

6.3 Policy Reports

6.3.1 Adoption of Complaints Policy

Responsible GM: Jenny Scicluna
Author: Peter Philp

Recommendation(s)

That Council:

1. Adopts the Complaints Policy.
2. Acknowledges and thanks the Cardinia Shire community for its contribution to the development of the Complaints Policy.

Attachments

1. Draft Complaints Policy [6.3.1.1 - 8 pages]

Executive Summary

To consider adoption of the draft Complaints Policy, following the formal community engagement process undertaken in accordance with Council's Community Engagement Policy.

Background

Council's draft Complaints Policy was released for public comment on Tuesday 7 September, for a 21-day period, undertaken in accordance with Council's Community Engagement Policy.

Public feedback relevant to the draft Complaints Policy was received. In response to the feedback received, and in conjunction with Councillor review and input, several amendments to the draft Complaints Policy were proposed. These amendments are reflected in *Attachment 1 – Draft Complaints Policy*.

Having complied with the provisions of the Local Government Act 2020, and Council's Community Engagement Policy, Council is now in a position to adopt the draft Complaints Policy. Once adopted, the Complaints Policy will be effective from 31 December 2021.

Policy Implications

The draft Complaints Policy is a formal expression of Council's commitment to providing a fair, transparent, and consistent process for community members when they wish to make a complaint.

Relevance to Council Plan

5.1 We practise responsible leadership

5.1.3 Strive to be a customer focused organisation and be a great place to work.

Climate Emergency Consideration

The requirement to develop a complaints policy is unrelated to the climate emergency.

Consultation/Communication

Council's draft Complaints Policy was released for public comment on Tuesday 7 September, via Council's corporate community engagement tool, Creating Cardinia. This formal community engagement was conducted over a 21-day period, in accordance with Council's Community Engagement Policy. The consultation was open to community, councillors and council staff with 110 items of feedback captured regarding the policy. Public feedback received during this engagement has been considered, and in conjunction with Councillor review and input, several amendments to the draft Complaints Policy are proposed and included in the attached version of the Complaints Policy.

Financial and Resource Implications

Enabling, responding to, and learning from complaints from the community is a key function of Council. Any potential financial or resource implications, resulting from the adoption of the draft Complaints Policy, will be managed as required, to ensure this function remains a priority.

Conclusion

Having complied with the provisions of the Local Government Act 2020, and Council's Community Engagement Policy, Council is now in a position to adopt the draft Complaints Policy.

DRAFT



Complaints Policy

Title	Cardinia Shire Council Complaints Policy		
Effective date	31 December 2021	Next review date	On or before 31 December 2022
Record reference	To be confirmed		
Responsible officer	Manager Customer and Service Improvement		
Date of approval	To be confirmed	Approved by	To be confirmed

1 Scope

Dealing with complaints is a core part of Council business. We value complaints and encourage people to contact us when they have a problem with our services, actions, decisions, and policies. We are committed to:

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

We treat every complaint we receive on its individual merits, through clear and consistent processes. Our complaints policy applies to all complaints from members of the public about Council staff, Council contractors and decisions made at Council meetings, except:

- Requests for maintenance to an asset for which Council has responsibility, or reports of a fault with, or damage to, an asset for which Council has responsibility, or
- Claims for compensation, or
- Complaints regarding allegations of corrupt conduct. Complaints about allegations of corrupt conduct will be managed in accordance with the procedures detailed in the Protected Disclosure Act 2012, or
- Complaints regarding individual Councillors. Complaints about individual Councillors should be referred to the Mayor, and complaints about the Mayor should be referred to the Chief Executive Officer. Allegations of misconduct of a Councillor or the Mayor, or breaches of the Councillor Code of Conduct, should be referred to the appropriate independent body – either the Victorian Ombudsman, Local Government Inspectorate, or the Independent Broad-based Anti-Corruption Commission, or
- Law enforcement decisions. Complaints about law enforcement decisions will be dealt with in line with Council's Compliance and Enforcement Policy, or
- Workplace grievances, lodged by Council staff, volunteers or contractors.

Council reserves the right to exercise discretion to refuse to deal with complaints that are otherwise subject to statutory processes. Complaints of this nature may be referred to the appropriate process or authority, including decisions and processes related to:

- Legislation which provides for separate avenues of appeal, including those made under the:
 - Building Act
 - Planning and Environment Act

DRAFT

- Infringement Act
- Valuation of Land Act
- Country Fire Authority Act
- Freedom of Information Act
- Public Interest Disclosures Act
- Health Records Act
- Privacy and Data Protection Act
- Any other enabling legislation provides for an independent review, appeal, or process to challenge the decision.

