

Councils and complaints – A good practice guide

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Introduction

Councils' activities are diverse and extensive. They maintain significant infrastructure, provide more than 100 different services and enforce various laws for their communities. Community infrastructure maintained by councils in Victoria is estimated to be valued at over \$40 billion and includes roads, bridges, drains, town halls, libraries, recreation facilities, parks and gardens. Services provided by councils are also diverse. They include property, economic, human, recreational and cultural services. Councils also enforce State and local laws relating to such matters as land use planning, environment protection, public health, traffic and parking and animal management¹.

Given the breadth of services councils provide to Victorian communities, it comes as no surprise that they receive a large number of complaints. While complaint handling is a core function of local councils, handling complaints can be a challenge.

Purpose of the guide

This guide has been prepared in consultation with all Victorian councils and key stakeholders. It provides practical and useful advice to assist councils in ensuring that their complaint handling systems² are effective, efficient and promote fairness, integrity, respect for human rights and administrative excellence in the local government sector.

An effective complaint handling system – comprising systematic recording of complaints and outcomes, and analysis of data – can enable councils to improve their services.

This guide is structured around the following three concepts, generally recognised as fundamental to complaint handling:

1. *Enabling complaints* – how councils receive complaints
2. *Responding to complaints* – how councils manage complaints
3. *Learning and improving* – how councils can use complaint data to improve service delivery.

¹ <www.dpcd.vic.gov.au/localgovernment/guide-to-local-government/what-councils-do> at October 2014.

² 'Complaint handling system' is the way complaints are dealt with by a council, including the policy, procedures, practices and any technology, including electronic systems and reporting mechanisms.



Figure 1: Stages of complaint handling

Each council needs to decide how their complaint handling system will work. This guide can be used to assess how current processes, procedures and mechanisms can be improved, or as an aid to develop new systems.

This should be done in line with the following seven key principles for effective complaint handling³, which are outlined in Figure 2.

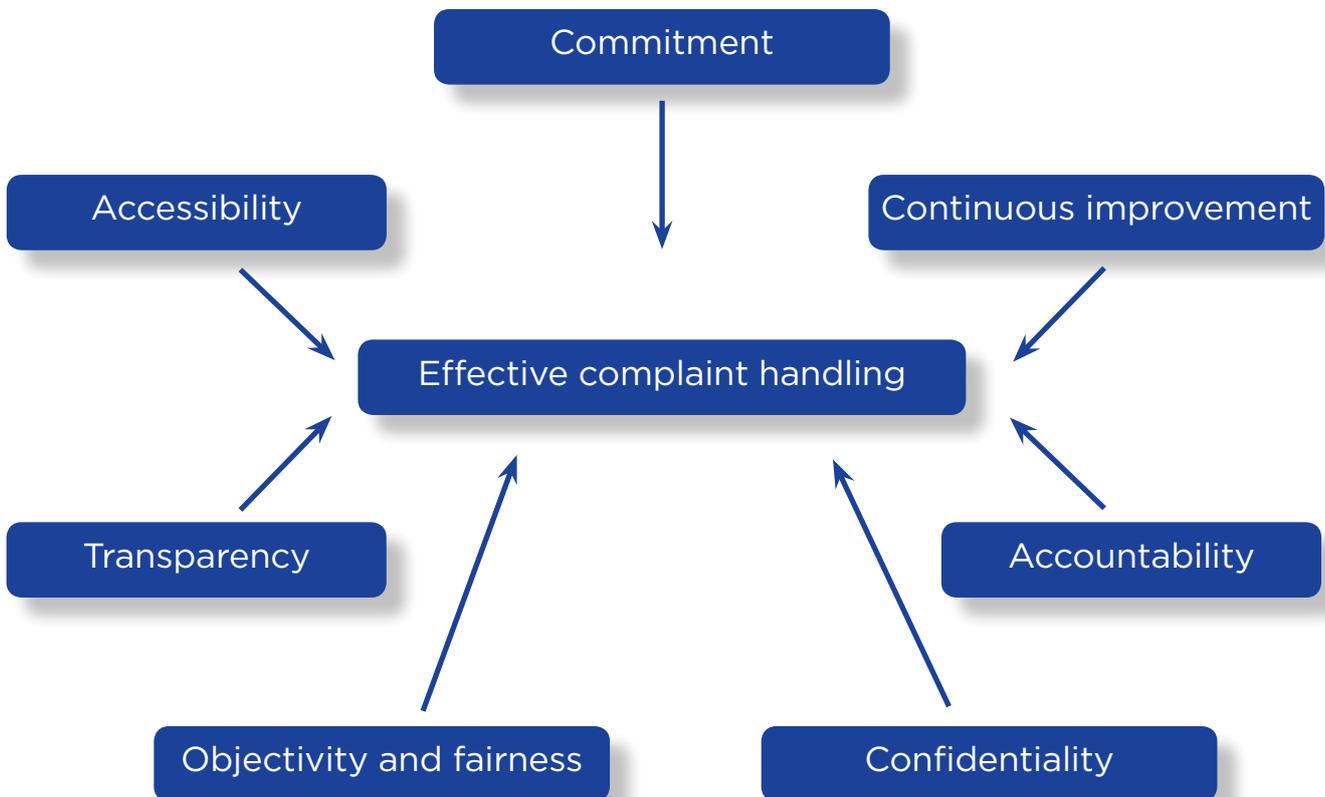


Figure 2: Principles of effective complaint handling

³ Adapted from the *Australian Standard: Customer satisfaction - Guidelines for complaints handling in organizations (ISO 10002:2006, MOD)*.

