

ECM DSID:	4138500
First Issued / Approved:	15/07/2012
Last Reviewed:	22/06/2021
	C220621/2328
Next Review:	21/06/2024
Responsible Manager:	Team Leader Governance
Date Placed on Webpage/ Intranet:	23/06/2021

## 1. PREAMBLE

The Customer Feedback and Complaints Policy is primarily focused on establishing a commitment in accepting and resolving complaints within the City of Holdfast Bay (the Council) and a culture which encourages and values feedback from our community.

### 1.1 Background

The Council is committed to providing excellence in customer service. As part of this commitment, Council seeks to know what its customers require, understand how it can improve its services to meet the needs of its community and to respond positively to concerns and criticisms.

### 1.2 Purpose

This is a mandatory policy under section 270 of the *Local Government Act 1999*.

The purpose of this policy is to provide a fair, consistent and structured process for Council's customers if they are dissatisfied with a Council action, decision or service. This Policy provides guidelines as to how the Council will respond to requests for a service, a complaint or compliment of the Council or its Council representatives.

This Policy is broadly consistent with the Australian standard for complaint handling.

### 1.3 Scope

This Policy applies to services and decisions provided or made by Council or Council's representatives. Where Council has failed to meet the normal standards for a service which has been, or should have been provided, this policy will apply.

This Policy excludes matters that are not Council's responsibility (such as disputes between neighbours), Elected Member Code of Conduct complaints and employee and volunteer grievances.

This policy will not be applied where there are other complaint procedures that apply to the particular type of complaint:

## CUSTOMER FEEDBACK AND COMPLAINTS POLICY

- Complaints against a Councillor or the Chief Executive Officer, which should be directed to the Mayor
- Freedom of Information applications review, which may be referred to the Ombudsman
- Insurance claims will be referred to the Local Government Risk Services
- Appeals against s.254 *Local Government Act 1999* orders where reviews are in accordance with s.256 of the *Local Government Act 1999*
- Decisions made under legislation other than the *Local Government Act 1999*, such as (not intended as an exhaustive list) the *Dog and Cat Management Act 1995*, *Environmental Protection Act 1993*, *Planning, Development and Infrastructure Act 2016*, *Expiation of Offences Act 1996* or *Local Nuisance and Litter Control Act 2016* where the legislation has its own prescribed appeal processes, which is the process for appeals;
- *Public Interest Disclosure Act 2018* disclosures for environmental and health information, and public administration information. Refer to clause 2.11 in this policy.

In these instances, Council will provide and explain the other statutory processes available.

### 1.4 Definitions

*Complaint* means an expression of dissatisfaction with a product or service delivered by Council or Council's 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.

*Complainant* means the person making the complaint

*Council Representative* means a person employed directly by the Council (whether that position is permanent or contractual) and persons providing services on behalf of the Council even though they may be employed by another party, including volunteers and contractors.

*Customer* means a person or organisation who receives goods or services provided by the Council or its representatives.

*Feedback* means comments both positive and negative, about services provided by Council without necessarily requiring a corrective action, change of service or formal review of a decision. Feedback may, however, influence future service reviews and delivery methods. It is important to distinguish between feedback and a complaint.

*Frivolous complaint* means a complaint that lacks substance or merit or is otherwise trivial in nature.

*Malicious complaint* means a complaint motivated by improper, vicious or mischievous purposes.

# CUSTOMER FEEDBACK AND COMPLAINTS POLICY

*Request for Service* means an application to have Council or its Council representatives take some form of reasonable action to provide a service by the Council or for the improvement of a service provided by the Council.

*Unreasonable Complainant Conduct* is any behaviour by a current or former customer which because of its nature or frequency raises health, safety, resource or equity issues for the Council, employees or other service users and customers or the customer himself/ herself.

This may take the form of unreasonable persistence, unreasonable demands, lack of cooperation, argumentative or unreasonable behaviours. 'Unreasonable' will depend on the circumstances and Council aims to manage these situations in a fair and equitable manner.

*Vexatious complaint* means a complaint that is made to harass, annoy, delay or cause detriment or trouble to the Council or a third party e.g. a complaint with false allegations that cannot possibly succeed; an absence of any reasonable grounds for lodging the complaint; or the complainant does not have sufficient interest in the matters the subject of the complaint.

