

4.2 COMPLAINTS POLICY UPDATE

(Author: RP)

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RECOMMENDATION

That Council adopt the updated Complaints Policy provided as an attachment to this report.

INTRODUCTION

This report outlines updates to the *Complaints Policy* for Council consideration.

BACKGROUND

Council adopted its *Complaints Policy* as required by s 107 of the *Local Government Act 2020* on 14 December 2021.

The policy included the requirement that it be reviewed within 12 months of adoption.

The policy has been reviewed and some updates are required.

DISCUSSION

The *Complaints Policy* has been successful in both (i) ensuring that Council is compliant with its legislative obligations under s 107 of the *Local Government Act 2020* and (ii) adding significant value to Council's handling of complaints.

The policy provides a clear process for handling complaints, thereby ensuring that complainants are given a fair hearing, including advice as to where to escalate their complaint externally if required.

Nevertheless, some required updates have been identified.

REQUIRED UPDATES

The required updates (see mark-up in the attachment) are as follows:

- Changed responsibilities under "Section Three: Internal Review" in section 8.1 following changes to the organisational structure which mean that the Chief Operation Officer (COO) position no longer exists.

- The addition of two new sections, i.e., 8.2 “Complaints about Directors” and 8.3 “Complaints about the CEO”.
- It is proposed that the next review be undertaken within two years.

POLICY IMPLICATIONS

This is a policy required under s 107 of the *Local Government Act 2020*.

CONSULTATION

Consultation is not required for the minor amendments proposed.

SOCIAL IMPLICATIONS

This policy has important social implications in that it provides a clear and consistent process for addressing complaints from customers and other stakeholders.

HUMAN RIGHTS CONSIDERATIONS

This policy supports human rights by ensuring that customers who complain are given a fair hearing.

GENDER IMPACT ASSESSMENT

No gendered impacts have been apparent during the first year of operation of this policy and a GIA is not required at this stage.

FINANCIAL IMPLICATIONS

This Policy will continue to be implemented within existing resources.

CONCLUSION

The review has indicated that the *Complaints Policy* is working well but requires some updates.

Monash Council Complaints Policy

Responsible Department: Governance & Legal

Draft marked-up Version 2.1 for Council consideration at its December 2022 Council – original version adopted by Council 14 December 2022

1. Introduction

Council values complaints.

Complaints provide useful feedback and insights.

They help us to understand what is valued by our customers, allow us to review our decisions and better explain why certain outcomes are necessary, and are critical to continuous improvement.

2. Scope

This *Complaints Policy* is about decisions made and actions taken by Council staff and contractors, as well as how complaints about decisions of the elected Council will be referred to the Mayor for consideration.

It does not apply to complaints about individual Councillors.

There are some instances where we won't investigate under this policy.

These include first time requests for a service, i.e., "can you please fix the pothole in my street" or "can you please prune my street tree", or complaints about alleged nuisances, such as "my neighbour is making excessive noise".

Insurance claims and allegations of negligence are also dealt with separately.

There are also situations where there is a separate right of appeal, either statutory or under a specific Council policy, where you can have the matter considered instead, and some examples include:

| Complaint | Responsible Organisation |
|------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| Breach of the Local Government Act | Local Government Inspectorate www.lgi.vic.gov.au |
| Breach of privacy | Council's Privacy Officer, then Office of the Victorian Information Commissioner (OVIC) www.ovic.vic.gov.au |
| Building related complaints subject to statutory review | Victorian Building Authority www.vba.vic.gov.au |
| Complaint about a Freedom of Information application or appealing a decision | Office of the Victorian Information Commission (OVIC) www.ovic.vic.gov.au |

| Complaint | Responsible Organisation |
|----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Allegations of corruption or Public Interest Disclosures | Council's Public Interest Disclosure Coordinator or the Independent Broad-based Anti-corruption Commission www.ibac.vic.gov.au * |
| Discrimination complaints | Victorian Human Rights and Equal Opportunity Commission (VHREOC) www.humanrights.vic.gov.au |
| Complaints about Council elections | Victorian Electoral Commission www.vec.vic.gov.au |
| Infringements (following the statutory internal review process under the <i>Infringements Act 2006</i>) | Magistrates' Court of Victoria www.mcv.vic.gov.au |
| Planning appeals | Victorian Civil & Administrative Tribunal (VCAT) www.vcat.vic.gov.au |

