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**Policy:**

**Complaints Management**

**2019**

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## INFORMATION ABOUT THIS DOCUMENT

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1	28 August 2018	Amended by council resolution 15.08/18
2	16 April 2019	Amendments made by Audit, Risk and Improvement Committee
3	27 August 2019	Amended and approved for public exhibition council resolution 15.08/19

### **Further Document Information and Relationships**

The Councillors have a role under Section 232 of the Local Government Act 1993 as a member of the governing body to review the performance of the council, its delivery of services, and the delivery program and revenue policies. The Councillors also represent the interests of the residents and ratepayers and can bring forward a complaint made to the Councillors at any time.

<b>Related Legislation*</b>	Government Information (Public Access) Act 2009 (NSW) (the GIPA Act) Commission Against Corruption (ICAC) Act 1988 Privacy and Personal Information Protection Act 1998 (NSW) (PPIP Act). Local Government Act 1993 and Regulations Public Interest Disclosures Act 1994
<b>Related Policies</b>	Internal Reporting Policy 2019 Code of Conduct 2019 Procedures for the Administration of the Code of Conduct 2019
<b>Related Procedures/ Protocols, Statements, documents</b>	NSW Ombudsman Guidelines

*Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.*

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## **1. OBJECTIVE**

The aim of this policy is to implement a system for satisfactorily addressing complaints, as defined in Section 8 of this policy document, submitted or referred to the Uralla Shire Council.

The Council aims to ensure that each complaint is dealt with fairly and impartially. The basis of this policy is to provide a satisfactory system of review for complainants who are not satisfied with the initial response from council to their complaint. In order to minimise the complainant seeking resolution through an external organisation, the Council will strive to address complainant's objections at the local level, wherever appropriate and possible.

The complainant can exercise their right to make further representations directly to external agencies such as the NSW Ombudsman, the Minister for Local Government or the Independent Commission Against Corruption (ICAC). This is seen as an action of last resort.

This policy does not override the General Manager's obligation, under Section 11 of the ICAC Act 1988, to notify the Commission of possible corrupt conduct. Complaints and compliments are a welcome form of feedback for Council and assist in the planning and improvement of Council's systems, procedures and policies.

## **2. POLICY**

Council's policy aims to minimise complaints by ensuring all services, policies and procedures are effectively managed, communicated and delivered to the community. However, Council recognises that at times complaints will arise. The policy that follows provides clear guidelines to ensure all complaints are dealt with on a prompt and equitable basis and a timely response is provided to the complainant.

## **3. LODGING A COMPLAINT**

Complaints may be lodged with Council by:

- Direct personal contact with a staff member or Councillor.
- By telephone to our customer service staff
- By personal email
- By personal letter

Complaints should detail the name, address and contact phone numbers of the complainant together with a brief description of the issue(s) giving rise to the complaint. This allows Council staff to follow up on any further details needed to resolve the issue. Our Staff must follow the procedures set out in this policy. Any Councillor in receipt of a complaint should (preferably in writing) refer the matter directly to the General Manager's Office.

### **3.1 The Public Officer**

Council's Public Officer is charged under the Local Government Act with the responsibility of overseeing the management of complaints from the public concerning Council's affairs.

### **3.2 Complaints that may not be investigated**

The General Manager or Public Officer may determine that a complaint will not be investigated where that complaint:

- is considered frivolous, vexatious or not made in good faith or concerns a trivial matter
- 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
- relates to a decision of elected Council
- relates to conduct before a court, coroner or tribunal
- relates to matters under investigation by the Minister for Local Government, ICAC, the NSW Ombudsman's office, a Minister of the Crown or government department or the NSW Police Service
- relates to the appointment or dismissal of any employee or an industrial or disciplinary issue
- relates to a decision, recommendation, act or omission which is more than one year old unless the complainant can show to the satisfaction of the General Manager that there were strong and extenuating circumstances that prevented the complaint being made within the one year period
- relates to a matter awaiting determination by the elected Council
- relates to the actions or conduct of private individuals
- relates to a matter where there is insufficient information available or
- involves a matter where the complainant declines or refuses to provide further information and/or there are threats made against Council.

Should the General Manager or Public Officer determine that a complaint will not be investigated, the complainant will be advised of the reason(s) for the decision.

### **3.3 Anonymous Complaints**

Anonymous complaints will not be accepted. However, a complainant can ask to have their details withheld by the General Manager when the complaint is being investigated and for these details to be kept confidential. Confidentiality in regards to disclosure of sensitive information will be applied to all complaints according to the Privacy Act. Complete anonymity, however, cannot be guaranteed within the Council if a complaint is to be fully addressed.

