



**MITCHAM**

# **Complaints Management**

*Adopted by Council on 27 March 2018*

public

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## 1. PREAMBLE

Local Government provides an extensive range of services and infrastructure to communities and discharges obligations under many pieces of legislation. Quality of service is an important measure of Council's effectiveness. Learning from complaints is a powerful way of helping to improve Council services and service delivery and increase trust among the people who use our services.

Council is committed to the provision of quality service to customers and regards complaints as an opportunity to improve practices and procedures as well as resolve matters. Emphasis will be placed on resolving complaints as quickly as possible. Where complaints cannot be settled in the first instance, however, Council will ensure that they are dealt with through appropriate, more formal procedures by staff with the authority to make decisions.

Section 270 of the *Local Government Act 1999* requires Council to develop and maintain a policy about "using relevant requests or complaints in a timely, effective and fair way; and using information gained from the council's community to improve its services and operations".

In addition, Section 270 requires Council to have in place policy to deal with allegations and contravention or failure to comply with the Code of Conduct – Council Employees.

## 2. PURPOSE

This policy provides a fair, consistent and structured process for Council's customers if they are dissatisfied with a Council action, decision or service and employee conduct. Lessons learnt from complaint investigations will be used to directly inform service improvements.

## 3. SCOPE

This policy applies where Council has failed to meet the normal standards for a service which has been, or should have been, delivered; or the Code of Conduct – Council Employees.

There are some instances where a more appropriate avenue for resolution will be available as detailed in the table below.

<b>If the complaint involves:</b>	<b>Refer to:</b>
Complaints against a Council Member	Complaints Handling Procedures under Council Members' Code of Conduct
Issues with access to information	<i>Freedom of Information (FOI) Act 1991</i>
Decisions on development applications made under the Development Act 1993	Environment, Resources and Development (ERD) Court
Formal appeals against expiation notices <i>Expiation of Offences Act 1996</i> .	Fines Enforcement and Recovery Unit
Decisions made by the elected Council or a delegated officer	Independent Review of a Decision Policy
Matters covered by the <i>Whistleblowers Protection Act 1993</i>	Whistleblowers Protection Policy

Complaints which are determined to be about matters that are not Council's responsibility, such as disputes between neighbours and any matters before a Court, Tribunal, South Australian Police, a Minister of the Crown, a Government Department or the South Australian Ombudsman are not covered by the policy.

A formal complaint alleging corruption, or serious or systemic misconduct or maladministration should be referred to the Office of Public Integrity.

#### 4. DEFINITIONS

**Business Day** means a day when the Council is normally open for business 9:00am to 5:00pm, Monday to Friday, excluding public holidays.

**Complaint** An expression of dissatisfaction with a service delivered by the Council or its representatives that has failed to reach the standard stated. This includes complaints about a service that has been, or should have been delivered.

**Council** refers to the City of Mitcham.

**Employee** includes a person engaged directly by the Council in a full time, part time, casual or volunteer role and persons providing services to, or on behalf of, the Council even though they may be employed by another party.

**Feedback** can take the form of comments, both positive and negative, about services provided by Council without necessarily requiring a corrective action, change of services or formal review of a decision. Feedback may, however, influence future service reviews and delivery methods.

**Request for Service** is an application to have Council take some form of action to provide a new service or improve a current Council service. (See Requests for New or Varied Services Policy).

**Relative of an employee means –**

- (a) the spouse or domestic partner; or
- (b) a parent of remoter lineal ancestor; or
- (c) a son, daughter or remoter descendent; or
- (d) a brother or sister; or
- (e) a stepfather, stepmother, stepson or stepdaughter; or
- (f) any member of a person's family who resides in the member's household;

**ICAC** Independent Commissioner Against Corruption

**Public officer** According to ICAC, this refers to all employees of Council, Elected Members and Council contractors.

#### 5. PRINCIPLES

##### Being customer focussed

Meeting the needs of our community is our core business. Ensuring complainants can easily access the complaint management process and that we listen to complainants and deal with them promptly and sensitively.

##### Getting it right

Having a clear process for complaint management, with staff who are equipped to actively resolve complaints whilst focussing on the outcome for the complainant and Council.

**Being open and accountable**

Publishing clear, accurate and complete information about how to complain, and how and when to take complaints further. Ensuring we communicate our timeframes and provide honest, evidence-based explanations when giving reasons for decisions whilst keeping full and accurate records.

**Acting fairly**

Treating the complainant impartially and without prejudice. Ensuring that complaints are investigated thoroughly and fairly to establish the facts of the case and that any decisions are proportionate, appropriate and fair. We will treat both staff and complainants involved in a fair manner.