A model complaint handling policy template is also included in this guide to assist councils and to promote consistency in complaint handling across the local government sector.

The selective bibliography highlights some of the sources of data used to compile this guide.

The following symbols are used throughout the guide:



Examples of good practice



Traps to avoid



Tips to improve

What is a complaint?

A clear and consistently applied definition is the best way for councils to gather accurate data about the level of community satisfaction with services and to improve service delivery. Accordingly, it is vital that councils define the term.

The Ombudsman's preferred definition of 'complaint' is as follows:

A complaint is an expression of dissatisfaction with:

- *the quality of an action taken, decision made, or service provided by a council or its contractor*
- *a delay or failure in providing a service, taking an action, or making a decision by a council or its contractor.*

Not all complaints meeting this definition will be dealt with via the same process. Some complaints are required to be handled according to statute, such as those concerning infringements and some planning matters. However, these should still be included in a council's complaint handling data and analysis and the core complaint handling principles remain applicable.

Complaints falling outside any specific statutory review scheme should generally be handled in accordance with a council's complaint handling policy.

While this guide is concerned with complaints, it is necessary to understand the difference between a 'complaint' and a 'request for service'.

A request for service is:

Contact with the council to seek assistance, access to a new service, advice or to inform/make a report about something for which the council has responsibility.

Some common examples of complaints and requests for service are outlined below.

Complaint to be dealt with according to the council's complaint handling policy	Request for service
I put my bin out on time this morning and the truck didn't collect it.	I forgot to put my bin out this morning and missed the collection truck. Can you send someone to collect my bin this afternoon?
The council has said the neighbour's barking dog isn't breaching any noise laws, but I think the council is wrong and they just haven't investigated the situation properly.	My neighbour's dog keeps barking and I can't sleep. Can the council do something about it?
I reported a pothole on Wests Road to the council six weeks ago. I haven't heard anything since and it still hasn't been fixed.	There is a pothole on Wests Road. Can you send someone to fix it?

Source: Victorian Ombudsman.



Complaint vs a service request

A number of councils advised that when residents stated that their bins had not been collected on any given week, this was considered to be a 'request for service' and not a complaint.

Councils generally considered that residents often failed to put their bins out prior to collection, and then contacted the council to falsely report that the collection did not occur. Accordingly, councils record these contacts as requests to provide rubbish collection, not complaints.

This approach raises a number of concerns:

- categorising contacts such as these as requests is often arbitrary and not in accordance with the definition of 'complaint' as provided in council policies
- councils commit to providing services such as rubbish collection, and if that service is not provided, people should have the right to complain
- it assumes that residents are being dishonest about their grievances
- it may indicate that systemic service delivery issues are not being appropriately addressed.

While councils indicate that this and similar issues are handled responsively in individual cases, the classification of these issues is inappropriate for data gathering and analysis and a missed opportunity to improve customer service.

Source: Victorian Ombudsman consultations.

Complaint handling principles

An effective complaint handling system should be based on the following principles.

1. Commitment

The council is committed to resolving complaints. The organisation's culture 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.

2. Accessibility

People can easily find out how to complain to the council, and council staff actively assist 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, except where the need for confidentiality prevails.

4. Objectivity and fairness

Under the complaint handling system, complainants and staff 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 staff are informed only on a 'need to know' basis.

6. Accountability

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

7. Continuous improvement

Council staff regularly analyse complaint data to find ways to improve how the council operates and how its services are delivered. The council then implements these changes.

1. Enabling complaints

Councils committed to effective complaint handling should have complaint processes which reflect the needs, expectations and rights of complainants. How to complain to the council about a service should be well known and easily understood.

1.1 Councils should recognise the value of complaints and have a collective commitment to positively and professionally resolve them.

- Council staff should treat complainants with respect and empathy, support them in making complaints, and not treat them differently because they have made a complaint.
- A positive and receptive culture around complaints should be set by the council executive, developed by managers, and maintained by providing induction and ongoing complaint handling training to staff.
- Councils should not adopt a 'defensive' approach to complaints or be afraid of identifying and addressing mistakes that may have been made.



Making a strong statement of commitment

Council aims to achieve service excellence across all areas, for every customer. We recognise that all members of our community expect us to provide a personalised, responsive service. We work to meet those expectations by:

- listening to you
- making sure our services are easy for you to access and use
- responding appropriately to your needs and
- maintaining a continual focus on improving our service standards.

At all times, we encourage you to offer us feedback on both the services we offer, and the way they are delivered. By telling us what we're doing well, and where you would like to see an improvement, you help us stay connected with the community and continue to meet your needs.

1.2 There should be a consistent approach across the council to handling complaints.

- Councils should develop and implement a complaint handling policy.
- Every person employed by or providing a service on behalf of the council should understand the complaint handling system, and be able to explain how to make a complaint and how it will be handled.



Developing a complaint handling policy

A good complaint handling policy should inform people of:

- how, where, and to whom complaints can be made
- how the complaint will be handled and the steps involved
- the mechanisms for review if the complainant is dissatisfied with the outcome
- key performance indicators, such as response times
- external bodies that may provide assistance or review matters if the complainant remains dissatisfied e.g. Community Legal Centres, Victorian Ombudsman.

An example complaint handling policy template is at **Appendix 1**.

