



### Customer Complaints Policy

<b>Strategic Reference</b>	Provide leadership, good governance, and efficient, effective and responsive Council services
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<b>Relevant Delegations</b>	
<b>Relevant Legislation</b>	Local Government Act 1999, Section 270 Ombudsman Act 1972
<b>Relevant Policies</b>	Requests for Service Policy Internal Review of Council Decisions Policy Elected Member Code of Conduct Employee Code of Conduct Policy Whistleblowers Protection Policy Fraud & Corruption Prevention Policy
<b>Relevant Procedures</b>	Complaints Handling Procedure Internal Review of Council Decisions Procedure Customer Service Charter

#### 1. Introduction

District Council of Yankalilla provides an extensive range of services and infrastructure to communities, and discharges obligations under many pieces of legislation.

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 the matter. This policy aims to provide a fair, consistent and structured process for Council's customers if they are dissatisfied with a Council action, decision or service. It also covers the management of compliments. Lessons learnt from positive feedback, as well as complaint investigations, will be used to directly inform service improvements.

Emphasis will be placed on resolving complaints as quickly as possible. However where complaints cannot be settled in the first instance Council will ensure that they are dealt with through appropriate, formal procedures by staff with the authority to make decisions. This is consistent with the Australian Standard for complaint handling.

### 1.1 Principles underlying the policy

This policy is based on five principles, which will be fundamental in the way Council approaches complaint handling. They are:

- **Fairness:** treating complainants fairly requires impartiality, confidentiality and transparency at all stages of the process.
- **Accessibility:** to be accessible there must be broad public awareness about Council's policy and a range of contact options.
- **Responsiveness:** this will be achieved by providing sufficient resources, well trained staff and opportunities to review and improve the systems.
- **Efficiency:** complaints will be resolved as quickly as possible, while ensuring that they are dealt with at a level that reflects their level of complexity.
- **Integration of different areas of Council** where the complaint overlaps functional responsibilities.

## 2. Purpose

2.1. This policy establishes a framework for how The District Council of Yankalilla (the Council) will respond to a customer who is dissatisfied with a process, product or service offered or provided by the Council.

2.2. The Council:

- 2.2.1. welcomes complaints as a form of feedback that will ultimately identify service improvement opportunities;
- 2.2.2. values integrity, responsible management, fairness and equity, and will continue to strive to maintain the highest standards in its dealings with its customers while meeting the needs of the community;
- 2.2.3. promotes responsible management of customer complaints within the Council's resource limitations. In particular, in working towards resolving ongoing customer concerns or complaints the Council is mindful of not over committing resources and funds to the detriment of the community at large;
- 2.2.4. is committed to identifying, investigating and where possible resolving complaints and grievances;
- 2.2.5. considers that principles of economy, efficiency, effectiveness, fairness, impartiality and responsiveness should underpin Council service delivery; and
- 2.2.6. recognises the importance of transparency in decision making and the need to provide a fair and objective procedure for the review of all decisions and services provided.

- 2.3. The considerations articulated above are of utmost importance in the Council's endeavors to retain the trust, confidence and support of its community.

### **3. Legislative and Strategic Framework**

#### **3.1. Local Government Act 1999**

Section 270 of the *Local Government Act 1999* (the Act) requires Council to:

- establish procedures for the internal review of Council decisions; and
- develop and maintain policies, practices and procedures for dealing with:
  - any reasonable request for the provision of a service by the Council or for the improvement of a service provided by the Council; or
  - complaints about the actions of the Council, employees of the Council, or other persons acting on behalf of the Council.

This policy, in conjunction with the Council's Policy for the Internal Review of Council Decisions, has been adopted in accordance with the Council's obligations under section 270 of the Act. Specifically, this policy applies in relation to requests for improvement of a service provided by the Council and/or customer complaints about the actions of the Council, its employees or other persons acting on its behalf.

#### **3.2. Ombudsman Act 1972**

Establishes the office of the SA Ombudsman who, subject to the *Ombudsman Act 1972*, is responsible for investigating administrative acts, which include decisions of the Council and its employees

#### **3.3. Independent Commissioner Against Corruption Act 2012**

Establishes the office of the ICAC, which is responsible for:

- identifying and investigating allegations of corruption; and
- assisting in the prevention or minimisation of corruption, misconduct and maladministration in public administration, including through referral of potential issues, education and evaluation of practices, policies and procedures.