**Putting things right**

Acknowledging mistakes and apologising where appropriate. Considering all relevant factors we will provide prompt, appropriate and proportionate remedies

**Seeking continuous improvement**

Using all feedback and the lessons learnt from complaints to improve service design and delivery.

**6. POLICY STATEMENT****6.1. Council's Commitment**

Council welcomes complaints as a way to help improve its services and programs as well as providing an opportunity to put things right.

Complaints will be taken seriously and investigated thoroughly with the aim of achieving a mutually agreeable resolution within an agreed timeframe.

Employees will be trained to manage complaints efficiently and effectively, and provided with a level of delegated authority appropriate for the nature of complaints they are expected to resolve.

Council will review and evaluate the information gained through its complaints handling system on a periodic basis to identify systemic issues and improvements to service as well as making changes to procedures and practices where appropriate.

This policy will be made widely accessible to ensure that customers are fully aware of their right to complain. Information about how to lodge a complaint will be placed in a prominent position on Council's website.

**6.2. Investigation of Complaints**

Any person can make a complaint in written or verbal form (telephone or in person).

All complaints will be captured in accordance with the Records Management Policy with clear responsibility assigned to undertake the investigation of the complaint and determine the outcome.

Where a conflict of interest exists, this will be documented and an alternative officer appointed.

Complainants will be advised of the likely timeframe required to investigate and resolve a complaint and regularly updated as to progress where necessary.

Complaints can vary greatly in their level of complexity and seriousness and it may not always be possible to resolve them at the first point of contact or a person may not be satisfied with that decision.

The officer assigned the responsibility of investigating the complaint will keep appropriate records of the process undertaken and the information collected.

Where a complaint relates to the behaviour or actions of staff that is an alleged breach of the Employee Code of Conduct, the investigation will be undertaken in accordance with the Disciplinary Procedures.

### 6.3. Putting things right

Where complaints are found to be justified Council will, where practicable, put things right in a manner which is consistent and fair for both Council and complainants. The solution chosen will be proportionate and appropriate to the circumstances. In some cases, the most appropriate remedy will be a prompt explanation and an apology.

As a general principle, when a complaint has been upheld, the complainant should, so far as possible, be put in the position he or she would have been in, had things not gone wrong. This may mean providing the desired service or changing a decision. Sometimes, however, it may only be possible to offer an apology.

Compensation will only be offered in cases where the loss or suffering is considered substantial. The Elected Council through a Council resolution and the Chief Executive Officer (CEO) are the only representatives authorised to offer financial compensation and may consult with the Local Government Association Mutual Liability Scheme before taking any such action.

Council may seek to use alternative dispute resolution methods such as mediation, conciliation or neutral evaluation (under section 271 of the *Local Government Act 1999*) to resolve a complaint in circumstances where the CEO or his/her delegate deems such a course of action appropriate and the complainant is amenable to that process. Cost and expenses will be shared equally between the Council and the other party, at the discretion of the CEO.

Where a matter is determined not to be a complaint or is not upheld, the responsible officer investigating the complaint will document the grounds for that determination, whether any alternative action were / need to be undertaken and notify to complainant of this decision.

Where appropriate, the investigating officer will complete any relevant external reporting to ICAC, SAPOL or other third party.

When advising a complainant of the outcome of an investigation of a complaint, Council will provide information about alternative remedies, including any rights of appeal and the right to make a complaint to an external agency such as the Ombudsman SA.

### 6.4. Unreasonable Complainant Conduct

All complaints received by Council will be treated seriously and complainants will be treated courteously. Occasionally, however, the conduct of a complainant can be unreasonable. This may take the form of unreasonable conduct, unreasonable

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persistence, unreasonable demands, unreasonable lack of cooperation, unreasonable arguments or unreasonable behaviour. What can be termed 'unreasonable' will vary depending on a number of factors and Council aims to manage these situations in a fair and equitable manner.

Where a complainant's behaviour consumes an unwarranted amount of Council resources or impedes the investigation of their complaint, a decision may be made to apply restrictions on contact with the person. Before making any decision to restrict contact, the complainant will be warned that, if the specified behaviour(s) or actions continue, restrictions may be applied.

Any decision to suspend action on a complaint may be made by a General Manager or their delegate and communicated in writing to the complainant.

Management of unreasonable complainant conduct will be undertaken in manner consistent with the Managing Unreasonable Complainant Conduct Practice Manual a joint publication of the Australasian Parliamentary Ombudsman

**6.5. Privacy and Confidentiality**

Complainants have a right to expect that their complaint will be investigated in private, to the extent possible. In order for Council to adequately investigate a complaint and respond to the complainant a name and contact details will be required. The identity of complainants will be made known only to those who need to know in the process of investigating and resolving the complaint. The complaint will not be revealed or made public by the Council, except where required by law. All complaints lodged with Council are subject to the *Freedom of Information Act 1991* and confidentiality cannot be guaranteed under the provisions of that legislation.

