



Council Policy

COMPLAINTS

PURPOSE

Council values complaints and encourage people to contact us when they have an issue with our services, actions, decisions, and policies.

Council is committed to:

- enabling members of the public to make complaints about the Council
- responding to complaints by taking action to resolve complaints as quickly as possible
- learning from complaints to improve our services.

Council treats every complaint it receives on its individual merits, through clear and consistent processes. This Policy outlines how Council will fulfil that commitment.

SCOPE

Council's policy applies to all complaints from members of the public about Council employees, Council contractors and volunteers, and includes:

- The principles by which Colac Otway Shire officers will be guided when complaint handling
- Colac Otway Shire Council's definition of a complaint
- The roles and responsibilities of officers and contractors
- How to make a complaint.

This Policy does not apply to complaints about individual Councillors or Councillors as the collective Council.

OBJECTIVES

This Policy aims to:

- Implement an open and transparent complaint handling system.
- Enhance the relationship between Council and its customers and members of the public.
- Specify the key performance indicators to which Council will hold itself accountable.
- Establish timeframes for resolving complaints.
- Clarify the roles and responsibilities of Council employees.
- Ensure there are appropriate pathways for dealing with challenging or unreasonable behaviour.
- Provide a safe and secure environment to conduct business in a respectful and professional manner.

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DEFINITIONS

In this Policy:

‘Complaint’ – See page 4

‘Complainant’ is the person or entity affected by the action or inaction of Council.

‘Council staff’ or **‘Council employee’** is any person employed by the Council to carry out the functions of the Council, and the Council’s Chief Executive Officer.

‘Council contractor’ is any third-party engaged by the Council to carry out functions on the Council’s behalf.

‘the Council’ means the body of elected Councillors.

‘Protected Disclosure’ refers to a specific class of complaint (governed by the Protected Interest Disclosure Act 2012) that requires a high level of confidentiality and protection of the complainant.

REFERENCES

Relevant Legislation:

Local Government Act 2020 (Vic)

Gender Equality Act 2020 (Vic)

Charter of Human Rights and Responsibilities Act 2006 (Vic)

Equal Opportunity Act 2010 (Vic)

Independent Broad-based Anti-corruption Commission Act 2011

Public Interest Disclosures Act 2012 (Vic)

Protected Disclosure Act 2012 (Vic)

RELATED DOCUMENTS

Employee Code of Conduct

Complaint Management Process

Public Interest Disclosure Procedure

Public Transparency Policy

Fraud and Corruption Control Framework

DOCUMENT CONTROL

Policy owner	Planning and Strategic Focus	Division	Executive
Adopted by council	24 July 2024	Policy Number	18.11
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WHAT IS A COMPLAINT?

A complaint includes a communication (verbal or written) to Council, which expresses dissatisfaction about:

- the quality of an action, decision or service provided by Council employees or a Council contractor
- a delay by Council employees or a Council contractor in taking an action, making a decision or delivering a service
- a Policy or decision made by the Council, a Council employee or a Council contractor.

This is defined in the *Local Government Act 2020*.

In simple terms, a complaint to Council is any communication which involves the following:

- an expression of dissatisfaction
- about an action, decision, policy, behaviour or service
- that relates to a Council employee, including the CEO, a Council contractor, Council volunteers, or the Council as a decision-making body (not individual Councillors, who are subject to different processes). For the purposes of this Policy, routine requests for service are not treated as complaints.

Whilst Complaints about a resolution of the Council will not result in a change to the Council resolution, the matter can still be considered as a complaint because it is a dissatisfaction with a decision of Council. In these instances, the complaints may inform a review of policy or process.

THE POLICY DOES NOT APPLY TO THE CONDUCT OF COUNCILLORS. WHERE CONCERNS ABOUT THE CONDUCT OF COUNCILLORS ARE RAISED AS COMPLAINTS, THE COMPLAINANT WILL BE PROVIDED WITH INFORMATION ABOUT THE MOST APPROPRIATE PROCESS OR AGENCY FOR REFERRAL.

What is not a Complaint?