1.3 The complaint handling process and information about common complaints needs to be transparent.

This is achieved by:

- publishing the complaint handling policy online and making it available in hard copy format upon request
- implementing a website search function that retrieves the complaint handling policy and related information when a person types the term 'complain[t]'

- including a prominent link on the council's home page for making a complaint, including information and links to the relevant policy
- providing detailed information online on common complaints and other relevant agencies
- publishing information about topics that are largely governed by legislation (e.g. planning, rates and infringements), clearly stating the roles of the council and other relevant agencies.

1.4 A complaint handling system should be *accessible* and easy for all people to understand and use.

- Councils should be aware of the key characteristics of their communities (e.g. age, ethnicity, and other special needs) to ensure access to council services and complaint handling processes. Councils should also proactively engage with stakeholder and advocacy groups with clients within these key demographics.
- Support and special arrangements should be provided for people with specific needs, such as interpreter services and translating complaint information into languages other than English. Alternative formats should also be provided upon request.
- Councils should accept complaints by at least the following four methods:
 - by telephone
 - in writing via letter
 - in writing online, either via email or a website form
 - in person.



Making it easy to complain by phone

One council operates a specialised customer service centre, staffed with customer service officers and technical experts. As a result of this approach, calling the council has become the community's preferred method of contact. The centre fields almost 250,000 calls each year, with 86 per cent of these being resolved by the person taking the call.

Source: Victorian Ombudsman consultation with a metropolitan council.



A model approach to accessibility

Some councils demonstrate a clear commitment to making themselves accessible to the community. For example, one council states:

In conducting our business, we will:

- *Provide a dedicated Customer Service Line Monday to Friday from 8:30am - 5:00pm*
- *Provide a dedicated Emergency After Hours Line available from 5:00pm - 8:30am weekdays and 24/7 on weekends*
- *Provide a dedicated Multilingual Telephone Line which can be accessed by customers who speak a language other than English available Monday to Friday from 8:30am - 5:00pm*
- *Support communication with customers through the National Relay Service*
- *Provide Auslan sign language interpreters with prior notice*
- *Provide information that is accurate, current, and in languages spoken by our community*
- *Be available for contact by telephone, online, in writing, and in person.*

Source: A metropolitan council's customer service document.

2. Responding to complaints

To respond to complaints fairly and objectively, councils need to have transparent processes in place. Setting and adhering to timeframes for resolving complaints is also crucial. Responding effectively requires the council to offer a remedy when a mistake has been made. Councils also need to inform complainants of how they can seek a review of a council decision.

2.1 When receiving complaints, frontline staff should *confirm their understanding of the complaint, then assess how best to respond*.

- To demonstrate its commitment to resolving complaints, councils' frontline staff should be trained to take all complaints seriously. This includes accepting and responding to anonymous complaints where there is sufficient information to do so.
 - Councils should acknowledge all complaints within 10 business days of receipt.
 - When receiving a complaint, frontline staff should:
 - clarify the complaint and the outcome that the complainant is seeking
 - assess the complaint to determine the next steps, such as:
 - how it should be dealt with
 - when it should be dealt with
 - who should respond
 - whether further information or investigation is required.
- If council cannot handle a complaint, or the complaint falls outside the council's responsibilities, staff should have appropriate knowledge to refer the complainant to an agency that can assist.
 - If there is any confusion or a dispute about which agency is responsible for a complaint, the council should take steps to reach an agreement with the other agency about who will handle the complaint, rather than leaving it to the complainant to resolve. Council staff should obtain the complainant's permission to share their personal information prior to contact with a third party.



Considerations when assessing complaints

- A complainant should be personally affected by the issue or have authority and a sound reason to complain on another person's behalf.
- A complainant should identify a reasonable and achievable outcome.
- Trivial, vexatious or frivolous matters can still be complaints. However, the response to such complaints should be proportionate to the seriousness of the issue.



Who is responsible for this?

A local resident complained to his council that surface water was not draining from a reserve behind his property, causing damage to his garage. In response, both the council and VicRoads advised the complainant that the matter was not their responsibility, but that of the other agency.

The Victorian Ombudsman investigated the complaint to establish which agency was responsible for maintaining the reserve and the drain located on it. All parties met onsite and agreed to engage an independent surveyor to establish the cause of the damage.

In this case, it would have been preferable for the council to engage with VicRoads to reach an agreement about how the complaint would be handled. Had the council done so, the complaint could have been resolved without escalation to the Ombudsman.

Source: Victorian Ombudsman.



Neighbourhood disputes

Councils often become involved in disputes due to their role in enforcing laws and maintaining infrastructure affecting more than one residence. Neighbourhood disputes can be particularly complex as they often involve multiple issues. The parties may also have a history of conflict and a strong emotional involvement due to the impact of the issues on their home, family, health or quality of life.

When councils receive a complaint regarding a neighbourhood dispute, they need to carefully assess the complaint to clearly identify the issues they are responsible for addressing, such as investigating whether a local law has been breached.

Councils should not dismiss complaints as 'a matter between private individuals' or refer it to another agency for dispute resolution without first ensuring they have examined and dealt with any issues within their remit. Councils should clearly inform the complainant which aspects of the dispute they are able to assist with and provide referrals for any remaining issues.

Sometimes it may not be clear if and when to refer a matter to another agency. To ensure such disputes or complaints are resolved expediently, councils should build relationships with local dispute resolution services, such as the Dispute Settlement Centre of Victoria, to guide any referrals.