#### **3.4. Whistleblowers Protection Act 1993**

Provides protection for any person who makes an appropriate disclosure of public interest information (as defined by this Act).

### **4. References**

- 4.1. The Council's Customer Service Goals: these require staff to treat customers with respect and actively listen to understand their needs, respond to customer's issues professionally and promptly and to keep customers informed.
- 4.2. Internal Review of Council Decisions Policy.

- 4.3. Code of Conduct for Elected Members.
- 4.4. Code of Conduct for Employees.
- 4.5. Whistleblowers Protection Policy.

## 5. Definitions

- 5.1. A **complaint** is made when a customer:
  - 5.1.1. expresses or infers dissatisfaction with the Council's decisions, policies, procedures, charges, employees, agents or the quality of Council services;
  - 5.1.2. forms and notifies the Council of his/her belief that the Council has failed to act upon a request for service within reasonable timeframe; or
  - 5.1.3. forms and notifies the Council of his/her belief that the conduct of a Council staff member is unsatisfactory.
- 5.2. **Complaint Resolution** – a complaint is resolved when a customer is satisfied that the Council has made its best attempt to address and resolve the issues raised by the complainant. It is possible that a customer may not be completely satisfied with the outcome but the complaint is taken to have been resolved where the customer accepts the outcome and does not seek to escalate the complaint any further.
- 5.3. **Customer** –is a natural person and includes a ratepayer, resident, visitor to the Council's area or a person who uses a Council service.
- 5.4. A **Frivolous** complaint is a complaint that lacks substance or merit, or is otherwise trivial in nature.
- 5.5. A **Malicious** complaint is a complaint that is motivated by improper, vicious, or mischievous purposes.
- 5.6. **Persistent** – a person is persistent if he/she refuses to give up or let go of an issue and/or is obstinate and/or continues to raise an issue notwithstanding the Council having reasonably communicated its position to the person in respect of that issue.
- 5.7. **Internal Review of a Council Decision** – when a customer seeks a review of a decision made by the Council, an employee of the Council, or persons acting on behalf of the Council. These are dealt with in Council's "Internal Review of Council Decisions Policy".
- 5.8. **Unreasonable complainant conduct** is any behaviour by a current or former complainant which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the parties to a complaint. Unreasonable complaint conduct is discussed in greater detail under clause 6.12.
- 5.9. A **Vexatious** complaint is a complaint that is made to harass, annoy, delay or cause detriment or trouble to the Council or a third party. A complaint may be considered vexatious if:
  - 5.9.1 it comprises false allegations and cannot possibly succeed;
  - 5.9.2 there is an absence of any reasonable grounds for lodging the complaint; or

- 5.9.3 the complainant does not have sufficient interest in the matters subject of the complaint.

## **6. Policy Content**

### 6.1 Objectives and Application

- 6.1.1. The objective of this policy is to establish clear guidelines and procedures for handling complaints in the interests of improving service delivery and to:
  - 6.1.2. improve customer service through effective management of complaints;
  - 6.1.3. facilitate the resolution of complaints in a timely manner;
  - 6.1.4. ensure that a complainant understands what the Council can and cannot do and, will and will not do;
  - 6.1.5. ensure resolution processes in relation to complaints are equitable, transparent and accountable;
  - 6.1.6. require all complaints to be recorded in the Council's Electronic Records System to enable tracking and effective response;
  - 6.1.7. prevent the Council's limited resources being utilised towards malicious, frivolous, unreasonable, persistent or vexatious complaints;
  - 6.1.8. outline the considerations to be taken into account in determining whether a complaint is frivolous, malicious or vexatious; and
  - 6.1.9. define what constitutes unreasonable complainant conduct, to outline the options available to Council to manage unreasonable complainant conduct and the circumstances in which it is appropriate to implement these options.

### 6.2. This policy applies to complaints made to the Council except for complaints involving the following issues:

- 6.2.1. complaints related to competitive neutrality;
- 6.2.2. allegations of a breach of conflict of interest obligations by an elected member or employee – refer to the Code of Conduct for Council Employees and the Code of Conduct for Council Members;
- 6.2.3. access to information – refer to the Council's Freedom of Information (FOI) procedures;
- 6.2.4. internal staff complaints – refer to various human resources policies; and
- 6.2.5. any matters before a Court, Tribunal, South Australia Police, a Minister of the Crown, a South Australian or Federal Government department, or the South Australian Ombudsman.