Complaints about matters such as a neighbour's use of property, barking dogs, livestock at large, or noise from a private or business premises are not complaints within the definition of this Policy. These are not a direct result of an action, lack of action, behaviour or service provided by Council and should be captured as a Request for Service.

If the complainant contacts Council because they had previously reported an issue and Council has not acted within its responsibility on the first advice, this then it will be treated as a complaint - about lack of action or service.

If a complaint is about an issue that Colac Otway Shire does not have responsibility for, such as the condition of a road managed by the Department of Transport, the complainant will be directed to the appropriate organisation.

A person may start a conversation with "I want to make a complaint about...", however unless the issue is one caused by a service Council provides, actions, behaviour or lack of action or service relating to a previous request, then the person is technically making a request for service.

Please see the table in the following section for further examples.

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COMPLAINT VERSUS REQUEST FOR SERVICE

One way to distinguish a “complaint” from a “request for service” is to look at whether a person is:

- requesting something additional or new (a service request)
- reporting what they believe to be a failing or a shortfall (a complaint)
- complaining about Council’s response, or lack of response, to a service request (a complaint).

The following table is extracted from the Victorian Ombudsman ‘Council and Complaints – A good practice guide’:

Complaint/Request for Service examples	
Complaint	Request for Service
<ul style="list-style-type: none"> • You haven’t sent out my rates notice 	<ul style="list-style-type: none"> • Can you tell me when my next rates payment is due?
<ul style="list-style-type: none"> • The Council shouldn’t have approved a development on Main Road. 	<ul style="list-style-type: none"> • What is the process for objecting to the development on Main Road?
<ul style="list-style-type: none"> • The Council’s website doesn’t have enough information about when a planning permit is needed for a pool. 	<ul style="list-style-type: none"> • Can you tell me whether a planning permit is required for a backyard pool?
<ul style="list-style-type: none"> • Council’s investigation into noise from a business wasn’t rigorous, and didn’t look at peak times. More investigation is needed. 	<ul style="list-style-type: none"> • My neighbour’s business is very noisy. Can you make it stop?
<ul style="list-style-type: none"> • A pothole I reported to Council two months ago hasn’t been fixed, and is getting worse. 	<ul style="list-style-type: none"> • Could Council fill in a pothole in my street?
<ul style="list-style-type: none"> • This is the second time I’ve called you about the street furniture from XXX Café! 	<ul style="list-style-type: none"> • The tables and chairs at XXX Café are blocking foot traffic, can you please have a look and see what can be done about it?

*Missed bins are addressed immediately as a Request for Service separately through contract management processes and are recorded and reported on.

HOW TO MAKE A COMPLAINT

Council is committed to providing accessible venues and contact methods. Please refer to the Colac Otway Shire Contact Directory on our website for the most up to date telephone, email, post, and in-person contact details. The on-line form to lodge a complaint can be found on the Complaints and Compliments page on Council’s website.



GUIDING PRINCIPLES

This Policy is guided by the following principles for effective complaints handling:

COMMITMENT

Council is committed to resolving complaints that are received in a timely manner. Council recognises people's right to complain and considers complaint handling to be part of the core business of serving the community and improving service delivery.

ACCESSIBILITY

Our complaint management process is designed to make it easy for a person to make a complaint. Council will assist people to make a complaint, if required. Council understands a complainant may request that another person or organisation assist or represent them to make and progress their complaint.

Council will accept complaints from authorised representatives of complainants. Council will make it easy for anyone in our community to lodge a complaint including people of all genders, ages, abilities, cultural backgrounds, religions and people who are indigenous and/or LGBTIQ+.

Council's employees will actively assist everyone to navigate the complaint process.

Council has the following services in place to assist people with specific needs:

- Council can be contacted through the Translating and Interpreting Service (TIS National). TIS can be contacted on 131450, 24 hours a day, every day of the year, to access an immediate phone interpreter.
- Council can be contacted through the National Relay Service (NRS). TTS (Teletypewriter/National Relay Service) users can phone the NRS on 133677, then ask for 03 5232 9400.
- Internet Relay users can contact the NRS via www.relayservice.com.au and ask for 03 5232 9400.