**7. COMPLAINTS REGARDING PRODUCT AND SERVICE DELIVERY OF COUNCIL**

**Complaint Resolution Process:**

<p><b>Immediate complaint resolution</b></p>	<ul style="list-style-type: none"> <li>• All staff are empowered to handle complaints in the first instance and it is preferable that they are dealt with promptly at the initial point of contact or directly referred to a more appropriate member of staff</li> <li>• Staff record complaints details for later analysis</li> <li>• Where a complaint cannot be resolved at this point it will be escalated.</li> </ul>
<p><b>Complaint Escalated</b></p>	<ul style="list-style-type: none"> <li>• Complaint recorded in the records management system</li> <li>• Officer appointed to be responsible for investigating the complaint and determining the outcome.</li> <li>• This may occur where an officer has been previously involved in the matter, where a decision from a more senior officer is required or a more complex matter.</li> <li>• Initial assessment and acknowledgment (including timeframe for resolution)</li> <li>• Investigation of complaint undertaken</li> </ul>

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- Outcome advised to complaint
- Implement any improvements / alternative actions



- Independent review of a Council decision is available under s270 of the Local Government Act 1999 .
- This process enables a Council to reconsider all the evidence relied on to make a decision, including new evidence if relevant.
- This avenue is available at anytime, however Council will encourage parties to participate in the Complaint Resolution Process prior to lodging a s270.

**External Review**

Whilst Council prefers to work with its customers to resolve complaints quickly and effectively, a complainant will always retain the right to seek other forms of resolution, such as contacting the Ombudsman, or taking legal action at any time. Note however as a general rule, the Ombudsman prefers a complaint to be addressed by Council in the first instance, unless this is not appropriate in the circumstances.

Refer to **Appendix A** for a flow diagram of the Compliant Resolution Process.

The substance of a complaint not a complainant’s demands or behaviour dictates the level of resources dedicated to it. Each complaint will follow an appropriate escalation process managed by Council staff in accordance with the complaint resolution process.

Council hopes that most queries can be resolved at first point of contact however, where a complaint cannot be resolved immediately Council will acknowledge the complaint as soon as possible but no later than five working days with information about the process to be followed. Ongoing the complainant will be kept regularly informed of progress.

**8. COMPLAINTS REGARDING CODE OF CONDUCT FOR EMPLOYEES**

Where a person alleges:

- an employee (or a relative of an employee) has sought or received a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or to influence the employee in the performance or discharge of the employees functions or duties;
- an employee has failed to record, or correctly record, details of a gift or benefit received by the employee (or a relative of an employee) on the gift and benefits register;
- the CEO has not appropriately maintained a register for gifts and benefits received by employees of the Council; or

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- they may submit a complaint alleging that an employee of Council has contravened or failed to comply with the Code of Conduct for Council - Employees, as prescribed in Schedule 2A of the *Local Government (General) Regulations 2013*.

A complaint must be given to the Manager, People & Culture. In the case of a complaint against the CEO, a complaint must be given to the principal member of the Council, except in circumstance where it would be inappropriate to do so (such as where legislation requires the matter to which the complaint relates to remain confidential).

A complaint will be investigated and resolved according to the industrial and human resource policies and procedures of the Council.

## 9. FURTHER INFORMATION

This policy will be available for inspection at the Council offices located at 131 Belair Road, Torrens Park, during ordinary business hours and available to be downloaded, free of charge, from Council's internet site: [www.mitchamcouncil.sa.gov.au](http://www.mitchamcouncil.sa.gov.au)

## 10. POLICY REVIEW

This Policy will be subject to review every four (4) years or sooner at the discretion of the relevant General Manager.

The CEO has delegated authority to endorse any amendments to the Policy that do not vary the intent of the policy.