Council reserves the right to exercise discretion to refuse to deal with complaints that are based on unreasonable demands. Unreasonable demands are demands made by a complainant, that have a disproportionate and unreasonable impact on our organisation, staff health and/or safety, services, time and/or resources. Some examples of unreasonable demands include:

- Demanding services that are of a nature or scale that we cannot provide, after this has been explained repeatedly.
- Insisting on talking to a senior manager, such as the Chief Executive Officer or General Manager personally, when it is not appropriate or warranted.
- Insisting on outcomes that are not possible or appropriate in the circumstances.
- Provision of false information, unwillingness to accept the complaint handler's decision, or threatening harm to themselves or others.

2 What is a complaint

A complaint is a written or oral expression to the Council by a person of their dissatisfaction with:

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

3 How to make a complaint

3.1 Established channels

Any member of the public can make a complaint. You can make a complaint via any of the following established channels:

Channel	Details
In person	Cardinia Shire Council Civic Centre 20 Siding Avenue Officer VIC 3809 <i>Counter staffed from 8:30am - 5pm on weekdays</i>
Phone	1300 787 624 <i>Phone lines staffed from 8:30am - 5pm on weekdays</i>
Website	Cardinia.vic.gov.au

DRAFT

Channel	Details
Mail	Cardinia Shire Council PO Box 7 Pakenham VIC 3810
Email	mail@cardinia.vic.gov.au

3.2 Complaint details

To assist Council in effectively resolving your complaint, we encourage you to provide specific details of the issue, which may include the following:

- your name and contact details
- the action, decision, service, or policy you are complaining about
- the reason(s) why you are dissatisfied
- relevant dates, times, or reference numbers
- the location of issue
- any documents that support your complaint
- the outcome you are seeking from making your complaint.

3.3 Anonymous complaints

We accept anonymous complaints, and where possible, we will action anonymous complaints. In some circumstances, it may not be possible to action an anonymous complaint. Where possible, we will inform you of this possibility at the time of you making a complaint. For obvious reasons, we cannot respond in writing to anonymous complaints, and are unable to provide updates on the status of anonymous complaints.

3.4 Accessibility

We are committed to ensuring our complaints process is accessible to everyone. Tell us if you have specific communication needs or barriers, and we can assist you by:

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

4 Our complaints process

4.1 A tiered approach to managing complaints

Council applies a four-tiered approach to managing complaints. Where possible, we will attempt to resolve your complaint at the time you first contact us. If that is not possible, we will escalate your complaint to the relevant tier.

DRAFT

4.1.1 Tier 1: First-contact complaint resolution

When you complain to us, we will record and acknowledge your complaint within five business days of Council receiving the complaint. We will initially assess your complaint to decide how we will handle it. This may happen while we are talking with you. We aim to resolve your complaint when you first contact us, through quick, direct, and mutually acceptable solutions.

In some cases, it may not be possible to resolve your complaint when you first contact us. If your complaint requires deeper consideration or investigation by a particular team or officer, we will refer it to the relevant team or manager for investigation. If you have a right to a statutory review of your complaint (such as a right of appeal to VCAT), we may decline to deal with your complaint. We will explain why, and, where possible, inform you about other options.

Where a complaint relates to a decision, action or service that is being performed in accordance with an established Council or statutory strategy, policy or service standard, Council reserves the right to exercise discretion to refuse to escalate the complaint to the internal review process. If you are still dissatisfied, you can make a complaint about the relevant strategy, policy, or service standard in place, via one of the established channels listed in Section 3.1 – Established channels.

4.1.2 Tier 2: Investigation (if required)

If you are dissatisfied with our decision and how we responded to your complaint, or if your complaint needs further consideration, we will refer it to the relevant team or manager for investigation. We will tell you who you can contact about the investigation. The investigating officer will assess the information against relevant legislation, policies, and procedures, and will gather additional information as required. They will refer to Council documents and records, and may meet with relevant parties to consider possible solutions, before making an evidence-based decision. We aim to complete investigations within 25 business days of Council receiving the complaint, and will tell you if the investigation will take longer. We will inform you of the outcome of your complaint in writing and will explain our reasons.

4.1.3 Tier 3: Internal review

If you are dissatisfied with our decision and how we responded to your complaint, you can request an internal review. We will refer your complaint to a senior officer for review, and we will tell you who you can contact about the review. The senior officer will conduct an independent internal review and will consider whether the complaint should have been dealt with differently. This can lead to the original decision being upheld or overturned. We aim to complete internal reviews within 25 business days of Council receiving the complaint, and will tell you if the review will take longer. We will inform you of the outcome of the internal review in writing and will explain our reasons.

4.1.4 Tier 4: External review

If you are still dissatisfied with our decision and how we responded to your complaint, you can contact a relevant oversight body, and request an external review. There are several external bodies that can deal with different types of complaints about us. You can contact the following organisations, and request an external review:

DRAFT

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

4.2 Complaints about Council's contractors

We will manage complaints about Council's contractors in line with the processes outlined in *Section 4.1 – A tiered approach to managing complaints*. In the case that your complaint has been handled by a Council contractor, and you are still dissatisfied, we may refer it to the relevant team or manager for investigation, to be managed in line with the tier 2 (investigation) response.

