



## **Appendix 3b**

### **18.3 Review of Policies**


*CP035: Complaint Handling*

# **Ordinary Meeting of Council**

Wednesday 24 November 2021 at 7:00pm

Queenscliff Town Hall

## COUNCIL POLICY

Complaint Handling	<b>Adopted By Council:</b>	14/12/16	
	<b>Date/s Revised:</b>	--/--/--	
	<b>Next Review Date:</b>	11/24	
	<b>Document No:</b>	CP035	
	<b>Directorate:</b>	Finance & Corporate	
	<b>Responsible Officer:</b>	Manager Finance & Corporate Services	

### CONTEXT

The Borough of Queenscliffe is committed to providing an effective complaint handling system and creating a culture that encourages feedback including complaints. Council recognises the community's right to provide feedback or complain about any service, experience or process of Council with which they are dissatisfied. The Borough of Queenscliffe acknowledges that feedback and complaints will help Council to continually improve its services.

### PURPOSE

The purpose of this policy is to ensure that the community can raise their complaints with Council easily and with confidence that Council will listen to their concerns and handle their complaints fairly and objectively. This policy provides Council officers and contractors carrying out services on Council's behalf with guidance in the facilitation and resolution of complaints in an efficient, objective and transparent manner.

#### Complainants have the right to:

- make a complaint and to express their opinions in ways that are reasonable, lawful and appropriate;
- a reasonable explanation of the organisation's complaints procedure, including details of the confidentiality, secrecy and/or privacy rights or obligations that may apply;
- a fair and impartial assessment and, where appropriate, investigation of their complaint based on the merits of the case;
- a fair hearing;
- a timely response;
- be informed in at least general terms about the actions taken and outcome of their complaint;
- be given reasons that explain decisions affecting them;
- at least one right of review of the decision on the complaint;
- be treated with courtesy and respect; and
- communicate valid concerns and views without fear of reprisal or other unreasonable response.

#### Council officers have the right to:

- determine whether, and if so how, a complaint will be dealt with;
- finalise matters on the basis of outcomes they consider to be satisfactory in the circumstances;
- expect honesty, cooperation and reasonable assistance from complainants;
- expect honesty, cooperation and reasonable assistance from organisations and people within jurisdiction who are the subject of a complaint;
- be treated with courtesy and respect;
- a safe and healthy working environment; and
- modify, curtail or decline service (if appropriate) in response to unacceptable behaviour by a complainant.

### Subjects of a complaint have the right to:

- a fair and impartial assessment and, where appropriate, investigation of the allegations made against them;
- be treated with courtesy and respect by Council officers;
- be informed (at an appropriate time) about the substance of the allegations made against them that are being investigated;
- be informed about the substance of any proposed adverse comment or decision;
- be given a reasonable opportunity to put their case during the course of any investigation and before any final decision is made;
- be told the outcome of any investigation into allegations about their conduct, including the reasons for any decision or recommendation that may be detrimental to them; and
- be protected from harassment by disgruntled complainants acting unreasonably.

### DEFINITIONS

**Complaint** includes a communication (verbal or written) to the Council which expresses dissatisfaction about –

- the quality of an action taken, decision made, or service provided by a member of Council staff or a contractor engaged by Council; or
- a delay by a member of Council staff or a contractor engaged by the Council in taking an action, making a decision or providing a service; or
- a policy decision made by a Council or a member of Council staff or a contractor.

**Corrupt conduct** means

(a) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or

(b) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or

(c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or

(d) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or

(e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c) or (d)—

being conduct that would, if the facts were found proved beyond reasonable doubt at a trial, constitute a relevant offence.

**Feedback** can be either a positive or negative comment about a service, experience or process of Council that does not require a formal response. Feedback may be used to improve a service, experience or process of Council.