## 1.5 Strategic Reference

Culture: Providing customer-centred services

Culture: Supporting excellent, efficient operations

Community: Fostering an engaged and contributing community

## 2. PRINCIPLES

### 2.1. Council's Commitment to Complaint Handling

2.1.1 Council endeavours to provide excellent customer service. All Council representatives are required to conduct themselves in accordance with the organisation's corporate values: Achievement, Respect, Innovation, Simplicity and Engagement (ARISE) and are to treat all customers with respect and expect the same in return from customers.

2.1.2 Council will act in accordance with our values when managing complaint handling:

- **Achievement:** *Deliver agreed outcomes for our community*
  - Deliver our strategic vision
  - Be accountable for our commitments
  - Do our best work all the time
  
- **Respect:** *Act with honesty and integrity*
  - Inclusive of all and embrace diversity
  - Be consistent and fair
  - Value others and their input
  
- **Innovation:** *Seek better ways*
  - Open to change and new ideas
  - Be solutions focussed

## CUSTOMER FEEDBACK AND COMPLAINTS POLICY

- Learn from mistakes

- **Simplicity:** *Easy to do business with*
  - Think one organisation
  - Empower staff to make decisions
  - Make the complex easy
- **Engagement:** *Provide opportunities for all to participate*
  - Open, transparent and direct in our communication
  - Actively listen and provide feedback
  - Recognise and value achievements

2.1.3 Council will provide all Council Representatives regular opportunities to attend training (either formal, informal or both) in relation to the provision of excellent customer service.

2.1.4 Customers may make contact with Council in a number of ways including:

- visiting Council's office
- Council's webpage 'Complaints'
- Telephone
- Email or letter
- City of Holdfast Bay social media channels

2.1.5 Complaints will be managed seriously and complainants treated courteously.

2.1.6 Requests for service will take into account reasonable expectations and existing service standards, legislative responsibility, and the efficient and effective availability of Council resources.

### 2.2 **Seven Steps of the Complaint Handling Process**

Council will ensure the following steps are followed when responding to requests for service, complaints or feedback to ensure that they are managed in a timely, effective and fair manner:

1. Acknowledge complaints promptly
2. Assess the complaint (simple problems may not need to be investigated)
3. Plan investigation, where it is warranted
4. Investigate the complaint
5. Clear decision to the complainant (unless anonymous – see below)
6. Follow up any customer service concerns
7. Identify internal process improvements required to be changed (to be notified to the complainant where appropriate).

# CUSTOMER FEEDBACK AND COMPLAINTS POLICY

*Anonymous complaints* - Where a complaint is anonymous Council will carry out an investigation of the issues raised where enough information is provided but will be unable to advise the complainant of the outcome.

## 2.3 Resolving Complaints

### **Tier 1** Frontline Response

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 at the appropriate officer level.

Council expects that complaints, compliments, enquiries and requests for service are responded to as quickly as possible.

Where complaints are made to volunteers these are to be provided by the volunteer to the Volunteering Services Coordinator in the first instance for action.

### **Tier 2** Escalation for Senior Officer Response (Supervisor, Manager or General Manager)

A complaint will be directed to a more senior Council officer where 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

This is available under section 270 of the *Local Government Act 1999*, which is generally the last resort in the complaint handling process and enables Council to reconsider all the evidence relied upon to make a decision. Refer to Councils Internal Review of Councils Decisions (s270) Policy.

## 2.4 Timeframes

There are many variables that can affect the response time for a complaint e.g. the complexity of the issue, availability of evidence and staff resources for considering the complaint (not intended as an exhaustive list).

Council will commit to acknowledging receipt of a complaint within 5 clear working days of receipt. Emphasis will be on resolving complaints where possible as soon as possible.

Council will endeavour to assess and respond to complaints within 10 working days of the matter being escalated. Where responding is anticipated to be

## CUSTOMER FEEDBACK AND COMPLAINTS POLICY

outside of the intended 10 working days, the Council will advise the complainant with updates to keep the complainant regularly informed of progress.

