (a) of the specific Unreasonable Complainant Conduct they have engaged in;
 - (b) the limitations imposed by Council, for how long they will be imposed and the details of how the Unreasonable Complainant is to engage with Council going forward; and
 - (c) that the Unreasonable Complainant may request a review of Council's decision to impose the limitation or complain to an external agency (e.g. the Victorian Equal Opportunity and Human Rights Commission or the Victorian Ombudsman).
- 12.9.3 Warning and notification letters will be sent by ordinary post and/or email. A failure by the Unreasonable Complainant to receive or read the correspondence by their own action will not affect the application of this Policy or the validity of the actions taken under it.

12.10 Review of action taken against a Complainant

- 12.10.1 Council will review the limitations placed on the Complainant to determine if the limits are effective, proportionate and warranted:
 - (a) at the request of the Complainant, but no earlier than 3 months following the implementation of the action or a previous review; and
 - (b) once every 12 months thereafter.
- 12.10.2 Council will document the review and inform affected staff and the Unreasonable Complainant of any decision to remove or vary the limits on access.

13. Roles and responsibilities

13.1 All Council staff, Councillors and Contractors are responsible for contributing to Council's Complaints processes.

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| CEO | <ul style="list-style-type: none"> • Promoting positive behaviours and practices relating to enabling, responding to and learning from Complaints. • Supporting service improvements that arise from Complaints. • Reviewing and publishing Complaint data. |
| Executive Leadership Team and senior officers | <ul style="list-style-type: none"> • Recruiting, training and empowering staff to resolve Complaints promptly and in accordance with Council's policies and procedures. • Managing conflicts of interest in the Complaint process. • Reporting on and identifying improvements from Complaint data. • Supporting staff who deal with Complaints. • Managing Unreasonable Complainant Conduct and ensuring that all staff who interact with Complainants receive relevant training, guidance and direction, including in security procedures. |
| Council staff | <ul style="list-style-type: none"> • Familiarising themselves with this Policy and Council's Complaint processes. • Assisting in the consideration and resolution of Complaints when requested by the Complaints Officer. • Assisting members of the public to make Complaints. • Treating members of the public respectfully and professionally. • Identifying challenging behaviour and reporting Unreasonable Complainant Conduct. |
| Councillors | <ul style="list-style-type: none"> • Familiarising themselves with this Policy and Council's Complaint processes. • Referring Complaints that they receive directly to Council staff to be dealt with in accordance with Council's Complaint processes. |
| Contractors | <ul style="list-style-type: none"> • Familiarising themselves with this Policy and Council's Complaint processes. • Assisting in the consideration and resolution of Complaints when requested by the Complaints Officer. • Cooperating with Council's Complaint handling processes. |

14. Human Rights Charter Compatibility

This Policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

15. Associated Internal Documents

Privacy Policy

16. External References/Resources

Local Government Act 2020 (Vic)

Victorian Ombudsman's 'Councils and Complaints - a Good Practice Guide', 2nd Edition July 2020