

COMPLAINTS MANAGEMENT POLICY

1.0 Purpose

This policy has been developed to provide a systematic framework to consistently assess and respond to complaints lodged by members of the public in relation to City of Ballarat (Council) decisions and undertakings.

For the purposes of this policy, according to section 107 of the *Local Government Act 2020* a complaint includes the communication, whether orally or in writing, to the Council by a person of their dissatisfaction with:

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

A response to a complaint may:

- Lead to a resolution of the complaint;
- Result in an alternative solution that partly resolves the complaint; and/or
- Provide an explanation about why the complaint cannot be resolved.

A complaint must relate to matters that the City of Ballarat has the jurisdiction to resolve.

If initial communication with Council does not resolve the problem, a formal approach may be considered.

2.0 Scope

2.1 Complaint process

Council recognises the importance of complaints management as part of its quality customer service and its core business of serving the community and improving service delivery. Members of the public have various avenues to raise issues with Council and will be actively supported during the complaint process.

Whilst most problems can be resolved through initial communication with Council Officers, there may be occasions where members of the public wish to make a formal complaint. Formal complaints lodged with Council will be assessed in accordance with this procedure.

Complaints should not be trivial in nature and should contain enough information to ensure the complaint can be investigated in full and in a timely fashion. The complaint must relate to matters that Council has a jurisdiction to resolve.

2.2 What is not considered a complaint?

Some matters are not deemed as a complaint and therefore are not covered by this policy. They include:

- Contact with the Council to seek assistance, access to a new service, or advice about a matter for which Council has responsibility;
- Reports of a hazard (e.g. fallen tree);
- Reports concerning neighbours that are dealt with under legislation, local laws or other regulations administered or enforced by Council to be enacted (e.g. dog barking, noise issues);
- A request for information or an explanation of a policy or procedure;
- Decisions made under legislation which provides for separate avenues of appeal (e.g. *Building Act 1993* decisions and General Local Law prosecutions);
- An alleged breach under the Councillor Code of Conduct;
- Decisions of Council's Insurance department related to Requests for Compensation which have their own appeals process; or
- Comments on social media which have not been directed to Council in accordance with this policy.

3.0 Policy Statement

3.1 Administrative Complaints

Administrative complaints are complaints about matters that relate to an action or decision made by Council Officers.

All administrative complaints must be lodged via the appropriate avenue for the complaint to be accepted. This is considered stage 1. To make a complaint to Council, members of the public can:

- Contact Council directly through Customer Service on 5320 5500. The Customer Service Officer will discuss the concerns with the member of the public. If the matter cannot immediately be resolved, the complaint will be referred to the relevant Council Officer.
- Put the complaint in writing to assist Council understand the details of the complaint. Email: info@ballarat.vic.gov.au or write to PO Box 655 Ballarat, Victoria 3353.

Interpreter services are available for non-English speaking customers by phoning the Translating & Interpreting Service on 13 14 50.

A Council Officer will acknowledge the complaint within 5 business days and will endeavour to resolve the complaint at the earliest opportunity or at most within one month. Where the matter is more complex this time period may be extended. The complainant will be kept informed throughout the process.

Complaints addressed to the CEO and/or Councillors, will be forwarded to the relevant department for investigation and response and managed in accordance with this policy.

3.1.1 Internal Review of Administrative Complaint

Review of an administrative complaint will be investigated by the service area that provided the service. The review must be independent of:

- The person who took the action; and
- The person who made the decision; and
- The person who provided the service.

If the complaint is about a Council Officer, that officers Manager/Coordinator will investigate the complaint.

1. If the complainant is not satisfied that the complaint was handled appropriately or in accordance with relevant Council policies, they may ask for a Stage 2 review. This request for review may be made in writing or verbally and the complainant must detail the reasons why they felt that the complaint was not appropriately managed and/or which Council policies were not adhered to.
2. If the complaint reaches Stage 2, it is to be investigated by the Manager or Executive Manager of the relevant service area and a response provided as soon as possible. If the complainant believes that the complaint was handled inappropriately or not in accordance with relevant Council policies, they may ask for a Stage 3 review to the Director of the relevant service area. This request for review must be made in writing and the complainant must detail the reasons why they felt that the complaint was not appropriately managed and/or which Council policies were not adhered to.
3. The Director of the relevant service area will review the complaint and provide a response at the earliest opportunity.
4. If the complainant is still not satisfied with the outcome of an investigation, they may choose to contact an external organisation that can consider matters relating to Local Government. Further information on complaints to external organisations can be found later in this document.

All complaints commence at stage 1. Where an initial complaint is directed to the CEO, it may be allocated to the relevant department to enable stage 1 of the process to be conducted.

3.2 Formal Council decisions

Decisions made during Council meetings, are published in the Council minutes and include the precise wording of the Council decision. The Public Council Agenda includes the Council Officer report relating to the subject. Some reports are confidential in nature and heard in closed Council meetings in accordance with the *Local Government Act 2020* and are not publicly available. In these instances, only the decision will be published. Minutes and Agendas for the previous 12 months are available online at <http://www.ballarat.vic.gov.au>

In some circumstances, the process of making formal Council decisions involves public consultation. Council will advise if there is a public consultation process where members of the public can participate.

Possible ways for members of the public to raise a concern with formal Council decisions include:

- Speaking with or writing to Councillors (Councillor email details are available on the Council website);
- Requesting to speak on a matter at a meeting of the Council. The matter must be on the agenda. (Contact Council's Governance Unit on 5320 5875); or
- Raising the matter during public question time at a Council meeting.

3.3 Complaints regarding breach of privacy

When a complainant considers there has been a breach of privacy by the Council, a complaint is made via Council's Privacy Officer.