## 11. VERSION HISTORY

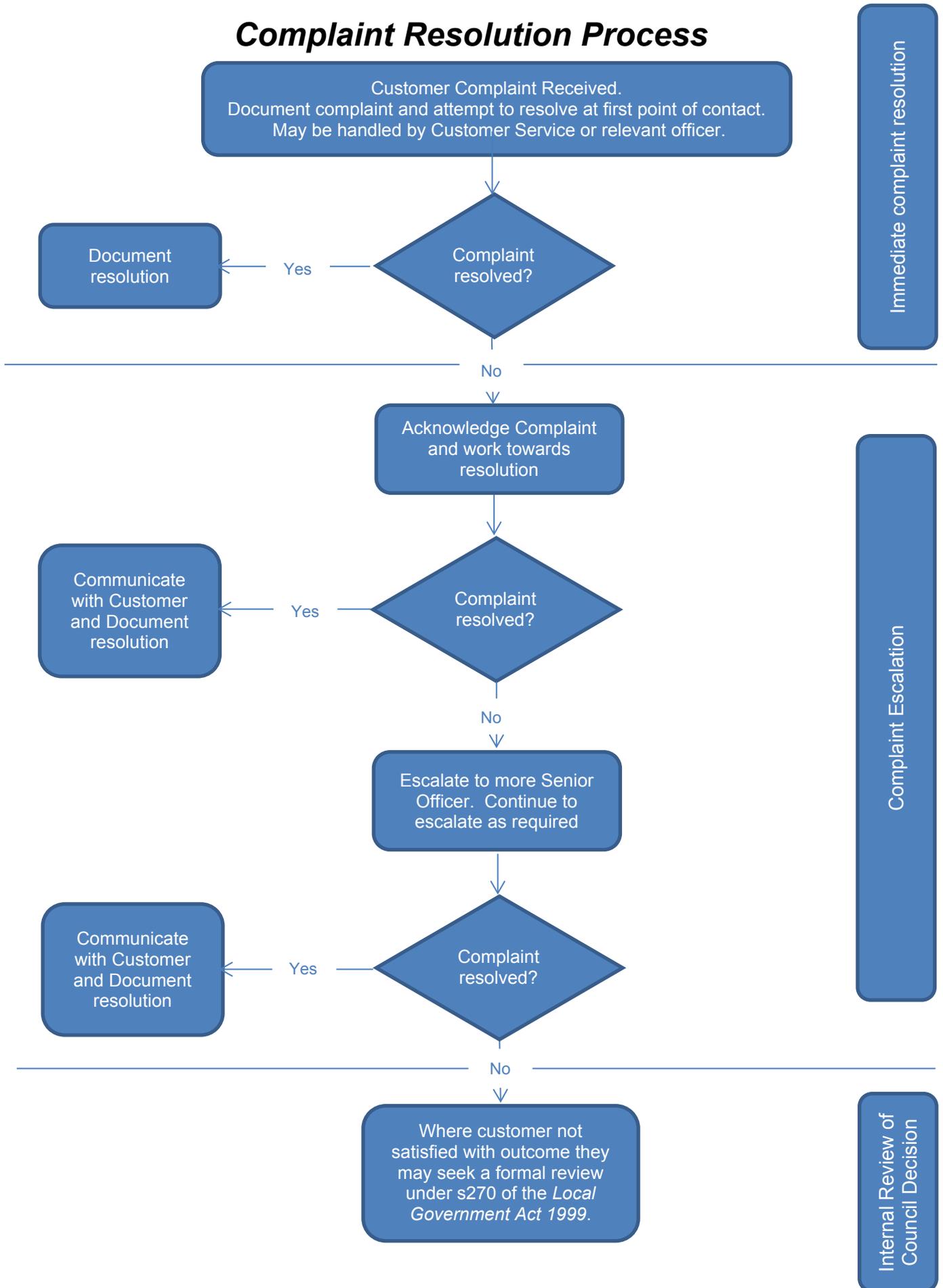
VERSION	AUTHOR(S) POSITION	CHANGES	DATE
2	Governance Officer	Major revision replacing Customer Complaints Policy - 2.03	March 2018
3	General Manager, Community and Organisational Development	Detailed procedural information updated as requested by the CEO. Endorsed by ELG	10 Jan 2019
17	Governance Officer	Refer to Full Council Resolution 12 November 2019 Item 9.4	12 November 2019

## 12. DOCUMENT CONTROL

<b>Responsible Department</b>	Governance		
<b>Delegations Apply</b>	No		
<b>Classification</b>	Community Relations		
<b>Applicable legislation</b>	Local Government Act 1999 – section 270 Independent Commissioner Against Corruption Act 2012 Freedom of Information Act 1991 Ombudsman Act 1972 Whistleblower Protection Act 1993		
<b>Related Policies &amp; Corporate Documents</b>	Independent Review of a Council Decisions Policy Requests for Services Policy Code of Conduct for Council Members Code of Conduct for Council Members - Complaints Handling Procedures Code of Conduct - Council Employees Disciplinary Procedures Code of Conduct for Volunteers Whistleblowers Protection Policy		
<b>Additional references</b>	Managing Unreasonable complainant conduct practice manual NSW Ombudsman (2012)		
<b>Endorsed by Council:</b>	27 March 2018	<b>Item No:</b>	7.4
<b>Effective Date:</b>	2 April 2018	<b>Next Review Date:</b>	April 2020
<b>Policy Set ID:</b>	377478	<b>Template Set ID</b>	3345084

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## Complaint Resolution Process



Note: Customer may choose to direct their complaint to the Ombudsman and/or ICAC at any stage within the process