Source: Victorian Ombudsman consultations.



That's not my problem!

A resident reported a neighbour's barking dog to her council several times over a period of a year. The resident called the council to complain that the neighbour was failing to keep the dog inside at night, as had been negotiated with the council. The council told her it could do nothing further about the situation and referred her to a dispute resolution service. The dispute resolution service advised the resident that it believed that the complaint was still a matter for council, as under the council's local laws, it could take further action. Ultimately, the dispute resolution service referred the complainant to the Victorian Ombudsman for advice.

There is sometimes more than one forum through which a complaint could be addressed. In this case, the multiple referrals the resident received while she attempted to find the appropriate forum to resolve her dispute could have been avoided if the council had liaised with the dispute resolution service prior to making the initial referral. Ongoing relationships and dialogue between councils and agencies to whom they regularly refer complaints can assist councils and referral agencies to better understand each other's jurisdiction and make the referral process more efficient.

Source: Victorian Ombudsman.



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.

An integral role of councillors is to be accessible to residents and improve communication between the community and the council. As the public face of the council, councillors often receive complaints from members of the public while undertaking their municipal role. In these cases, it may be unclear what a councillor's role is in handling complaints.

Councils should have transparent and consistent procedures to manage complaints received by councillors. If a councillor receives a complaint about an issue that falls within the council's normal functions⁴, the councillor should refer the complaint to a designated senior council officer. This is generally the Chief Executive Officer or a Director. The complaint should then be handled in accordance with the council's complaint handling policy.

The councillor who initially received the complaint may wish to write to the complainant advising that they have referred the complaint to council staff for response. They may also wish to seek information from the senior officer about the progress of the complaint, however they must not seek to direct or influence the complaint handling process. Council staff may keep councillors up-to-date on the resolution of these complaints.

Once an outcome is reached and council staff have written correspondence reflecting this, a council officer should sign the outcome letter.

This process needs to be conveyed and understood by councillors and council staff. This will ensure that all complainants are treated equally, regardless of who received the complaint.



Complaints about councillors, CEOs and decisions made in council meetings

While the following areas of complaint are not the focus of the guide, it is beneficial for councils to give consideration as to how they will be handled. Processes should be put in place to ensure consistency and transparency.

Complaints about councillors

Complaints about councillors may be handled through different procedures to the ones outlined in this guide. Some councils have publicly available policies outlining how complaints about councillors are addressed. This information and transparency around such processes is likely to be of benefit to complainants, councillors and council staff.

Complaints about the Chief Executive Officer

The complaint process should be publicly available and set out:

- how to make a complaint about the Chief Executive Officer
- the actions mandated in Part 4, Division 4 of the *Local Government Act 1989*
- how the council will respond to the complaint.

Complaints about council decisions

It is also useful for councils to consider how complaints about decisions made at council meetings will be handled. The vast majority of council decisions follow consideration of a report prepared by council staff. In many circumstances, it may be appropriate for complaints about such decisions to be referred to the staff who wrote the report, as they would be best placed to explain the rationale behind the decision or provide further technical advice.

Source: Victorian Ombudsman.

⁴ Complaints about operational matters within the control of council staff.

2.2 Councils should aim to *resolve complaints within 28 days*.

- Complaints should be acknowledged within 10 business days.
- Where possible, complaints should be resolved within 28 days.
- If it is not possible to resolve a complaint within 28 days, the responsible officer should contact the complainant prior to or at this time to provide an update on the case.
- Complaints that are not resolved within 28 days should be subject to review and escalated if necessary to ensure that a resolution is expedited.

2.3 Councils should have a *tiered approach to resolving complaints*.

- Councils should have a four-tiered approach to resolving complaints:
 1. frontline complaint resolution
 2. investigation if required
 3. internal review
 4. access to external review.
- If frontline staff cannot resolve a complaint, it should be referred to an officer for investigation.
- The investigating officer should be of a position appropriate to question other council staff and request relevant documentation.
- The investigating officer is responsible for explaining what the complaint handling process involves, including the expected timeframe for resolution, and keeping the complainant informed while their complaint is investigated.



Managing expectations

Conflict in complaint handling often stems from differing expectations about how a complaint will be handled or the likely outcome.

- Manage expectations from the outset by asking the complainant what they want to achieve. This allows an assessment of whether the complainant's expectations are reasonable and achievable.
- Explain to the complainant how the complaint handling process works, how long it will take, who will deal with their complaint, and the likely outcomes.
- Specify what the council can and cannot do, or will and will not do.
- Identify any causes of conflict over which the council has no control or very limited discretion, such as statutory requirements or practical realities. Ensure that the complainant is aware of these, and explain that the council has little or no right or responsibility to act.
- Where the council cannot meet the complainant's expectations, try to shape realistic ones by explaining what the council can do and providing alternative avenues.

The Victorian Ombudsman's *Managing Unreasonable Complainant Conduct: Practice Manual* provides script ideas for testing and managing expectations.

Source: Victorian Ombudsman's *Good practice guide: Victorian Ombudsman's guide to complaint handling for Victorian public sector agencies*.



How staff can avoid escalating a conflict

- Keep your focus on the issue, not the person.
- Try to influence the complainant to focus on the issue, not their emotions. Ask questions about the facts to move the person from a 'feeling state' to a 'thinking state'.
- Find something to agree with, without necessarily agreeing with the complainant's point of view e.g. 'I agree that \$2,000 is a lot of money to lose'.
- When in doubt, ask questions to clarify your understanding e.g. 'From what you tell me it seems ... is this correct?'
- Don't defend, argue or deny – set aside your personal views and feelings.

