

COMPLAINTS MANAGEMENT

POLICY

POL-CPM 05

Objective:

To provide the highest level of service to the City of Mandurah's customers and establish a framework to guide the City in its management and handling of complaints.

Statement:

The City of Mandurah (the 'City') is committed to managing complaints in a consistent and unbiased manner that complies with Australian Standard Guidelines and the WA Ombudsman thus ensuring an open and responsive complaints handling process.

Scope:

This policy applies to all Elected Members, staff and contractors of the City that receive and manage customer feedback relating to products and services delivered by or on behalf of the City.

For the purposes of this policy, the following is not classified as a complaint:

- Requests for City services;
- Requests for information or explanations of policies, procedures or decisions of Council;
- Reports of damaged or faulty infrastructure (eg damaged footpath, potholes in road);
- Reports of hazards;
- Reports concerning neighbours or neighbouring property (ie noise or unauthorised building works);
- Issues over twelve months old; or
- The lodging of an appeal in accordance with policy or procedure.

Policy:

DEFINITIONS

Complaint: The Australian Standard for Complaints Management (ISO 10002:2014) defines a complaint as any "*Expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required*".

Malicious Complaint: A complaint made for the purpose of hurting another person (their career, their reputation or their livelihood).

Frivolous Complaint: A complaint that has no serious purpose or value. It may have little merit and be trivial; investigating would be out of proportion to the seriousness of the issue complained about.

Vexatious Complaint: A complaint that is not supported by any evidence and there is other evidence to suggest that the complaint was made primarily for the purpose of causing annoyance.

IMPLEMENTATION

The City recognises that customers have a right to expect that principles of efficiency, effectiveness, fairness, impartiality and responsiveness will underpin service delivery. When customers believe that their expectations have not been met, they have the right to expect that the City will deal with their concerns in a professional, respectful, satisfactory and timely manner.

The City welcomes customer service complaints as a form of feedback, and will use this feedback to:

- 1) Provide opportunities for system and process improvement;
- 2) Provide equitable redress to the customer for poor service or processes; and
- 3) Provide an opportunity to actively resolve service complaints and reduce the incidence of recurring complaints.

COMPLAINTS HANDLING

The City will endeavour to resolve issues that are subject of complaints at the first point of contact or within a reasonable timeframe. Complaints may be lodged with the City in the following ways:

- In writing (preferred method) by email or other electronic means;
- By telephone;
- In person; or
- Completing a Service Complaint Report available at any of the City's public service counters.

Complainants are encouraged to include their name, address and contact number and a brief description of the issue.

ANONYMOUS COMPLAINTS AND CONFIDENTIALITY

An anonymous complaint will only be investigated where reasonable and sufficient information is provided and which, in the opinion of City staff, constitutes:

- a breach of statutory provisions;
- a breach of an approval, licence or permit;
- a matter for which the City is obliged to act, prescribed in the *Local Government Act 1995*, *Corruption, Crime and Misconduct Act 2003* or under any other written law;
- a matter which if not attended to could reasonably constitute a risk to public health and safety or persons, animals or the environment; and
- a matter which is deemed to be capable of investigation and resolution without assistance from the complainant.

The City encourages complainants to provide full contact information when lodging complaints, however where a complainant requests their identity and complaint details remain confidential; the City will ensure to the best of its ability that disclosure of any personal information to third parties is not made. The City however cannot guarantee that they will not be identified during investigation, and as such, it is the complainants right to decide if they would like to proceed with the complaint.

MALICIOUS, FRIVOLOUS AND VEXATIOUS COMPLAINTS

While there is currently no legislative provision to deal with Vexatious complaints, the Department of Local Government has advised that it is within the local government's administrative responsibility to take whatever action it considers necessary.

Every endeavour will be made by the City to deal with complaints with the utmost seriousness, however the City may refuse to investigate a complaint if:

- the complainant behaves in an ongoing actively hostile manner;
- the complaint is considered to be trivial and/or frivolous; or
- the complainant is consistently making complaints of trivial and/or frivolous matters.

The City may consider it appropriate to determine that vexatious questions, complaints and repetitive communications are not given priority or that no further action will be taken regarding the complaint as the complaint may divert a substantial and unreasonable portion of the City's resources away from its other functions.

The City may, at its discretion, seek legal advice with respect to implications of the suspected malicious, frivolous or vexatious complaint.

UNREASONABLE CONDUCT BY COMPLAINANTS

Unreasonable Persistence: In some instances, the City will encounter complainants who refuse to accept the decision of the complaint handler solely on the fact that the decision was not in the complainants favour. Complainants may also make persistent and repeated contact with the City to the point that the complaint or complainant diverts a substantial and unreasonable portion of resources away from the City's other functions.

Unreasonable Behaviour: In some instances, the City will encounter complainants whose behaviour is aggressive or threatening, consistently rude, abusive or the complainant makes threats to oneself, staff or third parties (whilst using Council services or on Council premises) or in general.

Under the above circumstances, details of complaints are to be provided to the Deputy Chief Executive Officer who will make a recommendation to the Chief Executive Officer that:

- 1) further correspondence and/or telephone contact with the complainant be restricted;
- 2) further discussions, interviews etc will not be granted that relate to the same matter;
- 3) access to Council premises be restricted for a specified period of time.