TRANSPARENCY

Our Complaints Policy is available on the Colac Otway Shire website, www.colacotway.vic.gov.au, along with options for how to contact us to make a complaint and assistance for various members of the community.

Council is open and transparent about the complaints we have received and what we have done to resolve them. The complaints analysis summary is published annually in our annual report.

RESPONSIVENESS

Council will promptly confirm with a complainant that we have received their complaint. Complaints will be acknowledged and addressed in a timely manner in accordance with the established timeframes within the Policy.

Complainants are kept informed throughout the process. Decisions or any actions taken regarding the complaint will be communicated to complainants as soon as the decision or action is taken.

ANONYMITY

Colac Otway Shire Council accepts, investigates and records anonymous complaints provided we have received enough information to do so. By their nature, anonymous complaints cannot be responded to.

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CUSTOMER FOCUSED

Council recognises a customer's right to complain and considers complaint handling to be part of its core business of serving the community and improving service delivery. Council actively solicits feedback from our community on a regular basis. Council will endeavour to involve complainants in the complaint process as far as practicable and appropriate in the circumstances.

FAIRNESS

Under the complaint handling system, complainants and Council employees are treated with respect and courtesy. Complaints are judged on merit and fact. Each complaint is managed in an objective, unbiased and equitable manner.

ACCOUNTABILITY

Council is accountable, both internally and externally, for its decision making and complaint handling performance. Council provides explanations and reasons for decisions and ensures that decisions are subject to appropriate review processes. All areas of the organisation have responsibility for effectively managing a complaint raised about them, the product or service they have provided.

CONTINUOUS IMPROVEMENT

Acting on, learning from, and using complaint data helps us identify problems and improve services. Complaints from people who use or who are affected by our services provide us with valuable feedback about how we are performing. Council regularly analyses complaint data to identify trends and potential issues that deserve further attention. This information is used to help identify and prioritise service improvements.

PRIVACY

Council is committed to fulfilling its obligations under the *Privacy and Data Protection Act 2014* and provides clear information about how it handles personal information - refer to Council's Information Privacy Policy for further information. Complainants are entitled to access information necessary to resolve their complaint meaningfully but are not entitled to information that breaches the privacy obligations Council owes to any other person. Personally identifiable information will be actively protected from disclosure unless the complainant expressly consents to its disclosure.

Council keeps personal information secure. Personal information is used to respond to a complaint, and Council may also analyse the information provided for the purpose of improving services that relate to a complaint.

Where we publish complaint data, personal information is removed.



HOW WE LEARN FROM COMPLAINTS

A key responsibility of handling complaints is to record the key details about the complaints in a corporate system so that analysis can take place to enable identification of opportunities for improvement.

RECORDING COMPLAINTS

The following information is recorded for each complaint:

- The Complainant's details.
- How the complaint was received.
- A description of the complaint.
- The Complainant's desired outcome.
- 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.

The Customer Experience Coordinator analyses complaint data and provides reports relating to customer experience. Executive Management is responsible for acting on the recommendations in these reports.

REPORTING COMPLAINTS DATA AND FINDINGS

Sometimes individual complaints can point to a systemic problem; but generally, this only becomes clear when looking at complaint data across the organisation on more transferable issues. The following needs to be considered:

- The overall number of complaints received can indicate community satisfaction or dissatisfaction.
- Changes in the number of complaints over time can indicate that satisfaction is improving or dropping.
- High numbers of complaints about particular services, issues or teams may suggest systemic concerns that warrant further attention, regardless of whether the complaints are substantiated.
- Complaints can be driven by a range of factors, other than poor performance, such as:
 - Changes in community expectations.
 - Increased engagement with the Council and its services (which can be a positive sign).
 - Inadequate information about a service or barriers to accessing a service or process.