**Improper Conduct** (1) Improper conduct means:

(a) corrupt conduct; or

(b) conduct specified in subsection (2) that is not corrupt conduct but that, if proved, would constitute—

(i) a criminal offence; or

(ii) reasonable grounds for dismissing or dispensing with, or otherwise terminating, the services of the officer who was, or is, engaged in that conduct.

(2) For the purposes of subsection (1)(b), **specified conduct** is conduct—

(a) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or

- (b) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or
- (c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or
- (d) of a public officer or public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or
- (e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c) or (d); or
- (f) of a public officer or public body in his or her capacity as a public officer or its capacity as a public body that—
  - (i) involves substantial mismanagement of public resources; or
  - (ii) involves substantial risk to public health or safety; or
  - (iii) involves substantial risk to the environment.

**Unreasonable Complainant Conduct (UCC)** is any behaviour by a current or former complainant which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for Council, Council officers, contractors, volunteers or other service users and complainants.

## POLICY

This policy is based on the following seven principles:

### 1. **Commitment**

Council is committed to resolving complaints that it receives. Our culture recognises people's right to complain and considers complaint handling to be part of our core business of serving the community and improving service delivery.

### 2. **Accessibility**

People can easily find out how to complain to us, and Council actively assists them with the complaint process.

### 3. **Transparency**

The complaint handling system clearly sets out how to complain, where to complain, and how the complaint will be handled. The steps taken to respond to a complaint are recorded and will stand up to scrutiny.

### 4. **Objectivity and fairness**

Under the complaint handling system, complainants and Council officers are treated with respect and courtesy, and complaints are judged on merit and fact.

### 5. **Confidentiality**

The complaint handling system protects the personal information of people making a complaint, and Council officers are informed only on a 'need to know' basis.

### 6. **Accountability**

Council is accountable, both internally and externally, for our decision making and complaint handling performance. Council provides explanations and reasons for decisions, and ensures that our decisions are subject to appropriate review processes.

### 7. **Continuous improvement**

Council regularly analyses complaint data to find ways to improve how Council operates and how Council delivers its services. Council then implements these changes.

## **1. Roles and Responsibilities of Council officers and contractors**

### **1.1 Frontline Council officers**

Most complaints can be resolved immediately by the Council officer who receives the complaint at the first point of contact, within the scope of their role. If the complaint cannot be resolved at the first point of contact, then the frontline Council officer shall seek assistance from the relevant Coordinator or Supervisor. Complaints that cannot be resolved at this stage must be referred to the relevant Manager/Director for further investigation and management of the complaint.

### **1.2 Coordinators and Supervisors**

Coordinators and Supervisors are responsible for supporting frontline Council officers so that they are empowered to manage complaints within the scope of their role. Coordinators and Supervisors will receive, investigate and manage complaints that have been referred to them. Where a complainant requests a review of the decision made, the Coordinator or Supervisor shall refer the complaint to the relevant Manager/Director and shall assist in the internal review.

### **1.3 Managers/Director**

Managers and Directors are responsible for providing training and support to Council officers so that they understand the complaint handling process. Managers and Directors will receive, investigate and manage complaints that have been referred to them. Where a complainant requests a review of the decision made, the Manager/Director shall refer the complaint to the Chief Executive Officer for review.

### **1.4 Chief Executive officer**

The Chief Executive Officer receives and manages any escalated complaints that cannot be resolved by a Manager/Director.

### **1.5 Third party contractors**

Third party contractors are responsible for keeping Council's Contract Manager informed of any trends in complaints and/or major issues regarding complaints in accordance with the contract.

## **2. How to make a complaint**

A person can make a complaint in a number of ways.