### 2.5 Complaints regarding Code of Conduct for Council Employees

2.5.1 Where a complainant alleges a breach of the Code of Conduct, schedule 2A of the *Local Government (General) Regulations 2013* that:

- an employee (or a relative of an employee) has sought or received a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or to influence the employee in the performance or discharge of the employees functions or duties; or
- an employee has failed to record, or correctly record, details of a gift or benefit received by the employee (or a relative of an employee) on the gift and benefits register; or
- the CEO has not appropriately maintained a register for gifts and benefits received by employees of the council, they may submit a complaint alleging that an employee of council has contravened or failed to comply with the Code of Conduct for Council Employees, as prescribed in Schedule 2A of the *Local Government (General) Regulations 2013*,

they may submit a complaint alleging that an employee of the Council has contravened or failed to comply with the Code of Conduct for Council Employees (as prescribed in Schedule 2A of the *Local Government (General) Regulations 2013*).

2.5.2 A complaint must be given to the Chief Executive Officer or any nominated delegate. In the case of a complaint against the Chief Executive Officer, a complaint must be given to the Mayor, except in circumstance where it would be inappropriate to do so (such as where legislation requires the matter to which the complaint relates to remain confidential).

2.5.3 A complaint will be investigated and resolved according to Council's Managing Misconduct and Disciplinary Procedures.

### 2.6 Remedies and Service Improvements

Where complaints are found to be justified, Council will where practicable remedy the situation in a manner which is consistent and fair for both Council and the complainant. The solution chosen will be proportionate and appropriate to the circumstances.

Compensation may only be offered after consideration by the Chief Executive Officer or by the Local Government Association Mutual Liability Scheme (Council's insurer).

## CUSTOMER FEEDBACK AND COMPLAINTS POLICY

'Lessons learnt' from a complaint investigation may be used to directly inform service improvement. This may include making changes to procedures and practices where appropriate.

### 2.7 Unreasonable Complainant

2.7.1 It is acknowledged that the conduct of complainants can be unreasonable and the conduct can significantly affect the success of the Council. Council staff need support to manage unreasonable complainant conduct, acting fairly, consistently, honestly and appropriately when responding to unreasonable complainant conduct.

2.7.2 Where a complainant's behaviour consumes an unwarranted amount of Council resources or impedes the investigation of their complaint, a decision may be made to apply restrictions on contact with the person. Unreasonable complainant conduct will be managed as outlined in this policy. Reference should be made to Appendix 1 for further guidance.

2.7.3 Before making a decision to restrict contact the complainant will receive a final written warning outlining expectations and repercussions that if the specified behaviour(s) or actions continue, restrictions may be applied.

2.7.4 The decision to restrict contact, suspend action on a complaint can only be made by the Chief Executive Officer or the relevant delegate and must be communicated in writing to the complainant if following the warning letter specified in 2.7.3 the behaviour(s) continue.

The contact may be limited in terms of:

- the number of times and/or the time of day a complainant may make contact
- the employees and Council Members the complainant may have contact with
- the subject matter that Council will consider and respond to
- the form in which the contact may take place i.e. the complainant may be directed that he or she can only make contact in writing and not via telephone or in person.

The letter must specify the limitations being imposed, the duration of the limitations and a time period for review. Any limitations must take into account that person's individual circumstances e.g. a person who is has writing challenges should not be required to communicate in writing.

2.7.5 Council may refuse to investigate the complaint where an initial review of the matters determines the request is trivial, frivolous or vexatious.

# CUSTOMER FEEDBACK AND COMPLAINTS POLICY

## 2.8 **Alternative Dispute Resolution Methods, Ombudsman and ICAC**

### 2.8.1 **Mediation, Conciliation and Neutral Evaluation**

If a review of a request for service or complaint has been completed and the customer is not satisfied with the outcome, the customer may ask for either mediation, neutral evaluation or conciliation in order to reach an agreed outcome.

- The process for mediation, neutral evaluation or conciliation will be in accordance with that described in Section 271 of the *Local Government Act 1999*.
- Costs of mediation, neutral evaluation and conciliation will be shared equally by the Council and the applicant.

### 2.8.2 **Ombudsman Review**

At any time, regardless of the outcome of a review the complainant may contact Ombudsman SA for further assistance and/or advice (managed under the *Ombudsman Act 1972*).

