

Wagga Wagga City Council

COMPLAINTS HANDLING POLICY

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RESPONSIBLE MANAGER	Manager Audit, Risk and Governance <u>and Risk</u>		
RESPONSIBLE DIRECTORATE	Governance		
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PART 1: INTRODUCTION

Wagga Wagga City Council provides democratic government through its services and facilities for the benefit of our customers who include residents of Wagga Wagga local government area, local businesses and the many visitors to the area. Customers have the right to expect satisfactory standards of work and good conduct in service delivery.

The performance of the Council might, at times, not be to the satisfaction of customers. In those circumstances the Council is committed to ensuring the opportunity is available to express dissatisfaction through an effective complaints management system and that any complaint received through the system is dealt with courteously, investigated fully and acted on within an appropriate time period.

1.1 Policy Objectives

- To improve Council's operations through responding positively to complaints.
- To facilitate the resolution of that complaint in accordance with the Council's statutory powers and responsibilities.
- To allow audit, monitoring and analysis to take place on complaints related data.
- In the resolution of complaints, to develop community confidence and trust that Council is responsive and caring.

1.2 Scope of Policy

This policy covers the following types of complaint:

- Complaints of a general nature
- Complaints of corrupt conduct, maladministration or misuse of Council resources
- Competitive neutrality complaints
- Complaints that cannot be resolved through normal Council procedures and where the customer expresses a clear desire and intention to lodge a formal complaint
- Unreasonable complainant conduct

The policy does not cover:

- Service requests
- Staff grievances
- Requests for information or explanation of policies or procedures of decisions of Council
- Reports of damaged or faulty infrastructure
- Reports of hazards
- Reports concerning neighbours or neighbouring properties
- Appeals against Council decisions, policies or procedures, unless recorded as complaints about Council's decision-making process
- Complaints under the *Code of Conduct* which are subject to a separate process
- Privacy or Child Protection complaints which are subject to separate processes
- Public Interest Disclosures

1.3 Council's Commitment to Complaints Handling

Council understands the importance of receiving community feedback and will:

- Deal with complaints promptly in accordance with its *Complaints Handling Policy*,
- Seek to resolve complaints at the time they are made,
- Widely publicise its complaints management processes,
- Encourage members of the public dissatisfied with Council's conduct to lodge complaints,
- Ensure that complainants who are dissatisfied with the outcomes of their complaint and remain dissatisfied are offered review by a more senior officer,
- Acknowledge complaints within seven working days including advice about the action taken to resolve the complaint,
- Advise complainants of their right to complain to the Ombudsman, the ICAC or the Department of Local Government
- ~~• Deal with protected disclosures in accordance with its *Protected Disclosures Internal Reporting System*,~~
- Ensure that only the people directly involved in the complaint, or in sorting it out, will have access to information about the complaint,
- ~~• Report in its annual report on the outcome of complaints, using this information to identify and rectify deficiencies in Council services.~~

1.4 Definitions

<i>Complaint</i>	A complaint is any dissatisfaction expressed by an interested party about specific Council decisions, procedures, charges, staff, agents, or quality of service. The complainant defines the complaint.
<u><i>Compliment</i></u>	<u>An expression of praise, commendation or admiration</u>
<i>Formal Complaint</i>	<p>This relates to complaints that cannot be resolved through normal Council procedures and where the customer expresses a clear desire and intention to lodge a complaint.</p> <p>This includes complaints of a serious nature, including complaints relating to competitive neutrality, maladministration, corrupt conduct, or misuse of Council resources.</p> <p>Formal complaints are referred to the Manager Corporate Strategy, Communications & Governance for investigation following Operating Process OPS-003</p>