Source: Victorian Ombudsman's *Good practice guide: Victorian Ombudsman's guide to complaint handling for Victorian public sector agencies*.

2.4 Councils are required to maintain confidentiality when handling complaints.

- The information councils gather should only be:
 - used to deal with the complaint or to address systemic issues arising from it
 - disclosed in a de-identified format when data is released to the public
 - shared with council staff on a 'need to know' basis.

2.5 To arrive at an *objective* and *fair* outcome, the investigating officer should consider three questions:

1. Do you consider the outcome to be fair and reasonable, not simply whether it meets the minimum standards required by the relevant law and policy?
2. Have you considered any discretion available to you within law and policy in arriving at the outcome?
3. Would it help if you called or met with the complainant to further clarify any issues before you finalise the outcome?



Contacting the complainant before finalising the outcome

One council's planning and enforcement staff call all complainants before the outcome to a complaint is finalised. This is done to manage expectations and ensure that the issues have been addressed. The council reported that this practice has greatly assisted their responsiveness.

Source: Victorian Ombudsman consultation with a metropolitan council.

2.6 Writing the outcome letter.

- Councils should write an outcome letter for all complaints where an investigation has been undertaken.
- A council officer should sign outcome letters about complaints made to the council, regardless of whether the response involved input from a third party, such as an insurer.



Elements of a good outcome letter

- tailored to the complaint by accurately describing the issues
- uses plain English and avoids bureaucratic language, acronyms and jargon
- explains the steps the council took to investigate or resolve the complaint
- sets out the relevant legislation or policies in simple language
- clearly identifies the outcome
- provides reasons for the decision
- acknowledges and apologises for any errors made by the council
- sets out any remedies the council is offering
- is translated into a language other than English where appropriate
- includes the name, signature and telephone number of the council officer who the complainant can contact to discuss the outcome
- advises the complainant of the Victorian Ombudsman and any other relevant review bodies.

Suggested text for referring a complainant to the Victorian Ombudsman in outcome letters:

If you are unhappy with the outcome of this process, you may wish to complain to the Victorian Ombudsman by completing the online complaint form at <www.ombudsman.vic.gov.au> or by calling (03) 9613 6222 or 1800 806 314 in regional areas.

Source: Adapted from <www.ombudsman.vic.gov.au/Complaints>.

2.7 Template letters must be *tailored* to each complaint and include the *reasons for the council's decision*.

- It is important that correspondence to complainants adequately responds to the complaint, and is sufficiently detailed about the reasons for the decision.

Correspondence that does not address the complainant's concerns or is in template form often triggers complaints, escalations, or UCC⁵
- *A regional council*

Council has anecdotal evidence that not using form letters has meant that [the number of] follow-up questions to the council have dropped
- *A metropolitan council*

5 'UCC' or 'unreasonable complainant conduct' 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 the parties to a complaint. This may include the organisation or case officer responsible for handling a complaint; the subject of the complaint; the complainant, their family, or friends; or other complainants or service users.



Template letters

A resident received an infringement notice from his council for commencing building works without an asset protection permit. The resident wrote to the council, explaining why he believed the infringement should be waived. The council replied with a template letter upholding the original decision to issue the infringement.

The letter included custom fields for basic information, such as the date of the notice, the infringement number and the offence. While there was also a field for 'reasons specific to your application', the council simply restated the local law as it was written in the 'offence' field. No individual points raised by the complainant were addressed.

Despite the letter stating that 'the appeals committee has considered your application and I wish to advise...', the letter was attributed to the 'Local Laws Unit' with no individual's name or contact information provided.

The letter also advised the complainant that if they replied to the letter, the matter would be referred to the Magistrates Court.

This type of response can be deeply frustrating for complainants as they may feel that their concerns have not been given genuine consideration and that the council is not accountable for its decision. This can have the effect of exacerbating a complainant's grievance, where a more detailed and responsive outcome letter, which left the door open for further clarification, may have been sufficient to bring an end to the matter.

Source: Victorian Ombudsman.

2.8 Councils are responsible for complaints about all their services, including those provided by *third party contractors*.

- Councils are ultimately responsible for all complaints about their services, irrespective of whether those services are delivered by the council directly, or by a third party contractor. Where councils allow contractors to respond to complaints on their behalf, it is crucial that they monitor this function and have clear oversight of the contractor's complaint handling process.



Monitoring council service providers

Where a council allows its contractors to handle complaints, it should:

- review and approve the contractor's complaint handling process. Ideally, this process should be consistent with the council's complaint handling policy
- ensure that the council has a robust system to audit the contractor's complaint handling
- require the contractor to collect complaint data (which the council can access), which the council monitors and reports on as part of its broader complaint handling system
- ensure that any systemic issues related to the contractor's performance are identified and promptly addressed with the contractor
- require the contractor to inform complainants that they can have their complaint reviewed by the council if they remain dissatisfied. The contractor should provide contact information for the council officer to whom the complaint should be directed.



Third party contractors

While removing a council-owned tree on behalf of a council, a tree services company damaged land in front of a residential property owned by the complainant.

The complainant contacted the council, requesting reimbursement for the cost of repairing the land. The council referred the matter to the contractor, who offered the complainant an apology and some gift vouchers. Unhappy with this offer, the complainant wrote to the council again to express dissatisfaction with how the contractor had handled his complaint.