* Please note: To be eligible for the protections of the *Public Interest Disclosures Act 2012* you must confidentially communicate your allegation to Council's Public Interest Disclosure Coordinator or to IBAC (web address in table above).

There will also be situations where the circumstances of the complaint are such that an alternative course of action may be required, such as referral to the Police or some other approach.

We may also choose not to respond to complaints which advocate discriminatory practices which are illegal.

3. Definitions

"Complaint" means a

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.

(Section 107(3) of the Local Government Act 2020)

"Council" means a body corporate constituted under the Local Government Act 2020.

"Council staff" means persons employed by Council, including the CEO.

"Council contractor" means any third-party engaged by Council to carry out functions on the Council's behalf.

“the elected Council” means the body of elected Councillors.

4. How we will support you

We will assist by directing you to the appropriate team or contractor.

We are committed to ensuring our complaints process is accessible to everyone.

Please tell us if you have any specific communication needs or barriers, and we can assist you by:

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

5. Information to be included in a complaint

Please provide the following information when making a complaint:

- Your name and contact details (you can complain anonymously, but this limits Council’s ability to respond to you);
- Identify the action, decision, service or policy you are complaining about, and why you are dissatisfied;
- Give us relevant details, such as dates, times, location and reference numbers, and the documents that support your complaint;
- The outcome you are seeking from making your complaint; and
- Whether you have any communication needs.

6. How we investigate complaints

We may include the following in our investigations, depending on the nature of your complaint:

- assess the decision or action against relevant legislation, policies and procedures,
- refer to Council records,
- discuss the decision or action with the responsible officer,
- discuss possible solutions with affected parties, and
- advise you in writing of the outcome and our reasons.

7. How we may exercise discretion and decide not to deal with your complaint under this policy where there is an alternative review or appeals process

Where there is a specific Council policy or procedure dealing with complaints about an issue, such as Council’s *Privacy Policy* in the case of a privacy complaint, we will generally deal with your complaint under that policy.

Where there is a review right under legislation, such as the *Freedom of Information Act 1982* in the case of some Freedom of Information decisions, we will generally advise you that your complaint will need to be addressed via the statutory mechanism.

We will provide reasons for this advice, and deal with each case on its merits.

8. Complaints Process

This *Complaints Policy* covers the following:

- Complaints about decisions or actions of Council staff and contractors, and
- Complaints about decisions made by the elected Council.

8.1 Complaints about Council staff and contractors

We have a four stage complaints process for complaints about the decisions or actions of Council staff and contractors:

- (1) Resolution by the team or contractor which provided the service.
- (2) Review by the responsible Manager or Director.
- (3) Internal Review.
- (4) External Review

Stage One: Resolution by the team or contractor which provided the service

Anyone can make a complaint.

Complaints can be made by directly to the responsible Council officer or by:

- Telephone: Customer Service (9518 3555)
- Online: Completing the online Complaint Form available at
<https://www.monash.vic.gov.au/Contact/Complaints-Policy>
- Email: Mail@monash.vic.gov.au
- Post: City of Monash, PO Box 1, Glen Waverley 3150.
- In person: Civic Centre, 293 Springvale Road, Glen Waverley or Oakleigh Service Centre, 3 Atherton Road, Oakleigh
- Social media: See links on the home page of Council's website –
www.monash.vic.gov.au

Where possible, we will attempt to resolve your complaint when you first contact us.

If immediate resolution is not possible, the team or contractor which provided the service will investigate the matter and provide you with a response.

We will acknowledge your complaint within two business days, and provide you with a response within ten business days.