	<i>Governance Complaints Management</i>
Child Protection Complaint	<p>This is a complaint involving Council staff that contains allegations of children and/or young people being at risk of harm. It covers breaches of the various Acts concerned with Child Protection.</p> <p>Complaints are referred to the Manager People & Culture for investigation and/or reporting following the procedures set out in Council's <i>Child Protection Policy and Procedures</i>.</p>
Competitive Neutrality Complaint	<p>This is a complaint that Council has not met its obligations under the National Competition Policy and has not abided by the spirit of competitive neutrality in the conduct of a Council business.</p> <p>Competitive neutrality complaints are referred to the General Manager and Manager Corporate Strategy, Communications & Governance for investigation following the Operating Process OPS-003 Governance Complaints Management.</p>
Complaint under the Code of Conduct	<p>A complaint about the conduct of a Council official that alleges a breach of Council's Code of Conduct or the Model Code of Conduct for Local Councils in NSW. These complaints relate to breaches of the Code of Conduct.</p> <p>Code of Conduct complaints are made in writing to the General Manager and are dealt with by processes set out in the Guidelines for Dealing with Complaints under the Code of Conduct. Administrative Procedures for the Code of Conduct.</p>
Protected <u>Public Interest Disclosure</u>	<p>This is a complaint made under the Protected Disclosures Act. It covers disclosures relating to corrupt conduct, maladministration or serious and substantial waste of public money, <u>breach of the GIPA Act, Local Government pecuniary interest contravention or other wrongdoing.</u></p> <p>The investigation of <u>public interest protected disclosures</u> follows the Guidelines for Managing Complaints but is subject to additional requirements relating to confidentiality and protection from retribution which are set out in the Protected Disclosure Internal Reporting System. <u>is in accordance with Council's</u></p>

	<u>Public Interest Disclosures Policy.</u>
Privacy Complaint	<p>This is a complaint made under the Privacy and Personal Information Protection Act, 1998. It covers complaints concerning breaches of the Act by Council.</p> <p>The investigation of Privacy complaints is set out in Council's <i>Privacy Policy</i>.</p>

1.5 Relevant Legislation

- Local Government Act 1993
- Independent Commission Against Corruption Act 1988
- Ombudsman Act 1974
- Anti Discrimination Act 1987.
- NSW Government Information (Public Access) Act 2009 (GIPAA)
- Privacy and Personal Information Protection Act NSW 1998 (PPIPA)
- NSW Health Records and Information Privacy Act 2002 (HRIPA)
- Public Interest Disclosures Act 1994

1.6 Related Documents

- Child Protection Policy and Procedures
- [Code of Conduct](#)
- [Administration Procedures for the Code of Conduct](#)
- POL 056 Unreasonable Complainants Contact Policy
- [Guidelines for dealing with Code of Conduct Complaints](#)
- Privacy Policy
- [Protected Public Interest](#) Disclosures Policy
- Practice Note No 9 - Complaints Management in Councils
- Unreasonable Complainant Conduct - Practice Manual 2009 - NSW Ombudsman
- [Complaints Handling Framework](#)
- [Agency Information Guide](#)
- Operating Processes OPS-003 Governance Complaints Management Operating Standard, OPS-011 Customer/Service Complaints Operating Standard and OPS-016 Staff Grievance and Dispute Resolution Operating Standard

PART 2: POLICY CONTENT

2.1 General Provisions

2.1.1 How to Lodge a Complaint

~~Council will respond to complaints no matter how they are lodged. It may be necessary for the Council to request that a complaint be provided in writing should it proceed to the Tier 2 level of handling. Complaints can be made via the following methods.:~~

<u>Methods to Lodge a Complaint with Council</u>	
<u>In Person</u>	<u>At any of Council's Customer Service Centres during normal business hours. Cnr Baylis Street and Morrow Street, Wagga Wagga NSW 2650</u>
<u>Telephone</u>	<u>1300 292 442 or (02) 6926 9100, or chat online with a council representative</u>
<u>Mail</u>	<u>PO Box 20, Wagga Wagga NSW 2650</u>
<u>On-line</u>	<u>Via Council's webpage - www.wagga.nsw.gov.au wagga.nsw.gov.au/city-of-wagga-wagga/council/contact-us/compliments-and-complaints/complaints-form</u>
<u>Email</u>	<u>council@wagga.nsw.gov.au</u>

~~It may be necessary for Council to request that a complaint be provided in writing to ensure accuracy and additional information to assist with a timely review and response.~~

- ~~By mail~~

~~Wagga Wagga City Council
PO Box 20
Wagga Wagga NSW 2650~~

- ~~Email~~

~~council@wagga.nsw.gov.au~~

- ~~In person~~

~~At any of Council's Customer Service Centres during normal business hours. Cnr Baylis Street and Morrow Street, Wagga Wagga NSW 2650~~