The Chief Executive Officer (CEO) will consider all facts and issues of the individual case prior to acting on any recommendation/s. If a decision is made to endorse the recommendation, the CEO will write to the complainant explaining the decision.

All threats made to staff or third parties will be reported to the WA Police.

COMPLAINTS THAT WILL NOT BE INVESTIGATED

The City may determine that a complaint will not be investigated where that complaint:

- is considered malicious, frivolous or vexatious or not made in good faith or concerns trivial matters;
- involves a matter where an adequate remedy or right of appeal already exists, whether or not the complainant uses the remedy or right of appeal;
- where a matter is subject to an existing mediation process;
- relates to a decision made by a meeting of Council;
- relates to conduct before a court, coroner or tribunal;
- relates to a matter under investigation by the Minister for Local Government, Corruption and Crime Commission, the WA Ombudsman's office, a Minister of the Crown or Government Department or the WA Police Service;
- relates to the appointment or dismissal of an employee or an industrial or disciplinary issue;
- relates to a decision, recommendation, act or omission which is more than one year old;
- relates to actions or conduct of private individuals;
- involves a matter where the complainant declines or refuses to provide further information and/or there are threats made against the City and/or its staff.

Should the City decide not to investigate a complaint, the complainant will be advised of the reason

for the decision.

COMPLAINTS REGARDING ELECTED MEMBERS

The *Local Government (Rules of Conduct) Regulations 2007* provides a disciplinary framework to address matters of misconduct by local government council members. Any person may make a formal complaint about an elected member for a minor or serious breach under these Regulations.

Conduct of elected members is covered by “Code of Conduct – Elected Members”. Complaints about conduct can also be made through this document which can be found on the City’s website at www.mandurah.wa.gov.au.

ALLEGATIONS OF MISCONDUCT

Allegations concerning criminal, corrupt or seriously improper conduct will be dealt with independent of the City’s complaint handling process. The City has appointed Principal Officers who are required by legislation to assess and if required notify the Public Sector Commission (PSC) or the Corruption and Crime Commission (CCC) for instances of minor or serious misconduct.

Misconduct by Elected Members

Any allegations of misconduct, whether minor or serious in nature, will in the first instance be referred to the Chief Executive Officer and/or Mayor for determination including whether there are reasonable grounds for the compulsory notification to the CCC or the Police.

Misconduct by Employees/Public Officers

Allegations of misconduct of a minor nature, will be referred to the PSC if the misconduct could constitute a disciplinary offence providing reasonable grounds for termination of a persons employment.

In circumstances of serious misconduct, where misconduct involves corrupt intent and/or criminal conduct, these matters will be referred to the CCC.

Further information is available from the Commissions website – www.ccc.wa.gov.au

THE PUBLIC INTEREST DISCLOSURE ACT 2003 (PID ACT)

The PID Act is designed to facilitate the disclosure of allegations or complaints about persons who are government officials, or public authorities and their contractors. This legislation specifically covers improper conduct, corruption, irregular or unauthorised use of public resources, conduct involving a substantial and specific risk or injury to public health, prejudice to public safety or harm to the environment.

Before making a disclosure it is important that you are aware of the rights and responsibilities imposed on you and others under the Act. Further information is available through the City’s website at <http://www.mandurah.wa.gov.au/city-and-council/governance/disclosure>

COMPLAINTS TO THE OMBUDSMAN AND THIRD PARTY AGENCIES

The Ombudsman can investigate complaints about most Western Australian public authorities, including local governments.

Generally the Ombudsman will investigate actions or decision where the decision maker has:

- Acted outside their legal authority;
- Not followed policy, or applied its policy inconsistently;
- Did not consider all the relevant information, or considered irrelevant information;
- Unreasonably delayed making a decision or informing the complainant of the decision; or
- Failed to notify the complainant of the decision or did not provide reasons for a decision.

Complaints in this category will be dealt with independent of the City’s Complaint Handling process.

REVIEW PROCESS

Where a complainant is dissatisfied with the way in which a complaint has been dealt with and/or the final determination of the complaint by the City, the following is to occur:

- 1) The complaint is to be referred to the relevant Director to investigate the matter and review the action and steps taken to resolve the complaint;
- 2) A report will be provided to the CEO detailing the history of the complaint and the actions taken to resolve the issue/s;
- 3) The CEO will determine the appropriate resolution of the outstanding complaint and the review of the service complaint handling process.

Should the CEO consider appropriate, an independent review of the complaint will be carried out by the Deputy Chief Executive Officer.

In circumstances where internal processes are unable to resolve a complaint or satisfy the complainant, the City may refer the complainant to appropriate external agencies, such as the State Administrative Tribunal or State Ombudsman Office, for review.

All complaints received by the City will be recorded in the mandated records management system as a 'complaint'.

Responsible Directorate:	Strategy and Business
Reviewer:	Manager Customer Service and Information Management
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Amendments:	Minute G.57/2/12, 28 February 2012 Minute G.35/2/15, 24 February 2015 Minute G.12/7/19, 23 July 2019
Related Documentation and/or Legislation:	<i>Corruption and Crime Commission Act 2003</i> <i>Public Interest Disclosure Act 2003</i> <i>Freedom of Information Act 1992</i> City of Mandurah Customer Service Charter Australian Standard AS 4269-1995 Complaints Handling