Mail: Borough of Queenscliffe, PO Box 93, Queenscliff Vic 3223

In person: Borough of Queenscliffe Municipal Offices, 50 Learmonth Street, Queenscliff  
9am – 4.30pm Monday to Friday, excluding public holidays

Telephone: (03) 5258 1377

Email: [info@queenscliffe.vic.gov.au](mailto:info@queenscliffe.vic.gov.au)

Website: [www.queenscliffe.vic.gov.au/make-an-enquiry](http://www.queenscliffe.vic.gov.au/make-an-enquiry)

Council is committed to ensuring our complaints process is accessible to everyone. If you have specific communication needs or barriers Council can assist you by:

- using an assistance service, such an interpreter or TTY (for free)
- talking with you if you have trouble reading or writing
- communicating with another person acting on your behalf if you cannot make the complaint yourself.

### **3. Complaints received by Councillors**

When a Councillor receives a complaint from a member of the public, he or she will refer it to the relevant Manager/Director or the Chief Executive Officer.

A Council officer will then be appointed to investigate and respond to the complaint in accordance with this policy.

### **4. Complaints received about contractors**

Council retains a level of responsibility for services carried out by contractors on its behalf.

Contract managers will ensure that all contractors are made aware of their obligations under this policy and will review any complaint handling during regular meetings. Where Council has made a provision for a contractor to handle any complaints directly, they must record the complaint and advise the complainant of the outcome, where possible, in writing.

If a complainant is not satisfied with the outcome of the complaint, he or she can ask the Council to review the decision.

All outcome letters written by contractors in relation to complaints will include the name and contact details of a Council officer to whom the complainant may escalate their complaint if they are not satisfied with the outcome the contractor has provided.

### **5. Complaints about specific matters – alternative procedures**

There are specific processes that will apply to certain types of complaints. Where another complaint process outside this policy is required the complainant will be advised in writing within 14 days of receiving the complaint.

#### **5.1 Complaints about allegations of corrupt or improper conduct of a Council officer**

Where a complaint involves allegations of improper conduct or corrupt conduct of a Council officer, it will be handled in accordance with the *Local Government Act 2020*, *Public Interest Disclosures Act 2012*, Council policy CP025 Public Interest Disclosures and associated procedures.

#### **5.2 Complaints about Councillors**

Complaints about councillors will be dealt with in accordance with the *Local Government Act 2020*, the *Public Interest Disclosures Act 2012*, Council policy CP025 Public Interest Disclosures and associated procedures and Council policy CP005 Councillor Code of Conduct, where a complaint is from another Councillor.

#### **5.3 Complaints about the Chief Executive Officer**

Complaints about the Chief Executive Officer will be dealt with in accordance with the *Public Interest Disclosures Act 2012*, Council policy CP025 Public Interest Disclosures and associated procedures.

### **6. Complaint handling procedure**

Council takes a four-tiered approach to complaint handling, as follows:

- One frontline resolution: frontline staff receive the complaint and resolve it immediately, if possible
- Two investigation, if required: if frontline staff cannot resolve the complaint, they will refer it to another Council officer for investigation

- Three internal review: if the complainant is not satisfied with the outcome of the investigation, they can request an internal review
- Four access to external review: if the complainant is not satisfied with the process or outcome of the internal review, Council informs them of any external avenues through which they can pursue their complaint.

### **6.1 Frontline resolution**

All complaints will be registered in Council's record keeping system and acknowledged in accordance with Council's Customer Service Charter.

If required, frontline Council officers will clarify the complaint and the outcome that the complainant is seeking. Frontline Council officers will assess the complaint and determine how it should be dealt with. Refer to Appendix – Complaint Handling Decision Tree.

A matter is not a complaint if it relates to:

- A request for information about Council services, policies or procedures.
- A request for service or action to be taken in relation to a service provided by Council, for example wheelie bin repair, branches to be trimmed, or someone complaining about someone else breaching the Borough of Queenscliffe Planning Scheme.
- A report of damaged infrastructure or hazards, for example pot holes and fallen trees.
- A suggestion for a proposed Council service improvement.
- An enquiry or request for further clarification on a Council service.
- A petition to Council about a certain matter.
- Submissions or feedback received during a formal consultation period or community engagement process.