- 6.3. The Council has certain obligations under Work, Health and Safety legislation to provide a safe working environment. Council is mindful of the stress that dealing with difficult complainants can place on Council staff.
- 6.4. Management will always provide support to staff when dealing with difficult complainants.
- 6.5. Nothing in this policy is intended to prevent a person from lodging a complaint with an external authority (i.e. such as SAPOL, the OPI, the Office of Local Government or the Ombudsman).
- 6.6. Lodging Complaints
- 6.6.1. Subject to any written direction to a complainant made in accordance with this policy, complaints or concerns may be lodged with the Council in the following ways:
- a) in writing by letter sent to PO Box 9, Yankalilla SA 5203;
  - b) verbally to Council staff; or
  - c) by email [council@yankalilla.sa.gov.au](mailto:council@yankalilla.sa.gov.au) or facsimile.
- 6.6.2. In some cases it may not be possible for the Council to progress a verbal complaint until the complainant has particularised his/her concerns in writing. If this is the case, the complainant will be advised accordingly.
- 6.6.3. If it is obvious from a complaint that the complainant is seeking a review of a decision of the Council the matter will be managed in accordance with Council's Internal Review of Council Decisions Policy. This Policy is available on Council's website: [www.yankalilla.sa.gov.au](http://www.yankalilla.sa.gov.au)
- 6.6.4. Where the complaint relates to the conduct or behaviour of a staff member, it will be handled by the Chief Executive and may trigger action under the Code of Conduct for Employees. If the complaint relates to the conduct of the Chief Executive it must be directed to the Mayor.
- 6.6.5. A complaint that relates to the conduct of an elected member must be made to the Mayor (or the Deputy Mayor if the complaint relates to the Mayor) and, will be managed by the Mayor (or Deputy Mayor as the case may be) with appropriate support from the Chief Executive as necessary in accordance with the Code of Conduct for Council Members.
- 6.7. Acknowledgement of Complaint
- 6.7.1. Receipt of all complaints will be acknowledged within 2 working days.
- 6.7.2. The staff member responsible for managing the complaint will keep the complainant advised of the status of the complaint and any ensuing investigation process. Wherever possible, the complainant will be advised of the likely timeframe within which complaint will be determined.

## 6.8. Anonymous Complaints

- 6.8.1. If the complainant is anonymous, the complaint will not be progressed unless it is accompanied by sufficient information to enable the complaint to be investigated and/or sufficient evidence to substantiate the allegations therein.
- 6.8.2. If the complainant is unknown, the Council will not be in a position to advise him/her of the progress or the outcome of his/her complaint.

## 6.9. Record of Complaints

A record of all complaints received by the Council will be made in the Council's Electronic Records System.

## 6.10. Confidentiality

- 6.10.1. The Council will ensure that confidentiality is maintained in respect of complaints it receives wherever appropriate and possible.
- 6.10.2. Complaints that are considered by the Council may be considered in confidence subject to the Council being satisfied that there are grounds for confidentiality under section 90(3) of the *Local Government Act 1999* that should, in the circumstances, be utilised by the Council.

## 6.11. Complaints of a Serious Nature

- 6.11.1. Any complaint that alleges serious or systematic misconduct or maladministration and/or corrupt conduct will be referred to the Office for Public Integrity without further consideration by the Council.
- 6.11.2. Complainants may be entitled to protection under the *Whistleblowers Protection Act 1993*. Further information is contained in the Council's Whistleblowers Protection Policy can be found online at Council's website.

## 6.12. Unreasonable Complainant conduct

- 6.12.1. Occasionally a complainant may engage in unreasonable complainant conduct.
- 6.12.2. A complainant's conduct is unreasonable if it has unacceptable consequences for the Council, the Council officers who may be involved in managing his/her complaint(s) and/or any other person.
- 6.12.3. **Unreasonable complainant conduct** includes, but is not limited to:
  - a) *Using unreasonable persistence* by:
    - persisting with a complaint with the Council even though it has been comprehensively considered by the Council and the Council has notified the complainant of and provided reasons for its position in respect of that complaint; and/or
    - even where all avenues of internal review have been exhausted, showing an inability to accept the Council's decision in respect of the complaint;

- b) *Using unreasonable demands* by insisting on outcomes that are unattainable, (e.g. demanding outcomes that are beyond the Council's power to deliver and/or demanding unreasonable outcomes that the Council is not in a position to deliver). Other examples include insisting on a 'moral' outcome, (e.g. Justice in the community interest, when really a personal interest is at stake) and demanding an apology and/or compensation when no reasonable basis for expecting such an outcome exists;
  
- c) *Using unreasonable arguments* including making irrational assertions that are not based on fact and/or insisting that a particular solution is the only correct one, without consideration for valid contrary or alternative arguments.
  