### **3.4 Serious complaints**

All complaints, including those received verbally, alleging corrupt conduct, pecuniary interest breaches, improper use of position, criminal action or maladministration are to be registered as detailed in the Procedure section of this Policy (Section 4) and referred to the General Manager or Public Officer.

Complaints of this nature will be dealt with in accordance with Council's Code of Conduct and Council's Public Interest Disclosure Policy. If the allegation relates to the General Manager, the matter must be reported to the Mayor. Complaints against the General Manager will be managed in accordance with Section 7 of this policy

### **3.5 Confidentiality**

Confidentiality will be given to complaints according to the principles in the Government Information (Public Access) Act. Wherever possible complaints are to be resolved and reviewed locally and have the fewest people necessary involved. Complaints are treated confidentially and information is only used for the purposes for which it was collected unless:

- either the consent of the individual(s) is obtained
- Council has reasonable grounds for believing the use of the information will reduce a threat to the life or health of any person, or
- The use is authorised by law.

## **4. RESPONSIBILITIES**

### **Mayor and Councillors**

Are responsible to ensure that complaints they receive are promptly referred to the General Manager and staff.

### **General Manager**

The General Manager is responsible to ensure that the Complaints Handling system is implemented and is operating in accordance with the associated procedures for the handling of complaints.

To ensure that when a request is made for review it is investigated under tier 1 of the system.

To carry out a review where a review has been requested under tier 2 of the system.

To work with any complaint that has escalated to tier 3 and ensure that the complaint is referred to the appropriate external organisation for investigation or for mediation or conciliation.

### **Managers and Supervisors**

Are responsible to ensure that complaints within their area of operation are appropriately investigated and managed by their staff in accordance with this policy.

Undertake Tier 1 reviews as required or if it cannot be resolved at a local level is referred to the General Manager for Tier 2 review.

### **Staff**

Are responsible for the implementation of this complaints management policy within their area of operation.

If staff cannot resolve the issue, then the matter should be referred to their manager or supervision for Tier 1 review.

## **5. COMPLAINT HANDLING SYSTEM**

The procedure for handling complaints directly relating to the General Manager and Councillors is outlined in the Council Code of Conduct.

For all other complaints Council has adopted a three-tier approach:

Tier 1a and b – Frontline complaint handling

Tier 1a

- Staff resolve complaints wherever possible at first contact. Staff will register all complaints and the resolution/action taken in the Records Electronic Document Management System.

Tier 1b

- Frontline staff may need to refer the complaint to the appropriate Council Officer for resolution.

Tier 2 – Internal review

- The General Manager, Public Officer or a designated senior officer, designated by the General Manager reviews unresolved complaints.

Tier 3 – External review

- Unresolved complaints referred externally. This may take the form of:
  - Alternative dispute resolution procedure, such as mediation or conciliation
  - Complaint referred to external agency, such as the Ombudsman
  - Complainant informed of appeal procedure or other legal remedy.

## **6. COMPLAINT HANDLING PROCEDURE**

### **6.1 Tier 1a – Complaints that can be resolved directly**

Any staff member approached by persons enquiring how to lodge a complaint must advise that person of the methods available. There is no need to record the enquiry. A record is only made when the complaint is lodged regardless of how minor the complaint may be.

Upon receipt of a complaint, the staff member receiving the complaint must ensure that the complaint is registered in Council's electronic data management system and indexed under the Complaints Subject. Any verbal complaint should be recorded in full detail as a Customer Request in Council's electronic data management system and indexed to the Complaints Subject. Any written complaint in the form of a letter must be referred to the Records Section to be registered in Council's electronic data management system.

Any electronic complaint (email) if received via the corporate mailbox is registered by Records, or by the officer receiving the email if sent to an individual officer's mailbox. Upon receipt of a written complaint, the General Manager or Public Officer shall forward a letter of acknowledgement of receipt and course of action to be taken.

## **6.2 Tier 1b – Complaints that can be resolved following investigation**

A staff member receiving a verbal complaint of a minor nature should deal with the complaint at that time or refer it immediately to a more appropriate staff member who may be able to resolve the problem on the spot. The staff member who resolves the complaint should immediately register the complaint in Council's electronic data management system as a Customer Request and index to the Complaints Subject.

All complaints of a more serious or complex nature or minor verbal complaints that cannot be resolved on the spot must be registered in Council's electronic data management system in accordance with the workflow procedure for complaints and referred to the relevant senior officer for investigation, action and a response to the complainant. The complaint is also referred to the General Manager or Public Officer as part of the workflow process so that complaints may be monitored and followed up as necessary.