4.3 Complaints about the Chief Executive Officer

We will refer complaints about the Chief Executive Officer to the General Manager – Customer, People and Performance for investigation, who will then inform the Mayor. The General Manager – Customer, People and Performance may assess the information against relevant legislation, policies, and procedures, and may gather additional information as required. They may refer to Council documents and records, and may meet with relevant parties to consider possible solutions, before making an evidence-based decision. The General Manager – Customer, People and Performance will aim to complete investigations within 25 business days of Council receiving the complaint, and will tell you if the investigation will take longer. They will inform you of the outcome of your complaint in writing and will explain their reasons. The General Manager – Customer, People and Performance will also periodically report the content and resolution of any complaints against the Chief Executive Officer at Chief Executive Officer Performance Matters Committee meetings.

DRAFT

4.4 Managing complaints respectfully

We require our staff to be respectful and responsive in all of their communications with members of the public. We expect the same of you when you communicate with our staff. We may change the way we communicate with you if your behaviour or conduct raises health, safety, resource, or equity issues for Council staff involved in the complaints process.

4.5 Recording complaints

We will record all complaints made via the established channels listed in *Section 3 – How to make a complaint*. Wherever possible, we will record the following complaint information:

- complainant contact details
- date received
- nature and detail of complaint
- complainant's desired outcome
- detail of any action taken to investigate the complaint
- detail of any action taken in response to the complaint
- detail of any contact with the complainant
- complaint outcome.

4.6 Learning from complaints

Complaints from people who use or who are affected by our services provide us with valuable feedback about how we are performing. All complaint data is entered into internal databases, and we regularly analyse our complaint data to identify trends and potential issues that deserve further 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, and what we have done to resolve them. We publish our complaint data publicly, including in our annual report.

4.7 Your privacy

We keep your personal information secure. We use your information to respond to your complaint, and may also analyse the information you have provided for the purpose of improving services that relate to your complaint. In some cases, Council may be required to share complaint information with our contractors in order to resolve complaints. Where we publish complaint data to the community, we will take all reasonable steps to not disclose any data or information that may be identifiable to any individual, matter, or complaint. All complaints lodged with Council are subject to the Freedom of Information Act 1982.

DRAFT

5 Responsibilities

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

Role	Responsibilities
Chief Executive Officer	<ul style="list-style-type: none"> Ensuring that an effective complaint management system is in place. Promoting positive behaviours and practices relating to enabling, responding to, and learning from complaints. Supporting service improvements that arise from complaints. Reviewing and publishing complaint data.
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 who deal with complaints.
All Council staff	<ul style="list-style-type: none"> Familiarising themselves with this policy and Council's complaint management procedure. Assisting members of the public to make a complaint. Treating members of the public respectfully and professionally.
Councillors	<ul style="list-style-type: none"> Familiarising themselves with this policy and Council's complaint management procedure. 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 management procedure. Cooperating with Council's complaint handling processes.
Volunteers	<ul style="list-style-type: none"> Familiarising themselves with this policy and Council's complaint management procedure. Cooperating with Council's complaint handling processes.

6 Related documents

Document type	Title
Commonwealth/ Victorian legislation	<i>Local Government Act 2020</i> <i>Local Government Act 1989</i> <i>Protected Disclosure Act 2012</i> <i>Privacy and Data Protection Act 2014</i> <i>Charter of Human Rights and Responsibilities Act 2006</i>

DRAFT

Document type	Title
	<i>Equal Opportunity Act 2010</i>
Policies	Customer Service Charter Councillor Code of Conduct Employee Code of Conduct
Procedures	Complaint Management Procedure

7 Glossary of terms

Term	Definition
Anonymous complaint	A complaint that lacks sufficient information to identify the name of the person or entity who made the complaint.
Complainant	A person or entity that makes a complaint.
Complaint	A written or oral expression to the Council by a person of their dissatisfaction with – <ul style="list-style-type: none"> a) the quality of an action taken, decision made, or service provided by a Council employee, contractor or volunteer engaged by the Council; or b) the delay by a Council employee, contractor or volunteer 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 employee, contractor or volunteer engaged by the Council.
Complaint management system	All policies, procedures, practices, hardware, and software used by Council in the management of complaints.
Contractor	A person, company or other entity that provides materials or labour to perform a service or do a job on behalf of Cardinia Shire Council.
Council	Cardinia Shire Council, being a body corporate constituted as a municipal Council under the Local Government Act 2020.
Council staff	Any person employed by the Council to carry out the functions of the Council, and the Council's Chief Executive Officer.
Councillor	An individual holding the office of a member of Cardinia Shire Council.
Volunteer	Any person who does unpaid work for Cardinia Shire Council.