If the complexity of the matter means that a ten business day turnaround is not possible, we will advise you and update you every five business days until the investigation is completed.

We will inform you of the outcome of the complaint and provide reasons.

Stage Two: Reviews by the responsible Manager or Director

If you are dissatisfied with the outcome of Stage One, you may escalate your complaint to the responsible Manager or Director.

The nature of the complaint will determine whether it is the Manager or the Director who responds.

A list of Managers and Directors, and their areas of responsibility, is available on Council's website at www.monash.vic.gov.au/complaints or from Customer Service (9518 3555).

Alternatively, you may contact Council's Complaints Officer on 03 9518 3509 or Complaints@monash.vic.gov.au if you require assistance in identifying the responsible Manager or Director.

The Manager or Director will acknowledge your complaint within two business days, and provide you with a response within ten business days.

If the complexity of the matter means that a ten business day turnaround is not possible, the Manager or Director will advise you and update you every five business days until the investigation is completed.

The Manager or Director will inform you of their decision and provide reasons.

Stage Three: Internal Review

If you are dissatisfied with the outcome of Stage Two, you may apply for an Internal Review.

The Internal Review Officer (IRO) will be someone who was not involved in the decision or action, and who does not supervise those involved in the decision or action.

Council's [Manager Governance & Legal](#) ~~Chief Operating Officer (COO)~~ conducts internal reviews of complaints relating to all areas of Council other than those falling under [Governance & Legal's areas of responsibility](#). ~~the COO's leadership.~~

The [Manager Governance & Legal](#) ~~COO~~ may refer matters to [other members of the Governance & Legal Department](#) ~~Manager Governance & Legal (MGL)~~ for internal review where appropriate.

~~The MGL is responsible for undertaking internal reviews of complaints about the sections of Council led by the Chief Operating Officer, except in the case of Internal Reviews relating to the Governance & Legal Department.~~

In the case of complaints about ~~the COO~~, the Governance & Legal Department, or where the Manager Governance & Legal has COO and the MGL both have a conflict of interest in a matter, the CEO will nominate another Senior Officer as IRO.

~~Advice about which IRO should be contacted is available from Council's Complaints Officer on 9518 3509 or Complaints@monash.vic.gov.au.~~

The IRO will acknowledge your complaint within two business days, and provide you with a response within fifteen business days.

If the complexity of the matter means that a fifteen business day turnaround is not possible, the IRO will advise you and update you every five business days until the investigation is completed.

The IRO will inform you of the outcome of the complaint and provide reasons.

Stage Four: External Review

You may appeal the outcome of an Internal Review to the Victorian Ombudsman – www.ombudsman.vic.gov.au.

In certain situations, there may be other bodies who you can complain to and we will do our best to advise you of any additional options.

8.2 Complaints about Directors

Complaints about the operational decisions made by Directors will be dealt with as per Stage Three: Internal Review and Stage Four: External Review above.

Complaints about the behaviour of Directors will be referred to the CEO, who will determine how they will be addressed.

8.3 Complaints about the CEO

The CEO is employed by, and accountable to, the elected Council and stands outside the usual oversight and reporting lines

Complaints about the CEO will be referred to the Mayor. It is for the Mayor and other Councillors to determine how the complaint will be handled. If requested by the Mayor, Council's Manager Governance & Legal will provide administrative assistance to the elected Council to carry out its consideration and determination of complaints about the CEO.

8.4 Complaints about decisions of the elected Council

You may complain to us about decisions made by the democratically elected Council, such as via resolution in a Council or Committee meeting.

Such complaints will be referred to the Mayor, with administrative support from Council's Governance & Legal Department.

We will respond to your complaint within two working days, and provide you with a response within fifteen working days.

If the complexity of the matter means that a fifteen business day turnaround is not possible, we will advise you and update you every five business days until the response is finalised.

The Mayor will inform you of the outcome and provide reasons.

It is important to note that the Mayor cannot change a resolution of the Council.

Such resolutions can only be changed by another resolution of Council.