The Executive Management Team are provided with a monthly report that categorises and analyses the complaints data to look for any underlying trends and areas for improvement. The analysis in the report includes:

- A summary of compliments and complaints numbers received, resolved, upheld, partially upheld, not upheld, open, and average days to resolve
- Categorisation of the compliments and complaints and comparison to previous period figures
- Analysis of the compliments and complaints data, identification of root causes, identification of opportunities for improvement
- Status of any initiatives or projects that have resulted from customer feedback. These are included in the annual report to Council

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COLAC OTWAY SHIRE ANNUAL REPORT

We will provide a summary of our complaint handling indicators in the Colac Otway Shire Annual Report. These are:

- Complaints upheld, partially upheld, not upheld
- Performance against timelines set out in the Policy
- Number of complaint outcomes overturned on internal review
- Complaints escalated to the Victorian Ombudsman's office where the agency's original decision has been overturned and/or proposals for action have been made by the Ombudsman
- Details of any service improvements made as a result of complaints received.

COMPLAINTS THAT WILL NOT BE INVESTIGATED

The Chief Executive Officer may determine that a complaint will not be investigated where the matter:

- Is considered frivolous, vexatious or not made in good faith.
- Involves an adequate remedy or right of appeal, whether or not the complainant uses that remedy or right of appeal.
- Relates to a decision awaiting determination by Council.
- Relates to conduct before a court, coroner or tribunal.
- Is under investigation by the Minister for Local Government or any other government department including the Victorian Police Service.
- Relates to the appointment or dismissal of any employee or an industrial or disciplinary issue.
- Relates to the actions or conduct of a private individual.
- Includes situations where there is insufficient information or the complainant declines or refuses to provide further information.
- Involves threats made against Council, Council employees, contractors, or volunteers.

Where the Chief Executive Officer determines that a complaint will not be investigated, the complainant will be advised accordingly in writing.

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COMPLAINTS SUBJECT TO A STATUTORY REVIEW

There are a range of complaints that are not covered by this Policy. Matters subject to statutory review relate to specific complaints where there is a formal review process or appeal pathway by a tribunal, e.g. the Victorian Civil and Administrative Tribunal ('VCAT') or a court, under an Act or regulation are not investigated or reviewed through this Policy. Complaints of this type usually concern a particular subject matter such as Infringements, town planning decisions, or public health.

Council's reasons for refusing to deal with a complaint which is otherwise subject to statutory review might include:

- The statutory review process is already underway.
- It is reasonable in the circumstances to expect the complainant to go through that review process.
- A tribunal or court will settle or determine the matter faster.
- The complaint relates to a specialised area, and it is proper that a tribunal or court make a binding determination on the matter (noting the determination's possible precedential effect).

Complaints of this nature will be referred to the manager of the relevant department for the discretionary decision and communication to the complainant. Where the discretion to refuse these complaints is exercised, reasons will be provided. Council is committed to helping complainants obtain the best outcome and where appropriate will assist with information and help you with this process e.g. Where the issue is the subject of town planning decisions, Planning Officers will assist you through this process.

Examples of Statutory Review Bodies

Subject Matter	Statutory Body
Infringement Notices	Fines Victoria 03 9200 8111 1300 369 819 (regional Victoria)
Town Planning Decisions	Victorian Civil and Administrative Tribunal ('VCAT') 1300 018 228
Public Health	Health Complaints Commissioner Victoria 1300 582 113
Fraud and Corruption	Local Government Inspectorate www.lgi.vic.gov.au 1800 469 359. Independent Broad-Based Anti-Corruption Commission IBAC www.ibac.vic.gov.au/report 1300 735 135.



UNREASONABLE COMPLAINT CONDUCT

Council is committed to balancing the right of individuals to make a complaint with:

- the right of Councillors and officers to carry out their roles in an environment where their health, safety and security is protected and prioritised; and
- the equitable, effective and proportionate allocation of resources across all requests for service and complaints received by Council.

It is acknowledged that unreasonable complaint conduct does not necessarily preclude there being a valid underlying issue to be addressed. Council will continue to assess all complaints based on their merits, in an impartial and equitable manner.

WHAT IS UNREASONABLE COMPLAINT CONDUCT?

Unreasonable complaint conduct for the purposes of this Policy is behaviour by an external customer that, because of its intensity, nature or frequency, impacts negatively on the health, safety or security of Councillors and employees, and/or requires substantial and disproportionate allocation of Council resources.