- d) *Using unreasonable behaviour* including:
  - confrontational behaviour that shows a lack of respect for others and otherwise constitutes rude and/or aggressive conduct;
  - making threats (whether implied or express) or including inappropriate, offensive, or abusive content in or associated with a complaint;
  - continuing with a complaint which is not supported by any evidence and is unsubstantiated;
  - making a frivolous or vexatious complaint or a complaint about a matter that is beyond the Council's jurisdiction or outside of the Council's control;
  - otherwise making excessive demands on Council's resources, including by making frequent and numerous complaints to the Council that are suggestive of a compulsive course of conduct that is, objectively, without basis other than to complain and consume resources; or
  - alleging bias and/or corruption on the part of the Council in connection with his/her complaint to third parties simply because the Council's decision was not what the complainant desired or expected.
  
- e) *Using unreasonable lack of cooperation* including by:
  - sending excessive amounts of correspondence and large quantities of information which is not organised, sorted, classified or summarised, where the complainant is clearly capable of doing this;
  - displaying unhelpful behaviours (e.g. withholding information, acting dishonestly, misquoting others);
  - refusing to define the issue(s) subject of his/her complaint; and
  - remaining resistant to any reasonable explanation that counters the complainant's views.

- 6.12.4. Unreasonable complainant conduct does not arise if a complainant makes a complaint to an external authority.
- 6.12.5. Where the Council determines that a complainant has engaged in unreasonable complainant conduct the Council may choose to deal with the complainant in accordance with this policy.

## **7. Procedure for Managing Malicious, Frivolous, and/or Vexatious Complaints**

- 7.1. If Council or the Chief Executive determines that a complaint is malicious, frivolous, or vexatious, this is grounds to dismiss the complaint and not take any further action in relation to it.
- 7.2. A determination that a complaint is malicious, frivolous and/or unreasonable, must take into account:
  - 7.2.1. any similar complaints previously made by the complainant (i.e. about the same subject matter);
  - 7.2.2. the response and outcome to previous complaints made by the complainant (if any);
  - 7.2.3. whether the complaint has merit and/or is capable of being substantiated based on the information provided;
  - 7.2.4. the outcomes sought by the complainant;
  - 7.2.5. the resources required to address the complaint (to ensure that it is not an unreasonable diversion of public resources); and
- 7.3. A decision to take no further action in respect of a complaint that is malicious, frivolous, and/or unreasonable will be communicated to the complainant in writing.

## **8. Dealing with Unreasonable Complainant Conduct**

- 8.1. The Council is entitled to expect that members of the public who have a complaint will behave in an acceptable manner that demonstrates respect towards Council staff. In certain circumstances the Council may limit communication between the Council and a complainant in relation to complaints. Such limitations may be imposed on a complainant whose behaviour:
  - 8.1.1. constitutes unreasonable complainant conduct; and
  - 8.1.2. gives rise to a risk to the safety and/or welfare of Council staff and/or other persons and/or may reasonably be considered to be an excessive drain on Council resources.
- 8.2. Where the Council imposed limitations on a complainant, the Council will notify the complainant in writing, specifying the limits, and the reasons for their imposition.
- 8.3. The options available to the Council in imposing limitations upon communication for the purposes of managing unreasonable complainant conduct are set out at clause 8.5-8.13 below. In making a decision to pursue one or more of these options in respect of a complainant, the Council (or the Chief Executive as the case may be) will have regard to the following:

- 8.3.1. the number of complaints made to the Council by the complainant and the period within which they have been made:
  - 8.3.2. the nature of and outcome of any previous complaints made by the complainant to the Council;
  - 8.3.3. the costs incurred by the Council (if any) in having addressed the complaints previously made by the complainant;
  - 8.3.4. the principles of equity and procedural fairness; and
  - 8.3.5. any other matters that the Council (or the Chief Executive) deems fit.