In response, the council stated that it 'considers that the dispute is between [the contractor] and yourself' and provided the complainant with the contractor's contact information.

As the contractor had attempted to resolve the complaint and the complainant remained dissatisfied with the outcome, it would have been appropriate for the council to accept the escalated complaint.

Source: Victorian Ombudsman.

2.9 To be *accountable* to their communities, councils should be prepared to admit mistakes and take action to correct them.

- Where the council has made a mistake, options of redress may include:
 - an apology
 - an explanation of why the error occurred and the steps taken to prevent it happening again
 - a reversal of a decision
 - an ex gratia payment or compensation
 - disciplinary action taken against a staff member
 - providing the means of redress requested by the complainant.

2.10 Councils must have a process in place which allows a complainant to seek an internal review of a complaint outcome.

- Councils should document their process for internal reviews.
- A senior officer not previously involved in the matter should conduct the internal review.

2.11 Councils must inform complainants of any external avenues through which they can pursue their complaint if they are dissatisfied with the process or outcome of an internal review.

- Councils should inform complainants that they can contact the Victorian Ombudsman to complain about how the council has handled their complaint.
- There may also be other avenues of external review available to complainants in particular circumstances, such as the Victorian Civil and Administrative Tribunal.
- Review information should be readily available on councils' websites, as well as in general correspondence to members of the public on matters that may give rise to a complaint. For example, councils should include options for further review in all outcome letters following a council's internal review.

2.12 Unreasonable complainant conduct can take up significant council resources, so councils should actively manage any such conduct.

- In order to appropriately support staff and provide fair outcomes for complainants, the council should:
 - have policies and procedures for managing unreasonable complainant conduct
 - train staff to deal with unreasonable complainant conduct, and appropriately debrief and support staff where this conduct is impacting on their wellbeing⁶.

⁶ In recent years my office and other Australian Ombudsman offices have developed detailed resources to help agencies manage unreasonable complainant conduct. These resources are listed in the Bibliography.



Managing unreasonable complainant conduct

If a person is behaving unreasonably during a telephone call, the council officer can manage the situation by:

- naming the behaviour and warning that it is unacceptable
- warning the person that if their behaviour continues, the call will be ended
- following through by ending the conversation if the behaviour continues.

Contact management

- Councils may decide to limit a complainant's contact with the council if they persist in behaving unreasonably, such as by requiring that a person only communicate with the council in writing.
- Councils need to include procedures for contact management in their complaint handling or unreasonable complainant conduct policies.
- The council should provide the complainant with the reasons for restricting their contact.
- Only the Chief Executive Officer should decide that the council will no longer correspond with a person on a specific matter.
- Generally, the decision to cease contact with a member of the public should be specific to a particular matter, and not a total ban on all correspondence.
- A restriction applied to a person's contact with the council should be reviewed every 12 months to consider whether it is appropriate to retain the restriction.

Source: Victorian Ombudsman and NSW Ombudsman <www.ombo.nsw.gov.au/__data/assets/pdf_file/0004/3568/GL_Unreasonable-Complainant-Conduct-Manual-2012_LR.pdf>

<www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/managing-unreasonable-complainant-conduct-a-model-policy-and-procedure>.

3. Learning and improving

The key to learning from complaints is taking a systematic approach to recording complaints and their outcomes. Complaints need to be recorded in sufficient detail to enable the council to analyse complaint data. By reporting what councils have done with the complaints they receive, councils demonstrate to the wider community their commitment to improving services.

3.1 The term ‘complaint’ should be defined and used *consistently* across council.

- Councils should adopt a consistent definition of ‘complaint’, which should be published in the relevant policies and on council websites.
- This definition should be used when gathering, analysing and reporting on complaint data and should be applied consistently across the council.

3.2 Complaint information should be systematically recorded to support *transparency* and *continuous improvement*.

- By recording complaints, councils can identify mistakes, service failures or areas of community dissatisfaction and improve service delivery.
- Councils should have a system by which complaints are categorised, recorded and tracked. Regardless of which business unit handles a complaint, it should be recorded in a common complaint database⁷.
- Council staff who are responsible for recording complaints should be trained on how to use the complaint database.



Good record keeping for complaints

The following information should be recorded for every 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.

Source: Victorian Ombudsman’s *Good practice guide: Victorian Ombudsman’s guide to complaint handling for Victorian public sector agencies*.

⁷ ‘Complaint database’ is a council’s official method of recording complaints; for example, using tailor-made complaint handling software, an electronic spreadsheet, customer relationship management system or the council’s electronic document management software. If the council has a customer relationship management system that adequately categorises complaints and allows for data on complaints to be extracted for data analysis, it does not necessarily need a separate complaint database.



Complaint databases

Councils do not need sophisticated systems to collect complaint data. A council's size and available resources may determine the system used. For councils with limited resources or for small municipalities, an electronic spreadsheet may be sufficient. Larger metropolitan councils may consider using specialised complaint handling software or integrating complaint handling data collection into their mainstream customer service system.

Different councils manage their complaints data using different types of complaint databases:

- one council, which received one complaint per 1,000 residents in 2013-14, uses an electronic spreadsheet as a complaint register
- another council, which received two complaints per 1,000 residents in 2013-14, also uses an electronic spreadsheet, which is kept confidential, to record and track actions on complaints
- a further council, which received three complaints per 1,000 residents in 2013-14, uses a customer service tracking system. Complaints are given a reference number and sent electronically to a responsible staff member for action. Business unit staff log and track complaints made directly to them in writing or by telephone, and any actions staff take on complaints are recorded in the system.