~~• **By telephone**~~

~~1300 292 442 or (02) 6926 9100, or chat online with a council representative.~~

~~• **On our website**~~

~~www.wagga.nsw.gov.au~~

2.2 Specific Provisions

2.2.1 Complaints of a General Nature

These complaints ~~may range from simple matters~~ are dissatisfaction involving:

- ~~• a decision that Council has made~~
- ~~• the conduct of a Council employee or a Councillor~~
- ~~• a Council policy or procedure~~
- ~~• the service you received or Council's response after making an enquiry or Service Request~~
- ~~• the timeliness of Council's response to your Service Request~~

~~-rudeness by employees or missed garbage services through to serious matters concerning breaches of Council policies or procedures.~~

2.2.1.1 ~~Complaints Made to Council Staff~~ Complaint Handling Model

The complaint handling ~~process model~~ for Council employees is broken down into three levels:

Level One – First Line Complaint Handling

- All first line staff are responsible for receiving, registering and ensuring the resolution of all straightforward, ~~minor~~ complaints as speedily as possible. They have the authority to resolve problems on the spot. Frontline staff are responsible to keep accurate and timely records in Council's record management system.
- First line staff may refer complaints to their supervisor or the divisional manager if ~~they are unsure and must notify the Governance and Risk division who should attend the problem.~~
- ~~• In the case of Formal Complaints, first line staff shall direct the complaint to the Manager Corporate Strategy, Communications & Governance.~~

Level Two – Internal Review or Investigation

- Where the customer is still dissatisfied, the matter will be referred to a more senior officer within the area of responsibility for review and investigation, with the results of the review reported to the complainant.
- Depending upon the nature of the complaint, they may be referred immediately to the General Manager or their delegate for investigation and a response provided to the complainant. ~~In conjunction with the Assistance may be sought from the Manager, Corporate Strategy, Communications & Governance Governance and Risk., the matter will be investigated and a response provided to the complainant.~~
- If the complainant remains dissatisfied, other options will be considered that may be available to achieve a settlement. This may include conciliation, mediation, or further direct negotiations to remedy the grievance.

Level Three – Independent Review

If the complaint cannot be resolved by Council, the complainant may be referred to an outside agency such as the NSW Ombudsman, the Department of Local Government or to an alternative dispute resolution provider.

Complaints will move from one tier to the next if:

- the complaint is about the staff member's own conduct or the staff member has a real or perceived conflict of interest, and it is not appropriate that they deal with it;
- the complainant requests it;
- the complaint is outside the staff member's delegation or area of expertise;
- a public official is alleged to have committed a criminal offence, acted corruptly or engaged in other serious or controversial conduct.

When a complaint is referred to a senior staff member, the complainant will be advised of the name and contact details of that person.

~~In all cases, if a complaint cannot be resolved within Council, the complainant is offered one of the following alternatives:~~

- ~~An alternative dispute resolution procedure such as mediation;~~
- ~~Referral to an external agency such as the Independent Commission Against Corruption, the NSW Ombudsman or the Director-General of the NSW Department of Local Government.~~

2.2.1.2 Complaints Made to Councillors

Complaints are often made directly to Councillors rather than to Council staff. To facilitate a timely response from the relevant area of Council, it is desirable that the Councillor ~~In order for the above processes to be followed, Councillors are requested to~~ ask the complainant whether they have previously made the complaint to Council staff and advise ~~. If not, please ask~~ them to contact Council's Customer Services staff so that relevant details can be logged and action taken in accordance with Council's policy.

- ~~• Log the complaint on a Request Form and refer it to the General Manager.~~

~~A report will be made to the respective Councillor regarding action taken on the complaint.~~

2.2.1.3 Responsiveness to Complaints

Complaints will be dealt with quickly, courteously, fairly and within established timelines.

Complainants will be advised of how long it will take to deal with the complaint in accordance with the Council's complaint handling timelines and will be kept informed of the progress. If additional time is required to investigate and resolve the issues the complainant will be kept informed and advised of the additional time required and the reasons for the delay.