If you are unhappy with the response provided by the Mayor, you may escalate your complaint to the Victorian Ombudsman – www.ombudsman.vic.gov.au.

The Ombudsman will then decide if she has jurisdiction to consider the matter.

We will also advise you of any other options for you to appeal, such as the Victorian Civil and Administrative Tribunal (VCAT) in the case of some planning matters.

9. How we learn from complaints

Complaints from people who use or who are affected by our services provide us with valuable feedback about how we are performing.

We regularly analyse our complaint data to identify trends and potential issues that deserve attention.

We use this information to come up with solutions about how we can improve our services.

We are open and transparent about the complaints we have received, what we have done to resolve them, and we provide a summary of this information in our annual report.

10. Your Privacy

We keep your personal information secure.

We use your information to investigate and respond to your complaint, and may also analyse the information you have provided for the purpose of improving services that relate to your complaint.

It is important to note that we will normally need to seek the view of the staff member or contractor about whom the complaint relates as part of the investigation.

We will not do this if it is clear from the circumstances that to disclose your identity would be inappropriate or if you request that your identity not be disclosed.

However, a thorough investigation of the complaint may not be possible if we can't seek the perspective of the staff member or contractor who is the subject of the complaint.

11. Responsibilities

All Council staff, Councillors and Council contractors are responsible for contributing to our complaints process.

Specific roles are outlined in the following table:

| Role | Responsibilities |
|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Chief Executive Officer | <ul style="list-style-type: none"> • Promoting positive behaviours and practices relating to enabling, responding to and learning from complaints. • Supporting service improvements that arise from complaints. • Reviewing and publishing summary information about complaints received, their resolution, and resulting service improvements. |
| Senior leaders and managers | <ul style="list-style-type: none"> • Recruiting, training and empowering staff to resolve complaints promptly and in accordance with Council's policies and procedures. • Managing conflicts of interest in the complaint process. • Reporting on and identifying improvements from complaint data. • Supporting staff to deal with complaints. • Conduction Stage Two reviews as required. |
| Internal Review Officers | <ul style="list-style-type: none"> • Conducting Internal Reviews. |
| Manager Governance & Legal | <ul style="list-style-type: none"> • Championing this <i>Complaints Policy</i>. • Developing and maintaining administrative procedures to support the <i>Complaints Policy</i>. • Developing and maintaining administrative procedures for managing unreasonable customer and complainant behaviour. |
| Complaints Officer | <ul style="list-style-type: none"> • Providing advice, where required, on who is the responsible Manager or Director for Stage Two complaints and who is the appropriate Internal Review Officer at Stage Three. |
| All Council staff | <ul style="list-style-type: none"> • Familiarising themselves with this policy and Council's complaint process. • Assisting members of the public to make a complaint. • Treating members of the public respectfully and professionally. • Referring complaints to the relevant area of Council to be dealt with under this Policy. |
| Councillors | <ul style="list-style-type: none"> • Familiarising themselves with this policy and Council's complaint process. • Referring complaints to Council staff to be dealt with in accordance with our processes. |
| Contractors | <ul style="list-style-type: none"> • Familiarising themselves with this policy and Council's complaint process. • Cooperating with Council's complaint handling processes. |

12. Behaviour of complainants

We treat our customers with respect and request the same in return.

We understand that complainants are sometimes frustrated when they express their dissatisfaction.

If this is the case, and depending on the circumstances, we may suggest that it would be better to continue the conversation at another time, or refer you to a more senior officer.

There are rare times when complainant behaviour poses an occupational health & safety threat to other customers and staff and we need to terminate a call, or ask the person to leave the premises until a later time.

Where such behaviour is recurring, we may have to change the way we communicate with the individual, particularly where it raises health, safety, resource or equity issues.

Any such decisions on recurring behaviour will be determined by the CEO, based on procedures developed at an administrative level.

13. Review

This policy will be reviewed by Council [by the end of December 2024](#).~~within 12 months of adoption.~~