

RICHMOND VALLEY COUNCIL

PROCEDURE - COMPLAINTS HANDLING

This Procedure should be read and applied in conjunction with Council's Complaints Management Policy. In addition, reference should be made to the Department of Local Government Practice Note No. 9 - Complaints Management in Councils (revised July 2009).

Procedure Statement

The Complaints Handling procedure is a set of guidelines designed to encourage residents, non-residents and any other bodies who make a complaint to Council to have the complaint managed efficiently within Council.

Complaint Definition

What is a Complaint

- A Complaint is an expression of dissatisfaction, made in respect to a Council Officer's role and/or Council in the provision of service delivery or lack of service delivery that has allegedly affected an individual, group or body of stakeholders whether justified or not.

What is Not a Complaint

- A request for service is an Action Request. Examples are reporting of road potholes, water leaks, dust and noise, overgrown allotments and dog issues.
- A request for information or an explanation of a policy or procedure.
- Objections to a development application before Council determination.
- Objections/dissatisfaction in regard to regulatory notices that are challengeable/reviewable via Court or other processes (reference should be made to Council's Enforcement - Unlawful Activity Policy on these matters).

A complaint can progress from Council's lack of action following the lodgement of a request for service or a request for information.

Members of the public as well as other councillors, staff or delegates of Council may make complaints under the Code of Conduct. The Council Code of Conduct prescribes certain procedures for dealing with such complaints. Complaints relating to alleged breaches of the Code of Conduct by a councillor, member of staff or delegate of Council must be dealt with in accordance with the procedures prescribed under the Model Code rather than under the Council's normal complaint handling procedures.

If a complaint has been made to the Council that alleges conduct that, if proven, would represent a breach of the Code of Conduct, it should be dealt with under the Code regardless of whether or not the complainant has requested that the complaint be dealt with under the Code of Conduct.

Complaints Handling Review Procedures

The Complaints Handling Procedure provides an efficient, fair and accessible mechanism for resolving complaints quickly. The procedure recognises, promotes and protects the rights of individuals or organisations to comment and complain.

The three tiers of review outline processes and responsibilities that will be implemented to manage complaints.

First Tier - Frontline Complaint Handling

- First point of Council contact with the public will involve a complaint over the telephone, in person or in writing. The focus at this level is on an informal resolution of complaints. Council officers have a clear delegation to resolve complaints wherever possible at the first level.
- Council officers at all levels within the organisation from the General Manager to Customer Service Officers can be involved in the first level of complaint handling depending on the nature of the complaint.

Council responsibilities when managing complaints at this level are:

- Council officers will deal with complaints from customers within the scope of their decision-making capacity and limitations on remedies that they can authorise.
- To determine if the issue is an action request or complaint in accordance with the Complaint Definition described in these procedures.
- If the issue is a request for service, then the Council officer receiving the information is to create an action request in accordance with the appropriate Council procedures.
- If the issue is a complaint, then the Council officer is to deal with the complaint in accordance with their level of responsibility.
- If the complainant remains dissatisfied then the complaint may need to be referred to the second tier of the complaint handling system.

Written complaints, then the Council Officer must:

- Within twenty one days, contact the complainant by telephone or in writing with a response. If the complaint is unresolved, the Council Officer must advise the complainant of any action Council intends to undertake, which could involve investigation, conciliation, mediation or further direct negotiation.

Telephone or in person complaints, then the Council Officer must:

- Record all information in the complaints form (attached) and refer to Records for registration and tasking to the General Manager. The complaint can also be recorded via Council's Incident Reporting System.

- Note on the form any comments made to the complainant regarding the resolution of the complaint, including form of response, telephone or written, i.e. the complainant can be advised that the matter will be referred to the General Manager and a response provided to them.
- If the complaint is unresolved, the Council Officer must advise the complainant of any action Council intends to undertake, which could involve investigation, conciliation, mediation or further direct negotiation.
- At all times, courteously assist with all issues raised by the public.
- Maintain confidentiality of the complainant's person information.
- Council Officers must keep the complainant informed of the progress of the complaint.