Unreasonable complaint conduct can be divided into five categories of conduct:

- **Unreasonable persistence:** continued, incessant and unrelenting conduct by a complainant that has a disproportionate and unreasonable impact on the organisation, employees, services, time and/or resources.
- **Unreasonable demands:** demands (express or implied) made by a complainant that have a disproportionate and unreasonable impact on the organisation, employees, services, time and/or resources.
- **Unreasonable lack of cooperation:** unwillingness and/or inability by a complainant to cooperate with the organisation, employees, or complaints system and processes, that results in a disproportionate and unreasonable use of its services, time and/or resources.
- **Unreasonable arguments:** arguments not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or delirious and that disproportionately and unreasonably impact upon the organisation, employees, services, time, and/or resources.
- **Unreasonable behaviours:** 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 employees, other service users or the complainant.



RESPONDING TO UNREASONABLE COMPLAINT CONDUCT

Where a person is deemed to have engaged in unreasonable complaint conduct under this Policy, it may be necessary for limitations to be placed on their contact with Council.

A determination to limit contact with Council will:

- Be made by the Chief Executive Officer or a General Manager.
- Take into account the guidelines for such determinations contained in the Victorian Ombudsman Good Practice Guide to Dealing with Challenging Behaviour, or such other document as may be released as a replacement for that guide in future.
- Be notified to the affected person in writing (unless another form of communication is more appropriate) explaining the reasons for the decision, setting a timeframe for review of the limitations and an explanation of the person's options for complaining about the decision.

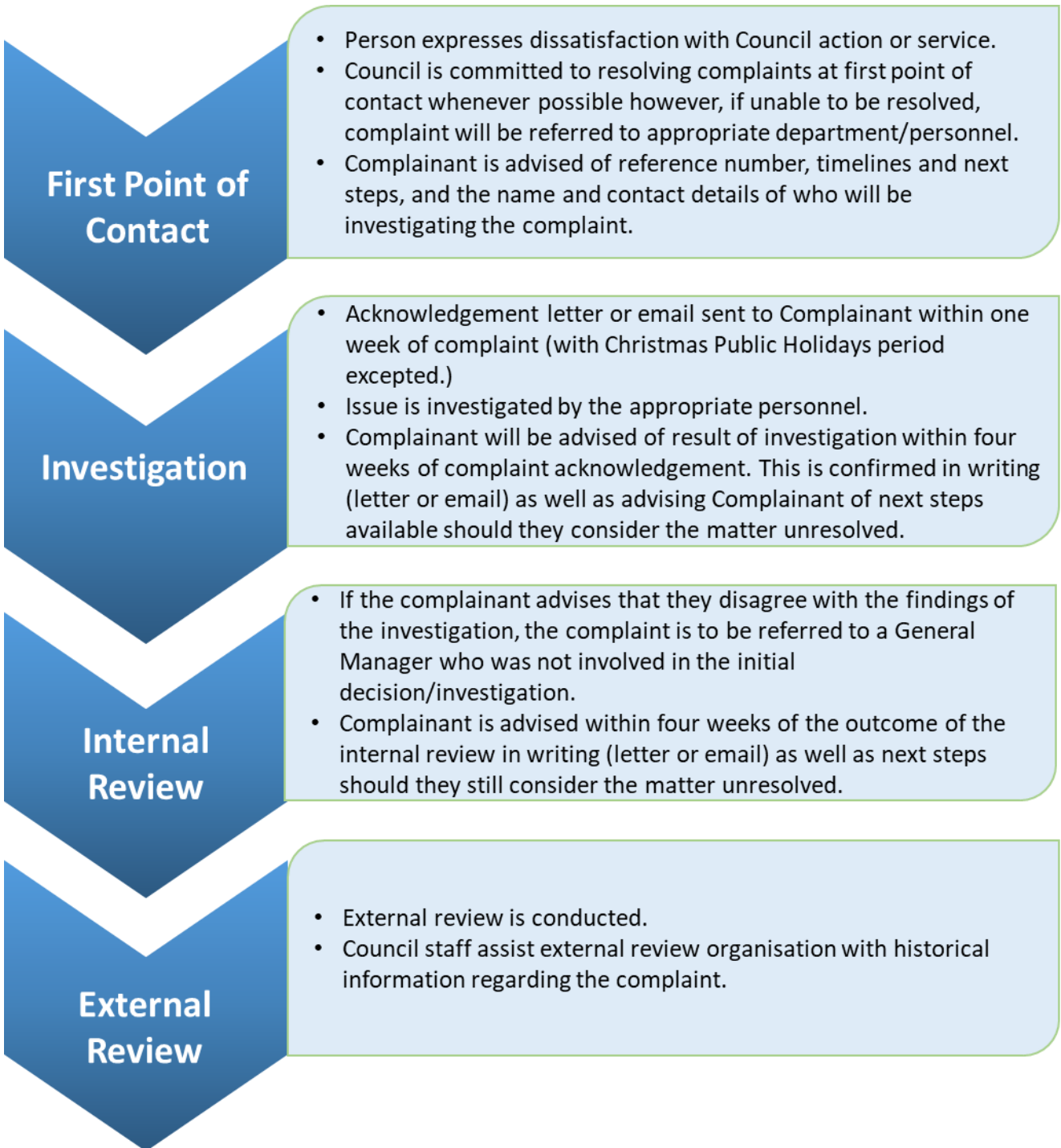
Examples of possible responses to unreasonable complaint conduct include but are not limited to:

- A written warning regarding the unreasonable complaint conduct.
- Restricting the method, frequency or location of contact, or restricting contact to an individual Council officer.
- Advising no further communication will be entered into on an issue for a specified period of time or that further correspondence will be received and assessed but only acknowledged or responded to if, in the view of Council, it raises a new matter or additional information warranting a review or further action.



OUR COMPLAINTS PROCESS

Our complaint handling process follows a four-tiered approach, as described in the diagram below:





INITIAL ASSESSMENT & INVESTIGATION

When a complaint is made, we will record and acknowledge it within one week. We will initially assess the complaint to decide how we will handle it. This may happen while we are talking with the complainant.

After our initial assessment, we may:

- take direct action to resolve the complaint;
- refer the complaint to the relevant team or manager for investigation; or
- decline to deal with the complaint if there is a right to a statutory review of the complaint (such as a right of appeal to VCAT).

Where possible, we will attempt to resolve the complaint at the time of first contact. If we cannot action the complaint, we will explain why, and where possible, inform the complainant about other options.

If we cannot resolve the complaint on the spot, we will refer it to the relevant team or manager to investigate. We will advise which officer can be contacted about the investigation.

We aim to complete investigations within four weeks of acknowledging the complaint and will tell the complainant if the investigation will take longer. We will provide an update every four weeks about progress until the investigation is completed.

As part of our investigation, we will:

- assess the information against relevant legislation, policies and procedures
- refer to Council documents and records
- meet affected parties to consider possible solutions
- advise in writing of the outcome and our reasons.

Council expects its employees to be respectful and responsive in all of their communications with members of the public. We expect the same of complainants when they communicate with our staff.

We may change the way we communicate with a complainant if their behaviour or conduct raises health, safety, resource or equity issues for Council employees involved in the complaints process.

REMEDIES

Where we have found that we have made an error, we 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
- Disciplinary action taken against an employee
- Providing the means of redress requested by the complainant.

Where we identify an error, we will acknowledge and apologise to the complainant, in addition to any other remedies offered, irrespective of whether the complainant specifically requests this.

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COMPLAINTS MADE ABOUT CONTRACTORS & VOLUNTEERS

We recognise that we retain a level of responsibility for services carried out by contractors on our behalf.

In the first instance, when a complaint is made about a contractor, a council employee will oversee and support the contractor/volunteer who will be requested to respond to the complaint within the timeframes specified within this Policy. All outcome letters written by the contractor in relation to complaints will include the name and contact details of the Council employee to whom the complainant may escalate their complaint if they are not satisfied with the outcome the contractor has provided. If a complainant is not satisfied with the outcome of the complaint, he or she can ask Council to review the decision.