Whatever database a council uses, it needs to maintain confidentiality of the information it contains. Access to the database should be restricted on a 'need to know' basis.

3.3 Councils should commit to *continuous improvement* by analysing complaints.

- Councils should analyse complaints quarterly to identify systemic issues, prevent repeated mistakes, and monitor the performance of third party contractors.
- Senior management should be provided with a quarterly analysis of complaints, and act on any recommendations for reducing complaints and improving services.
- Ideally, one staff member or a designated team should be responsible for ensuring that complaint data from across the council is collected and managed appropriately.
- Care should be taken when interpreting complaint data, because, for example:
 - while response times may indicate that the complaint process is working, it may not show how satisfied complainants are with the process
 - an increase in complaints triggered by a change in the complaint handling policy may be an indicator of an effective policy, not a drop in service.

3.4 Councils should demonstrate *accountability* by publishing details of their complaint handling performance.

- Councils should adopt key performance indicators against which they can measure their complaint handling performance.



Measuring your performance

Useful key performance indicators to consider adopting include:

- complaint outcomes e.g. upheld, partially upheld, or not upheld
- meeting timeframes, such as the time taken to resolve matters
- any service changes resulting from complaints
- the number of complaint outcomes altered following internal review
- customer satisfaction with the complaint handling system
- the number of complaints escalated to the Victorian Ombudsman where the council's decision was overturned or altered, or changes to a council policy or procedure were proposed.

- Councils should publish their actual performance against key performance indicators in their annual reports, and include any service improvements made as a result of complaints received.
- Council staff should also report to Council annually on their complaint handling performance (or more frequently if analysis identifies issues that should be brought to the council's attention).
- Councils should review their complaint handling systems every four years, including their procedures and key performance indicators.

3.5 Councils committed to *continuous improvement* should regularly train staff responsible for handling complaints.

- All council staff who receive, record, investigate or respond to complaints should receive regular and relevant complaint handling training.



Training for complaint handlers

Complaint handlers can be trained in a range of areas to develop and improve their skills, including:

- case and time management
- communication and building rapport
- problem solving
- investigating complaints
- understanding Victoria's *Charter of Human Rights and Responsibilities Act 2006*
- conflict of interest
- exercising discretion
- managing unreasonable complainant conduct
- writing in plain English
- stress management.

Bibliography

The following references were valuable sources for much of the information in this guide. They are recommended reading for those with responsibility for complaint handling.

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Standards Australia, *Customer satisfaction – Guidelines for complaints handling in organizations (ISO 10002:2006, MOD)*, Standards Australia Limited, Sydney, 2006.

Standards Australia, *Guidelines for complaint management in organizations (AS/NZS 10002:2014)*, Standards Australia Limited, Sydney, 2014.

Victorian Ombudsman, *Good practice guide: Victorian Ombudsman's guide to complaint handling for Victorian public sector agencies*, 2007.

Appendix 1 – Model local government complaint handling policy

[This model policy is intended as a guide only. Councils are encouraged to tailor it to suit their individual circumstances and to consider the Ombudsman’s ‘Councils and complaints – A good practice guide’ when drafting their policy]

How to use this document

Standard wording is in roman type. It is recommended that this text goes into the council’s policy as written.

Suggested wording is in italics. Councils may need to tailor this text to suit their individual circumstances.

[Tips and instructions for drafting the policy are in blue italics and brackets]

Name of council	
Title and version number	
Record number	
Effective date	
Responsible officer	
Date of Human Rights Charter review	
Date of approval	
Review date	<i>[Review complaint handling system every four years, including procedures and key performance indicators]</i>
Relevant legislation	<i>Charter of Human Rights and Responsibilities Act 2006 Freedom of Information Act 1982 Information Privacy Act 2000 Local Government Act 1989 Protected Disclosure Act 2012</i>
Related policies	<i>[Insert all related policies, for example:</i> <ul style="list-style-type: none"> <i>• customer service policy/charter</i> <i>• protected disclosure policy</i> <i>• councillor code of conduct</i> <i>• employee code of conduct</i> <i>• infringements policy, etc.]</i>

Introduction

[In the introduction, councils can:

- *state that members of the public have the right to complain*
- *include statements about the council's commitment to complaint handling and creating a culture that encourages feedback and complaints*
- *affirm that the council will learn from complaints to improve its services*
- *note any factors or demographics specific to the council which are relevant to complaint handling]*

This policy includes... *[summarise what is in this document]*

Objectives

This policy aims to:

- *put in place an open and transparent complaint handling system*
- *specify the key performance indicators to which we will hold ourselves accountable*
- *establish our timeframes for resolving complaints*
- *clarify the roles and responsibilities of council staff*
- *ensure staff handle complaints fairly and objectively*
- *set out how staff record and analyse complaint data to identify where we can improve our services.*

Guiding principles

This policy is based on seven principles, as outlined in the Victorian Ombudsman's *Councils and complaints - A good practice guide*.

1. Commitment

We are committed to resolving complaints that we receive. 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 we actively assist 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 staff 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 staff are informed only on a 'need to know' basis.

6. Accountability

We are accountable, both internally and externally, for our decision making and complaint handling performance. We provide explanations and reasons for decisions, and ensure that our decisions are subject to appropriate review processes.