Final response requirement:

- Council's final response must address the availability of other internal remedies available, where the complainant is dissatisfied with the Council response, including seeking an Internal Review or Investigation.

When frontline complaint handling staff should automatically refer a complaint on:

When the complaint is about a staff member's own conduct and he or she is not confident about dealing with it fairly, or if the complainant requests it, the problem should be automatically referred on. Unless the whole matter can be resolved by some kind of conciliation on the spot, staying involved will almost certainly make it harder to resolve the complaint and may encourage the escalation of the dispute. In such circumstances, the staff member should politely suggest it would be better for the complainant if someone else reviewed the matter.

Automatically refer the problem on when:

- The problem is clearly outside a staff member's delegation or area of expertise.
- There are established internal or external referral procedures, (e.g. for protected disclosures or code of conduct complaints, ICAC notifications or referral of pecuniary interest matters to the Department of Local Government). These are discussed in more detail below.
- A staff member is alleged to have committed a criminal offence, acted corruptly, or engaged in other serious or controversial conduct, and/or
- Significant disciplinary action is a possible outcome.

Whenever a problem is to be referred on, the complainant should be told exactly what they need to do, or what staff will do to refer the matter, and what action the complainant can expect.

Second Tier - Internal Review or Investigation

- The role of Council Officers at this level is to review and/or investigate complaints, when a customer is dissatisfied with the outcome of the first level of complaint handling.
- At the second level of complaint handling, the complaint will be referred to the General Manager, Director or Manager for review.
- It may be appropriate for Council (in the case of more substantial enquiries) to refer the matter to a specialist complaint handler. Such decisions will be made by the General Manager.

Council responsibilities when managing complaints at this level are:

Investigation or review of telephone or in person complaints

- Council Officers are to discuss the issue of the complaint with the complainant.
- Council Officers are to ensure that a complaints registration form is completed and forwarded to Records.
- If the complaint is unresolved, Council must advise the complainant of any action Council intends to undertake, which could involve investigation, conciliation, mediation or further direct negotiation.

Written requests for internal review or investigation

- The responsible Council Officer must within twenty one days contact the complainant by telephone or in writing with a response to the complaint.
- If the complaint is unresolved, Council must advise the complainant of any action Council intends to undertake, which could involve investigation, conciliation, mediation or further direct negotiation.
- Council officers must keep the complainant informed of the progress of the complaint at all times.
- Council officers must maintain the confidentiality of the complainant's personal details.

Final response requirement:

- Council's final response must address the availability of other external remedies available, where the complainant is dissatisfied with the Council response including seeking an alternative dispute resolution, referring the complaint to agencies such as Ombudsman or Department of Local Government, or as a last resort any legal remedy.
- The final response at this level is to be signed by the General Manager.

Third Tier - Review by External Agencies

If the complaint remains unresolved after two prior levels of review, the General Manager will recommend to the complainant:

- Alternative dispute resolution remedy such as mediation or conciliation.
- The availability of external agencies, to resolve the complaint,
 - NSW Ombudsman
 - NSW Division of Local Government
 - Independent Commission against Corruption (ICAC)
 - Anti Discrimination Board
 - Australian Competition and Consumer Commission
 - Privacy Commissioner
 - To consider as a last resort other legal remedies.

Procedure for Anonymous Complaints

- Anonymous complaints will not be rejected, however, Council's ability to investigate anonymous complaints will be dependent upon the substance of the information supplied. The complaint should be recorded and assessed as per other complaints.
- Due to anonymity Council will be unable to provide reasons for any decisions or actions taken.

Complaints Handling Responsibilities

- Council's General Manager is responsible for ensuring that Council's management of complaints is carried out in accordance with its Complaints Management Policy and Complaints Handling Procedures.
- The General Manager will monitor compliance with the policy and procedures and will arrange/undertake independent investigations of complaints when requested.