COMPLAINTS ABOUT ALLEGATIONS OF MISCONDUCT, OR ILLEGALITY

Some complaints will extend beyond a customer's general dissatisfaction with Council and may involve accusations of misconduct or alleged illegal activity. Complaints claiming criminal activity by an Officer, Councillor or to Council property will be assigned to the appropriate Manager for investigation and reported to Victoria Police, where necessary. If the matter is posing a risk to the community, it will be advised that the complaint go directly to Victoria Police.

COMPLAINTS ABOUT ALLEGATIONS OF CORRUPT CONDUCT

Disclosures which reveal corrupt, improper conduct, or conduct involving a risk to public safety, or the environment may need to be treated as a Protected Disclosure.

Where a complaint involves allegations of corrupt conduct, it will be handled in accordance with the IBAC guidelines. The Independent Broad-based Anti-corruption Commission (IBAC) is Victoria's agency responsible for preventing and exposing public sector corruption and police misconduct.

Legislation requires that the Chief Executive Officer must notify IBAC of any matter they suspect on reasonable grounds to involve corrupt conduct that is occurring or has already occurred. The Chief Executive Officer's duty to notify IBAC cannot be delegated.

COMPLAINTS ABOUT COUNCILLORS

This Policy does not apply to individual Councillors. Complaints relating to Councillors should be referred to the Mayor or CEO to provide guidance about the most appropriate process or response which will depend on the issues being raised.

COMPLAINTS ABOUT THE CONDUCT OF THE CHIEF EXECUTIVE OFFICER (CEO)

Complaints about the Chief Executive Officer will be referred to the Mayor.



WHEN A COUNCILLOR RECEIVES A COMPLAINT

To ensure transparency and fairness, complaints received by Councillors should be treated the same way as ones made to council officers.

In the first instance, Councillors will provide guidance to the customer as follows:

- Acknowledge the dissatisfaction without undertaking any personal investigation or providing opinion.
- Affirm Council's commitment to addressing complaints and continuous improvement.
- Explain that Council has an adopted policy and robust processes to manage complaints.
- Encourage the complainant to lodge their complaint directly with Council or assist if needed. If this is not possible the Councillor will convey the complaint to Council Officers with the details of the complainant.

Complaints received via a Councillor will be addressed for investigation and response in accordance with this Policy. In some instances the CEO may provide Councillors with relevant information regarding the outcome of a specific complaint if it is not a personnel related matter.

HOW TO REQUEST AN INTERNAL REVIEW

If a person is dissatisfied with our decision and how we responded to the complaint, they can request an internal review by writing to Council explaining their reasons for concern with the initial response.

The internal review will be conducted by a senior Council officer who has not had any prior involvement with the complaint.

We will advise in writing of the outcome of the internal review and explain our reasons within 28 days from acknowledging a request for Internal Review.



HOW TO REQUEST AN EXTERNAL REVIEW

There are external bodies that can deal with different types of complaints about us.

An external review of Council's response to a complaint can be requested from the following organisations:

Complaint	Organisation to contact for external review
<p>Actions or decisions of a Council, Council employees and contractors.</p> <p>This includes failure to consider human rights or failure to act compatibly with a human right under the Charter of Human Rights and Responsibilities Act 2006 (Vic)</p>	<p>Victorian Ombudsman www.ombudsman.vic.gov.au</p>
<p>Breaches of the Local Government Act</p>	<p>Local Government Inspectorate www.lgi.vic.gov.au</p>
<p>Breach of privacy. Complaint about a freedom of information application</p>	<p>Office of the Victorian Information Commission www.ovic.vic.gov.au</p>
<p>Corruption or public interest disclosure ('whistleblower') complaints</p>	<p>Independent Broad-based Anti-corruption Commission www.ibac.vic.gov.au</p>
<p>Discrimination</p>	<p>Victorian Human Rights and Equal Opportunity Commission www.humanrights.vic.gov.au</p>
<p>Council elections</p>	<p>Victorian Electoral Commission www.vec.vic.gov.au</p>