The General Manager or Public Officer will determine if a complaint should be lodged with an external agency or authority and will contact the complainant to refer that person to the appropriate agency or authority. The senior officer investigating the complaint will determine what, if any, remedial action will be taken and must ensure that all details of the investigation and remedial action taken or offered to the complainant and the subsequent response to the complainant are reported in Council's electronic data management system and linked to the original complaint registration.

All complaints should be acknowledged in writing with the complainant being provided with confirmation that the complaint has been recorded within Council's electronic data management system and the appropriate contact details for further enquiries.

Where a manager has conducted an investigation, the relevant Director/senior officer must sign off on the report.

This process must be completed within ten working days of receipt of the complaint, excepting where further information is waiting to be received.

## **6.3 Tier 2 – Unresolved complaint referred for internal review**

Complaints that have not been resolved to the satisfaction of the complainant under the Tier 1 procedure, will be then subject to internal review.



A Council officer upon being advised, by the complainant, that the complaint has not been dealt with satisfactorily must refer the matter to the General Manager's Office or Public Officer. The General Manager or Public Officer will advise the complainant that the matter will undergo an internal review.

The internal review will be supervised by the General Manager or Public Officer or a senior officer (not the Tier 1 reviewer) designated by the General Manager. The final report of investigation will be reviewed by the General Manager. The focus of the investigation will be to resolve the complaint wherever possible. The General Manager or Public Officer or designated senior officer has the delegation to:

- reconsider the original decision or remedial action afresh and take any appropriate corrective action
- overturn previous decisions and issue instructions as needed
- Consider appropriate actions to be taken in cases where maladministration or detriment is revealed arising from the Council's dealing with the complaint.

The internal review must be conducted within fourteen days of referral of the matter in writing to the General Manager or Public Officer. The General Manager or Public Officer shall forward a letter to the complainant advising of the result of the review, any action taken and of the right to an external review.

#### **6.4 Tier 3 – External review**

Should a complaint and subsequent review not be resolved to the satisfaction of the complainant under Tier 2, the General Manager or Public Officer will advise the complainant that the complaint may be referred to an external agency for external review or offer the option of a dispute resolution process such as mediation or conciliation.

Complaints, dependent on their nature, can be referred to the following external agencies for an external review:

- The NSW Ombudsman
  - Who investigates complaints concerning:
    - maladministration
- NSW Office of Local Government
  - Who investigates complaints concerning:
    - serious noncompliance with the Act and regulations
    - systematic and serious deficiencies in Council functions and operations
    - pecuniary interests
    - failure to disclose
    - councillor misconduct

- The Independent Commission Against Corruption  
Who investigates complaints concerning:
  - corrupt conduct in the NSW public sector.
  
- Anti-Discrimination Board  
Who investigates complaints concerning:
  - discrimination
  - disability
  - vilification
  - victimisation
  - harassment
  
- Australian Competition and Consumer Commission  
Who investigates complaints concerning:
  - competitive neutrality
  
- Privacy NSW  
Investigates complaints concerning:
  - Breaches of the Privacy and Personal Information Act 1998.
  
- NSW Audit Office  
Who investigates complaints concerning:
  - serious and substantial waste of public money

## **7. COMPLAINTS AGAINST THE GENERAL MANAGER AND COUNCILLORS**

A complaint against a Councillor or the General Manager is to be managed in accordance with the Uralla Shire Council Code of Conduct and Procedures for Administration of the Code of Conduct. This may involve referral to the Council's Conduct Committee.

## **8. DEFINITIONS**

### Complaint:

For the purpose of this policy a complaint is any expression of dissatisfaction with:

- Level and quality of service or policies or procedures.
- Service provided by Council staff, contractors and systems.
- Impact of a particular policy and procedure.
- Council's decision making process.
- Corrupt conduct or failure to declare pecuniary interest/conflict of interest.
- Breach of Code of Conduct.
- Wrong or misleading advice.

Additionally, a valid complaint is one where Council has or would appear to have failed to respond appropriately to a request for a service or a report. A complaint for the purpose of this policy does not include:

- Matters or services not related to Council, Council staff or Councillors
- A request for services
- A request for information or explanation of policies or procedures or decisions of Council
- Reports of damaged or faulty infrastructure (e.g. road pothole)
- Reports of hazards (e.g. fallen tree branch)
- Reports concerning neighbours or neighbouring property (e.g. noise or unauthorised building works)
- Lodgement of an appeal to a Council decision, policy or procedure (e.g. a complaint about an approved development or draft policy or plan – unless this is recorded as a complaint about Council’s decision making process)

## **9. SCOPE OF POLICY**

This policy applies to:

- Council employees
- Councillors
- Council consultants and contractors
- Council owned businesses
- Community volunteers

## **10. REVIEW OF POLICY**

The Complaints Management Policy is to be reviewed at least every four years.