8.4. The Council is aware of the legitimate right of members of the public to access Council information under the *Freedom of Information Act 1991*. Any limitations imposed on a complainant under this Policy will not impede these statutory rights.

#### 8.5. ***Requiring communication in writing***

The Council and/or the Chief Executive may:

- 8.5.1. request that a complainant provide all complaints in writing; and/or
- 8.5.2. decline to respond to any further communication from the complainant unless it is in writing.

#### 8.6. ***Not replying to correspondence***

- 8.6.1. Where, following a written response to a complaint, the Council receives further complaints from the same complainant that detail the same or substantially similar matters, the Council may inform the complainant that the Council will not provide a substantive response to any similar complaints.
- 8.6.2. The Council will always notify the complainant of any alternative recourse that may be available to him/her (i.e. such as making a complaint to the Ombudsman).

#### 8.7. ***Unreasonable telephone communication***

- 8.7.1. In some circumstances it may be appropriate for a Council officer to inform a complainant that they will no longer deal with his/her complaints over the telephone, and to terminate the call. This will only be done in exceptional circumstances where the complainant is using unreasonable behaviour as described above.
- 8.7.2. Where a complainant repeatedly telephones a Council employee, or employs insulting, threatening or abusive language, they will be requested to limit their communications to written correspondence. This will be communicated to the complainant in writing.

## 8.8. **Limiting all contact to a nominated person**

- 8.8.1. Where a complainant is making the same or a substantially similar complaint or multiple complaints to numerous Council officers, the Council or the Chief Executive may nominate a particular officer to deal with the complainant.
- 8.8.2. The Council will notify the complainant in writing of the name and contact details of the officer who will respond to his/her complaints, and specify that no other officer will respond to complaints made by the complainant.

## 8.9. **Restrictions Following Repeat Unreasonable Complainant Conduct**

- 8.9.1. In addition to implementing any of the options specified above, where a complainant repeatedly engages in unreasonable complainant conduct the Council may:
  - a) inform the complainant that any further complaints will be acknowledged by the Council without further response unless they detail significant new information or new issues which in the opinion of the Council warrant action; and/or
  - b) restrict the times and days that a complaint may be accepted from a complainant by refusing to respond to any complaint from him/her that is received outside the times and other than in the manner notified to the complainant.
- 8.9.2. This action will only be taken as a last resort; with the decision taken by the Chief Executive after all other avenues have been exhausted, and where the complainant is making unacceptable demands on the Council's complaint handling resources.

## 8.10 **Seeking legal advice**

In some instances it may be appropriate for Council management to seek legal advice with respect to the implications of a suspected malicious, frivolous and/or vexatious complaint and/or regarding unreasonable complainant conduct. A decision to seek legal advice will be made by the Chief Executive.

## 8.11 **Notice Before Action**

Before pursuing action in relation to a complainant under clause 8.12, the Council will write to the complainant to notify him/her of the action that the Council proposes to take and the reasons why and, will invite comments from the complainant within a specified period (that is not less than 7 days) as to why such action should not be taken. The Council will take any relevant comments provided by the complainant into account before determining whether to proceed with the proposed action.

## 8.12 **Review of Action**

- 8.12.1 Where a decision is made to pursue action in relation to a complainant under clause 8.12, the Council will review the appropriateness of any restrictions imposed on the complainant every 12 months.
- 8.12.2 If, following a review, the Council considers that the restrictions imposed on

the complainant are no longer necessary taking into account the complainant's conduct in the 12 months prior the Council will:

8.12.2.1 Revoke the restrictions; and

8.12.2.2 Notify the complainant of its decision in writing accordingly.

### 8.13 **Warning to Complainant**

Following the first occasion that a customer engages in unreasonable complainant conduct, wherever practicable, the Council will:

- 8.13.1 notify the customer (either verbally or in writing, depending on the circumstances) that his/her conduct constitutes unreasonable complainant conduct under this Policy;
- 8.13.2 depending on the circumstances, either provide the Customer with a copy of this Policy or refer him/her to the Policy on the Council's website; and
- 8.13.3 notify the customer either verbally or in writing, depending on the circumstances) that the Council may deal with his/her unreasonable complainant conduct in accordance with this Policy including, in the case of repeat unreasonable complainant conduct, by restricting his/her access to the Council for the purposes of making complaints.