Refer to Council's Privacy Policy for the handling process for complaints regarding breach of privacy.

3.4 Public Interest Disclosure Complaints

Complainants of corrupt or improper conduct by a public officer or body may make a Public Interest Disclosure Complaint. More information can be found on Councils website <https://www.ballarat.vic.gov.au/public-interest-disclosures>.

3.5 Neighbourhood Disputes

Occasionally Council will receive a complaint involving neighbours which in many instances cannot be resolved by Council. On these occasions Council may direct complainants to other resources including: Dispute Settlement Centre on 1300 372 888; the Law Handbook www.lawhandbook.org.au; and Reaching Agreement www.disputes.vic.gov.au.

3.6 Complaints regarding a Councillor

Complaints regarding Councillor(s) will be referred to the Mayor. If the complaint is about the Mayor, the complaint will be referred to the Chief Executive Officer. In each instance, the Councillor(s) who are the subject of the complaint will be notified by the Mayor or Chief Executive Officer after the complaint details have been established.

The complaint will be recorded in writing and all interactions with the complainant will be documented.

3.7 Complaints lodged via Councillors

When a complaint is addressed to a Councillor from a member of the public, the information is forwarded to the Civic Support Team to ensure the complaint is officially recorded. Civic Support will forward to the appropriate Director for investigation. Councillors are not responsible for the response to any operational complaint.

Councillors must ensure that complaints and issues directed to staff for response are clear and contain sufficient information for the complaint/issue to be addressed.

3.8 Anonymous Complaints

Although anonymous complaints will not be rejected, this may limit Council's ability to fully investigate the matter depending on the specifics of information supplied. Due to the anonymity, Council will be unable to provide a response including any decisions or actions taken in writing.

3.9 Non-specific Complaints

Complaints or correspondence which is non-specific in nature, or not relevant to the operations of Council and/or generally classed as haranguing in nature will be filed but not responded to. This determination will be made in writing by the Executive Manager Governance and Risk and reasons for this determination will be filed along with the correspondence.

3.10 Unreasonable Complaint Conduct

What can be termed 'unreasonable' will vary depending on several factors.

Unreasonable complainant conduct can, in most cases, be grouped into five categories:

- unreasonable persistence;
- unreasonable demands;
- unreasonable lack of cooperation;
- unreasonable argument; or
- unreasonable behaviour.

When instances of unreasonable conduct are apparent, the complainant will be informed in writing that the conduct is deemed unreasonable and that any further correspondence to Council regarding the matter, unless it includes new and relevant information, will be read and filed but not responded to.

Unreasonable complainant conduct by a member of the public may result in a limitation of access to both Council officers and buildings. These measures are only justified if there are safety concerns for Council officers or to ensure that other members of the public are not deprived of the resources to which they are entitled.

3.11 Complaints to an external organisation

If a complainant is still unable to resolve their complaint with Council, there are several organisations that can consider matters relating to Local Government. Each of these organisations have specific roles and limitations.

Complainants should only take their concern to another organisation if they have been unable to resolve their complaint with Council.

Other organisations which may be able to assist with Council complaints are:

- Dispute Settlement Centre (Dept of Justice and Community Safety);
- Equal Opportunity and Human Rights Commission;
- Independent Broad-Based Anti-Corruption Commission (IBAC);
- Local Government Inspectorate;
- Victorian Civil and Administrative Tribunal (VCAT); and
- Victorian Ombudsman.

3.12 Complaint subject to statutory review

Council has the discretion to refuse to deal with a complaint that is otherwise subject to a statutory review.

Council may determine that a complaint is more appropriately dealt with via a Statutory Review process if one exists. This may arise in circumstances where a matter is complex in nature or when a decision has already been made by Council or via delegation.

This discretion sits with the relevant Director and the complainant(s) will be informed in writing of the decision and the Statutory Review process.

In some instances, certain legislation will not allow Council to deal with a complaint if it is being dealt with via another external review process.

3.13 Privacy

The City of Ballarat respects individuals privacy and is committed to protecting the personal and health information that is provided by individuals under the *Privacy and Data Protection Act 2014*, the *Health Records Act 2001* and other applicable legislation.

Any personal or health information collected will only be used for the primary purpose for which it was collected, or for a permitted secondary purpose as stated under the *Privacy and Data Protection Act 2014*. If Council is required to collect personal or health information, it will only be collected by lawful and fair means and not in an unreasonably intrusive way.

3.14 Records

All relevant records relating to complaints management shall be filed and maintained for evidence as per Information Management policies and procedures.

4.0 Supporting documents and references

4.1 Legislation

- *Charter of Human Rights and Responsibilities Act 2006*
- *Competition and Consumer Act 2010*
- *Environment Protection Act 1970*
- *Equal Opportunity Act 2010*
- *Food Act 1984*
- *Freedom of Information Act 1982*
- *Independent Broad-based Anti-Corruption Commission Act 2011*
- *Local Government Act 2020*
- *Privacy and Data Protection Act 2014*
- *Protected Disclosure Act 2012*
- *Public Health and Wellbeing Act 2008*

4.2 Associated Documents

- Public Interest Disclosure Procedure
- Privacy Policy
- HR-07 Code of Conduct
- HR-10 Discipline and Termination Policy
- SRC-01 Councillor Code of Conduct
- Victorian Ombudsman Complaint Handling Good Practice Guide

4.3 Definitions

<i>Administrative Complaints</i>	Complaints about matters that relate to an action or decision made by Council Officers.
<i>Council Complaints</i>	Complaints about a formal Council decision made by the Councillors.

5.0 Policy owner

Executive Manager Governance and Risk

6.0 Authorisation

Adopted by Executive Leadership Team on 23/02/2021.