If Council is not the right organisation to respond to the complaint, Council officers will refer the complainant to the organisation that can assist.

### **6.2 Investigation and response**

If frontline Council officers cannot resolve the complaint, it will be assigned to the relevant Coordinator or Supervisor for investigation. The officer handling the complaint will advise the complainant that they are the contact person regarding their complaint and how long it will take to respond to the complaint. Council officers should aim to resolve complaints within 28 days.

If it appears that the resolution of a complaint is going to take longer than 28 days, the contact person will contact the complainant prior to this time and explain why. Complaints that are not resolved within 28 days will be subject to review and escalated if necessary to ensure that a resolution is expedited.

The Council officer handling the complaint will write to the complainant to advise them of the outcome. The outcome letter will contain reasons for the decision made and the contact information for the responsible officer. Where possible, the officer handling the complaint will contact the complainant via telephone to discuss the outcome of their complaint prior to sending the outcome letter.

### **6.3 Internal review**

Where a complainant is dissatisfied with the outcome received or believes that the complaint has not been handled correctly, the complainant may request an internal review of the decision.

The internal review will be undertaken by one of the Managers/Director or Chief Executive Officer. The Council officer that has been appointed to undertake the internal review must not have been involved

in the original investigation/final decision. If a Manager/Director is appointed to undertake the internal review, where possible, they will not have responsibility for the program area that made the original decision.

The internal review will examine the history of the matter, including any findings from any previous investigations and information provided to the complainant. The Council officer responsible for the internal review may request further clarification or information from the complainant to assist in the review process.

The internal review may take up to 10 working days to complete, if for unforeseen circumstances the internal review may take longer, the complainant will be contacted and advised the reasons why the review is taking longer and who is responsible for the review.

A written outcome letter signed by the Council officer responsible for the internal review will be provided to the complainant at the conclusion of every internal review.

#### **6.4 External Review**

Where available, the outcome letter will advise the complainant of any avenues of external review available in relation to the matter.

### **7. Remedies**

Where Council has found that it has made an error, it will take steps to redress the situation. Possible remedies include, but are not limited to:

- an explanation of why the error occurred and the steps taken to prevent it happening again
- a reversal of a decision
- a correction of Council records or change to Council policy or practice
- an ex-gratia payment or compensation for costs incurred
- disciplinary action taken against a staff member
- providing the means of redress requested by the complainant.

Where Council identifies an error, Council will consider offering a genuine apology to the complainant, in addition to any other remedies offered, irrespective of whether the complainant specifically requests this.

### **8. Privacy and confidentiality**

When gathering information to respond to a complaint, Council will only:

- use it to deal with the complaint or to address systemic issues arising from the complaint
- disclose it in a de-identified format when disclosing data to the public
- share it with Council officers on a need to know basis in accordance with Council policy CP010 Information Privacy.

All Council officers are bound to act in accordance with Council's SOP006 Staff Code of Conduct.

### **9. Recording Complaints**

All complaints are initially recorded in our customer request management system and our mail register.

Council officers analyse complaint data and provides quarterly reports to Council on how Council can reduce complaints and improve services. The Management Team are responsible for acting on the recommendations in these reports.



Council records the following information for each complaint:

- the complainant's details
- how the complaint was received
- a description of the complaint
- the complainant's desired outcome (if known)
- the Council officer responsible for handling the complaint
- any action taken, including contact with the complainant, response times and the outcome
- any recommendations for improvement, and who is responsible for implementing them.

Any queries regarding the recording of complaints should be directed to Council's Manager Finance and Corporate Services.

## **10. Reporting on Performance**

To measure our performance, the Council officer will record in the customer request management system and Council will review, at least annually, the following information:

- complaints upheld, partially upheld, not upheld
- performance against timelines set by Council e.g. average time to respond
- number of changes made to services as a result of complaints
- number of complaint outcomes overturned on internal review
- customer satisfaction with the complaint handling system
- complaints escalated to the Victorian Ombudsman's office where Council's original decision has been overturned and/or proposals for action have been made by the Ombudsman.