7. Continuous improvement

We regularly analyse complaint data to find ways to improve how we operate and how we deliver our services. We then implement these changes.

Scope

This policy applies to all council staff. It also applies to third party contractors carrying out services on the council's behalf.

Definitions

complaint: an expression of dissatisfaction with –

- the quality of an action taken, decision made, or service provided by a council or its contractor
- a delay or failure in providing a service, taking an action, or making a decision by a council or its contractor

[Define any other key terms that your council uses, including those closely related to 'complaint', such as 'request for service' or 'feedback']

Roles and responsibilities of council staff and contractors

Frontline staff

Managers and directors

Chief Executive Officer

Third party contractors

[For each party, enter a general description of their role and responsibilities within the complaint handling system]

How to make a complaint

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

Mail: *[Insert name of council and postal address]*

Telephone: *[Insert telephone number]*

Email: *[Insert email address]*

In person: *[Insert locations]*

Fax: *[Insert fax number]*

Internet: *[Insert web address. If you have an online feedback form, include instructions on how to access it from the home page]*

Accessibility

Anyone who has been affected by an action or inaction of council can make a complaint.

[Detail the processes/services the council has in place to assist people with specific needs to make a complaint.]

We accept and respond to anonymous complaints, provided we have received enough information to do so.

Complaint handling procedure

Overview

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

1. frontline resolution: frontline staff receive the complaint and resolve it immediately, if possible
2. investigation, if required: if frontline staff cannot resolve the complaint, they will refer it to a council officer for investigation
3. internal review: if the complainant is not satisfied with the outcome of the investigation, they can request an internal review
4. access to external review: if the complainant is not satisfied with the process or outcome of the internal review, we inform them of any external avenues through which they can pursue their complaint.

Procedures

[Tailor this section to your individual procedures]

Frontline resolution

- *We will acknowledge all complaints within 10 business days of receipt.*
- *Frontline staff will receive the complaint.*
- *Frontline staff will clarify the complaint and the outcome the complainant is seeking.*
- *Frontline staff will assess the complaint to determine how it should be dealt with. [\[Consider including the criteria upon which complaints will be assessed\]](#)*
- *If the council is not the right organisation to respond to the complaint, frontline staff will refer the complainant to an organisation that can help.*

Investigation

- *If frontline staff cannot resolve the complaint, it will be assigned to a council officer for investigation.*
- *The officer handling the complaint will advise the complainant who the contact person is and how long it will take to respond to the complaint.*
- *Complaint handling staff will aim to resolve all complaints within 28 days.*
- *If it takes longer than 28 days to resolve a complaint, the contact person will contact the complainant prior to or at 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 officer responsible for 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.*

Internal review

[Identify the staff member/s who are responsible for internal reviews – they must always be a senior staff member not involved in the original decision/action/investigation]

[Detail internal review process and timeframes]

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

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

Complaints received by councillors

When a councillor receives a complaint from a member of the public, he or she will refer it to *[Insert council staff member: minimum manager level]*.

Council staff will then respond to the complaint in accordance with this policy.

A council officer may sign the outcome letter.

Complaints about contractors

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

[Consider whether you will allow contractors to respond to complaints directly.]

When deciding, consider whether you have (or can put in place) appropriate oversight mechanisms for any complaint handling carried out by contractors.

If contractors handle complaints, provide details of any oversight mechanisms and other requirements the contractor will be subject to]

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 staff member to whom the complainant may escalate their complaint if they are not satisfied with the outcome the contractor has provided.

Complaints about specific matters – alternative procedures

Complaints about allegations of corrupt conduct

Where a complaint involves allegations of corrupt conduct, it will be handled in accordance with the *[Insert name of policy for handling protected disclosures]*.

Complaints about councillors

Complaints about councillors will be dealt with in accordance with *[Insert name of policy for handling complaints about councillors]*.

Complaints about the Chief Executive Officer

[Insert process for handling complaints about the Chief Executive Officer, including:

- how to make a complaint about the Chief Executive Officer*
- the actions mandated in Part 4, Division 4 of the Local Government Act 1989*
- how the council will respond to the complaint]*

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... *[list the remedies and who is authorised to offer them]*

- an explanation of why the error occurred and the steps taken to prevent it happening again*
- a reversal of a decision*
- an ex gratia payment or compensation*
- disciplinary action taken against a staff member*
- providing the means of redress requested by the complainant.*

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

Privacy and confidentiality

When gathering information to respond to a complaint, we 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 staff on a need to know basis.

Recording complaints

All complaints are recorded in our [complaint database].

[Insert process for recording complaints]

We analyse our complaint data and provide [annual / more frequent] reports to Council on how we can reduce complaints and improve services. Senior management is responsible for acting on the recommendations in these reports.

We record 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 [insert name of responsible officer].

Reporting on performance

To measure our performance, we have the following key performance indicators:

[Insert KPIs associated with complaint handling. These KPIs may be related to:

- complaints upheld, partially upheld, not upheld*
- performance against timelines set by council i.e. 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]*

We will report against our complaint handling key performance indicators:

- annually at council meetings*
- annually, in our annual report, where we will also detail any service improvements made as a result of complaints received.*

Unreasonable complainant conduct

[The New South Wales Ombudsman's Unreasonable complainant conduct model policy includes guidance for managing unreasonable complainant conduct, which councils can tailor to their individual circumstances <www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/managing-unreasonable-complainant-conduct-a-model-policy-and-procedure>]



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