A complainant should note that the Ombudsman tends to prefer a complaint is addressed by the Council in the first instance unless this is not appropriate.

### 2.8.3 **Independent Commissioner Against Corruption (ICAC)**

Where corruption, serious or systemic misconduct or maladministration in public administration is suspected, contact should be made with ICAC/ Office of Public Integrity (OPI) to make a complaint who act in accordance with the *Independent Commissioner Against Corruption Act 2012*.

## 2.9 **Information Management**

Council will ensure that all requests, comments and complaints are recorded in Council's records management system.

## 2.10 **Privacy and Confidentiality**

Complaints will be investigated in private to the extent possible. The identity of complainants and any person who is the subject of a complaint will only be disclosed to those involved in the investigation process. The complaint will not be revealed or made public by the Council, except where required by law.

Council will take reasonable steps to ensure that complainants are not adversely affected because they have made a complaint.

All complaints lodged with Council are subject to the *Freedom of Information Act 1991* and confidentiality cannot be guaranteed under this legislation.



# CUSTOMER FEEDBACK AND COMPLAINTS POLICY

## 2.11 Public Interest Disclosure Information

Consideration must be given as to if any information falls within the *Public Interest Disclosure Act 2018* (PDI Act) taking into consideration the Council's Public Interest Disclosure Policy and Procedure.

Public interest information may be 'environmental and health information' or 'public administration information'. An informant does not have to use 'public interest disclosure' words for the PDI Act protections to apply. If it is unclear as to whether an informant wishes to make a formal disclosure under the PDI Act, the informant should be asked. This will clarify if information is treated as a complaint under this Policy or information under the PDI Act (under Council's Public Interest Disclosure Policy).

## 2.12 Australian Human Rights Commission

Complainants should note that the Australian Human Rights Commission is the priority agency to investigate and conciliate any discrimination complaints. Their complaints process is free, confidential and detailed on the Commissions webpage.

## 2.13 Accessibility

Council will facilitate to ensure complaint management is accessible to everyone and particularly people who may require assistance. If a person prefers or needs another person or organisation to assist or represent them in making and/or resolution of their complaint, Council will communicate with the representative if this is the complainant's requirement.

## 3. REFERENCES

### 3.1 Legislation

- *Aged Care Act 1997*
- *Dog and Cat Management Act 1995*
- *Environmental Protection Act 1993*
- *Expiation of Offences Act 1996*
- *Freedom of Information Act 1999*
- *Independent Commissioner Against Corruption Act 2012*
- *Local Government Act 1999*
- *Local Government (General) Regulations 2013*
- *Local Nuisance and Litter Control Act 2016*
- *Ombudsman Act 1972*
- *Planning Development and Infrastructure Act 2016*
- *Public Interest Disclosure Act 2018*

# CUSTOMER FEEDBACK AND COMPLAINTS POLICY

## 3.2 Other References

- Australian Standard ISO 10002-2006, Customer satisfaction- guidelines for complaint handling in organisations
- City of Holdfast Bay Code of Conduct
- Customer Request System guidelines
- Disability Access and Inclusion Plan
- Elected Members Code of Conduct Complaints and Investigations Policy
- Fair Treatment Procedures
- Internal Review of Council Decisions (s270) Policy
- Local Government Association Model Complaints Policy, February 2018
- Managing Misconduct and Disciplinary Procedures
- Managing Unreasonable Complainant Conduct Practice Manual – 2<sup>nd</sup> Edition, NSW Ombudsman 2012
- Managing Misconduct and Disciplinary Procedures
- Ombudsman Complaint Management Framework- March 2016
- Ombudsman SA - Unreasonable Complaint Conduct (Part 12)
- Ombudsman NSW – Unreasonable Complaint Conduct Model Policy 2012
- Public Interest Disclosure Policy and Procedure
- Volunteer Policy
- Workplace Relations Policy

## CUSTOMER FEEDBACK AND COMPLAINTS POLICY

### Appendix 1- Managing Unreasonable Complainant Conduct

Unreasonable complainant conduct should be managed with reference to the following table:

Types of Conduct	Examples of Complainant Conduct	Strategies for Dealing with Conduct
Unreasonable persistence	<ul style="list-style-type: none"> <li>• refusing to accept that a complaint is closed</li> <li>• continuing to phone or contact after a matter is closed</li> <li>• re-framing an old complaint</li> <li>• being unable to accept the final decision</li> <li>• persisting in interpreting the policy or the law in a way that is not in accordance with the accepted views on the subject</li> </ul>	<ul style="list-style-type: none"> <li>• be prepared to say 'no'</li> <li>• it may be appropriate to advise the complainant that the issue will not be investigated further</li> <li>• clearly communicate if an unproductive telephone call is to be ended</li> <li>• provide one internal review only</li> <li>• adopt, when appropriate, a firm position of no further contact or correspondence</li> <li>• do not allow the complainant to re-frame the complaint to keep the matter alive unless there are significant new issues</li> <li>• make it clear that the decision of Council is final or in the case of a decision subject to external statutory review or appeal advise the complainant of their review or appeal rights</li> </ul>
Unreasonable demands	<ul style="list-style-type: none"> <li>• insisting on outcomes that are unattainable or not possible</li> <li>• demanding assistance with issues that are out of the Council's jurisdiction</li> <li>• demanding a remedy that is impractical, disproportionate or unavailable</li> <li>• insisting that more time be taken on the matter than is justifiable</li> <li>• wanting revenge</li> <li>• making unreasonable demands on the resources of Council</li> <li>• wanting unreasonable regular and lengthy contact with Council employees</li> <li>• showing reactions or demanding action that is out of proportion with the significance of the issue</li> </ul>	<ul style="list-style-type: none"> <li>• set limits on what will be done ie what issues will be investigated, by whom, how communication will happen etc</li> <li>• be clear with complainant in advance what Council will do, and the limits</li> <li>• end telephone calls that are unproductive, with a warning</li> <li>• may need to limit contact to in writing only</li> </ul>
Unreasonable lack of cooperation	<ul style="list-style-type: none"> <li>• poor or confused definition of the complaint</li> <li>• providing a large quantity of unnecessary material / information</li> </ul>	<ul style="list-style-type: none"> <li>• employees need to set limits before proceeding with the matter</li> <li>• require complainants to clarify and summarise information they have provided before proceeding</li> </ul>

## CUSTOMER FEEDBACK AND COMPLAINTS POLICY

		<p>with the matter</p> <ul style="list-style-type: none"> <li>• refuse to deal with the matter if it is found that the complainant has been wilfully misleading or untruthful in a significant way</li> </ul>
Types of Conduct	Examples of Complainant Conduct	Strategies for Dealing with Conduct
Unreasonable arguments	<ul style="list-style-type: none"> <li>• exaggerating issues</li> <li>• holding irrational beliefs</li> <li>• refusing to consider the other side</li> <li>• being obsessed with irrelevant or trivial points</li> <li>• having a conspiracy theory that is not supported by any evidence</li> </ul>	<ul style="list-style-type: none"> <li>• decline or discontinue the matter</li> <li>• if unreasonable issues are mixed with reasonable issues, ensure that they are clearly identified and separated and only deal with the reasonable ones</li> </ul>
Unreasonable behaviour	<ul style="list-style-type: none"> <li>• displaying confronting behaviour</li> <li>• being rude</li> <li>• being aggressive</li> <li>• making threats of self-harm</li> <li>• making threats of harm / violence to others</li> </ul>	<ul style="list-style-type: none"> <li>• set clear expectations that employees will not tolerate unreasonable behaviour</li> <li>• communicate that threats are unacceptable and may be reported to police or otherwise the subject of legal action</li> <li>• in the case of rude correspondence, ask complainants to reframe their complaint in more moderate terms</li> <li>• In the case of unreasonable behaviour in phone conversations, warn complainants that their conduct is unacceptable and that if the behaviour persists the call will be ended</li> <li>• end phone calls if the complainant continues to behave unreasonably after being warned. The relevant Manager is to be advised of this action.</li> <li>• Threats of self-harm should be reported to a relevant SA service provider</li> </ul>

Reference may be made to the:

- Ombudsman SA - Unreasonable Complaint Conduct (Part 12)-  
<https://www.ombudsman.sa.gov.au/publications/unreasonable-complainant-conduct/>