Council may report this data in its annual report which may also include detail of service improvements made as a result of complaints received.

## **11. Unreasonable Complainant conduct**

While the majority of community members have legitimate concerns and genuinely seek resolution, a small proportion of complainants demonstrate unreasonable concerns and unreasonable and uncooperative behaviour. A complainant with unreasonable conduct can be unusually persistent, pursue complaints for longer, supply more written material, telephone more often and for longer, and require more meetings. They are often still complaining after the complaint is closed. Such complainants sometimes want what a complaint handling system cannot provide – vindication, retribution and revenge.

Unreasonable Complainant Conduct (UCC) can be divided into five categories of conduct:

- Unreasonable persistence
- Unreasonable demands
- Unreasonable lack of cooperation
- Unreasonable arguments
- Unreasonable behaviours

### **11.1 Unreasonable persistence**

Unreasonable persistence is continued, incessant and unrelenting conduct by a complainant that has a disproportionate and unreasonable impact on our organisation, Council officers, services, time and/or resources. Some examples of unreasonably persistent behaviour include:

- An unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with.
- Persistently demanding a review simply because it is available and without arguing or presenting a case for one.

- Pursuing and exhausting all available review options when it is not warranted and refusing to accept further action cannot or will not be taken on their complaints.
- Reframing a complaint in an effort to get it taken up again.
- Bombarding Council with phone calls, visits, letters, emails (including cc'd correspondence) after repeatedly being asked not to do so.
- Contacting different people within our organisation and/or externally to get a different outcome or more sympathetic response to their complaint – internal and external forum shopping.

### **11.2 Unreasonable demands**

Unreasonable demands are any demands (express or implied) that are made by a complainant that have a disproportionate and unreasonable impact on our organisation, Council officers, services, time and/or resources. Some examples of unreasonable demands include:

- Issuing instructions and making demands about how Council has/should handle their complaint, the priority it was/should be given, or the outcome that was/should be achieved.
- Insisting on talking to a Manager/Director or the Chief Executive Officer personally when it is not appropriate or warranted.
- Emotional blackmail and manipulation with the intention to guilt trip, intimidate, harass, shame, seduce or portray themselves as being victimised – when this is not the case.
- Insisting on outcomes that are not possible or appropriate in the circumstances – eg for someone to be sacked or prosecuted, an apology and/or compensation when there is no reasonable basis for expecting this.
- Demanding services that are of a nature or scale that Council cannot provide when this has been explained to them repeatedly.

### **11.3 Unreasonable lack of cooperation**

Unreasonable lack of cooperation is an unwillingness and/or inability by a complainant to cooperate with Council or our complaints system that results in a disproportionate and unreasonable use of our services, time and/or resources. Some examples of unreasonable lack of cooperation include:

- Sending a constant stream of comprehensive and/or disorganised information without clearly defining any issues of complaint or explaining how they relate to the core issues being complained about – only where the complainant is clearly capable of doing this.
- Providing little or no detail with a complaint or presenting information in 'drips and drabs'.
- Refusing to follow or accept our instructions, suggestions, or advice without a clear or justifiable reason for doing so.
- Arguing frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments and explanations.
- Displaying unhelpful behaviour – such as withholding information, acting dishonestly, misquoting others, and so forth.

### **11.4 Unreasonable arguments**

Unreasonable arguments include any arguments that are not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or delirious and that disproportionately and unreasonably impact upon our organisation, Council officers, services, time, and/or resources. Arguments are unreasonable when they:

- fail to follow a logical sequence
- are not supported by any evidence and/or are based on conspiracy theories
- lead a complainant to reject all other valid and contrary arguments
- are trivial when compared to the amount of time, resources and attention that the complainant demands
- are false, inflammatory or defamatory.

## **11.5 Unreasonable behaviour**

Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated that a complainant is – because it unreasonably compromises the health, safety and security of Council Officers, other service users or the complainant himself/herself. Some examples of unreasonable behaviours include:

- Acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks.
- Harassment, including sexual harassment, intimidation or physical violence.
- Rude, confronting and threatening correspondence.
- Threats of harm to self or third parties, threats with a weapon or threats to damage property including bomb threats.
- Stalking (in person or online).
- Emotional manipulation.

The Borough of Queenscliffe has a zero tolerance policy towards any harm, abuse or threats directed towards Councillors and Council officers. Any conduct of this kind will be dealt with under this policy and in accordance with our duty of care and occupational health and safety responsibilities.

## **12. Responding to and managing Unreasonable Complainant Conduct**

Council may decide that unreasonable complainant conduct may be managed by limiting or adapting the ways that Council interacts with complainants by restricting:

- Who they have contact with
- What they can raise with Council
- When, Where and How they can have contact

### **12.1 Who – limiting the complainant to a sole contact point**

Where a complainant tries to forum shop internally within our organisation, changes their issues of complaint repeatedly, reframes their complaint, or raises an excessive number of complaints it may be appropriate to restrict their access to a single staff member (a sole contact point) who will exclusively manage their complaint(s) and interactions with Council. This ensures they are dealt with consistently and should minimise the chances for misunderstandings, contradictions and manipulation.

### **12.2 What – restricting the subject matter of communications**

Where complainants repeatedly send written communications, letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content or relate to a complaint/issue that has already been comprehensively considered and/or reviewed (at least once) by Council, Council officers may restrict the issues/subject matter the complainant can raise with Council. For example, Council may:

- Refuse to respond to correspondence that raises an issue that has already been dealt with comprehensively, that raises a trivial issue, or is not supported by clear/any evidence.
- Restrict the complainant to one complaint/issue per month.

### **12.3 When, where and how – limiting when, where and how a complainant can contact Council**

If a complainant's telephone, written or face-to-face contact with our organisation places an unreasonable demand on our time or resources because it is overly lengthy (eg disorganised and voluminous correspondence) or affects the health safety and security of Council officers because it involves behaviour that is persistently rude, threatening, abusive or aggressive, Council may limit

when, and/or where and/or how the complainant can interact with Council. For example, Council may:

- Limit telephone calls or face-to-face meetings to a particular time of the day or days of the week.
- Limit the duration and/or frequency of telephone calls or face-to-face meetings
- Restrict access to the Council officer managing the complaint on an 'appointment only' basis in a secure area of the Council office.
- Ban the complainant from attending the Council office altogether and allowing some other form of contact, for example 'writing only' or 'telephone' only

#### **12.4 Notifying the complainant about changes to access/restrictions**

Council will notify the complainant in writing about their unreasonable complainant conduct. The notification letter will specify the date, time and location of the UCC incident(s) and will explain why the complainant's conduct is problematic. The letter will provide clear and full reasons and duration for any changes to access and/or restrictions that will be imposed, which will not exceed 12 months.

Council officers will be advised about any decisions to change or restrict a complainant's access to our services, in particular Customer Service and Law Enforcement Officers in cases where a complainant is prohibited from entering the Council offices.

#### **CONTINUOUS IMPROVEMENT**

This policy will be reviewed on a continuous basis, but as a minimum every three years from the date of adoption.

#### **OTHER REFERENCES**

Councils and complaints – A good practice guide 2nd edition, Victorian Ombudsman, July 2021

Local Government Act 2020

Public Interest Disclosures Act 2012 (Vic)

Charter of Human Rights and Responsibilities Act 2006

CP005 Councillor Code of Conduct

CP010 Information Privacy

CP025 Public Interest Disclosures

SOP006 Staff Code of Conduct

SOP021 Public Interest Disclosures

END

**APPENDIX – Complaint Handling Decision Tree**