Council on receipt of a complaint will provide the complainant with:

- An acknowledgement of receipt of the complaint
- A response within five business days
- A complaint ID that can be monitored through Council's eServices

Council delivers a wide range of services and consequently the type of complaints ~~we received~~ also varies widely. Many complaints can be resolved quickly and easily ~~. on the spot~~. Other complaints will have complex issues which require investigation. Council aim to resolve your complaint within 14 ~~working business~~ days. If resolution cannot be reached within 14 ~~working business~~ days you will be kept informed of Council's progress and be provided with:

- the name of the person responsible for resolving the complaint
- the estimated length of time it may take to resolve your complaint
- a timeframe for when you can expect to receive an update from us

~~2.2.1.4 Making Restitution~~

Where Council considers a complaint is justified, the next step is to determine an appropriate response. Depending on the complaint, an investigation may lead to one or more of a range of possible outcomes, including:

~~An important part of Complaint Management is ensuring that if a complaint is found to be correct then some form of restitution is made to the complainant. Making restitution is a way of acknowledging that a wrong has been done and that it is regretted.~~

~~There are various ways of making restitution:~~

- an explanation;
- an apology;
- mediation;
- a change in decision, procedure or practice;
- a correction of misleading records;
- financial compensation, including a refund of a fee;
- the remission of a penalty;
- referral to an external agency for further investigation.

2.2.1.4 Confidentiality

~~Council will protect the identity of people making complaints where this is practical and appropriate.~~

~~Personal information that identifies individuals will only be disclosed or used by the Council as permitted under the relevant privacy laws, secrecy provisions and any relevant confidentiality obligations.~~

~~Council will treat all complaints in a confidential manner. Council will use the complainant's name and contact details only for the purposes of communicating with them on the matter raised.~~

~~All personal and health information collected by Council in connection with a complaint will be handled in accordance with all applicable privacy laws and will only be used for the purpose of investigating the complaint.~~

2.2.1.5 Anonymous Complaints

Complaints are often made by an anonymous complainant. Council will review anonymous complaints, however, it can be very difficult to resolve complaints of this nature, or to enforce legislation, without the ability to thoroughly investigate and gather evidence and additional information.

Action is taken on anonymous complaints as far as it is possible to do so without being able to consult with the complainant. If there is sufficient information in the complaint, a review of the complaint will be conducted.

~~2.2.1.6 Natural Justice and Fairness~~

~~Complaints received will be handled in accordance with the principles of natural justice. Complaints will be responded to equitably and without bias. All parties involved have the right to seek review of the complaint determination.~~

2.3 Difficult Complainants

While the majority of customers have legitimate concerns and genuinely seek resolution, a small proportion of customers demonstrate unreasonable concerns and unreasonable and uncooperative behaviour.

Unreasonable Complainant Contact is any behaviour by a customer which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the Council, staff, other service users and customers or the customer himself / herself.

When customers behave unreasonably in their dealings with staff, their conduct can significantly affect the Council's performance and may pose risk to the health and wellbeing of staff. Because of this, the Council will take immediate action to manage customer conduct that negatively and unreasonably affects the organisation, and support staff to do the same.

In such cases, Council will manage unreasonable complainant conduct in accordance with its *Unreasonable Complainant Contact Policy POL 056*.

~~There may be occasions where the complainant's actions or motivations are unacceptable. We recognise that staff have rights that must be respected when dealing with aggressive or vexatious complaints.~~

~~Many complainants are angry and aggrieved, sometimes with good cause. Most behave in legitimate ways. A very small minority make complaints that are vexatious, in that they persist unreasonably with their complaints, or make complaints in order to make it difficult for the Council rather than genuinely to resolve a grievance. This may involve making serial complaints about different matters, or continuing to raise the same or similar matters over and over again.~~

~~In such cases, Council will manage unreasonable complainant conduct in accordance with its *Unreasonable Complainant Contact Policy POL 056*.~~

2.4 Monitoring and Reporting on Trends

All complaints are entered into the Council's record management system to allow Council to report and analyse trends. Specifically Council will be looking to see whether issues are systemic or recurring to allow improvement in Council's processes and reduce future complaints.

Council collects data regarding complaints and analyses it to guide business improvement. Recurring or system-wide problems are identified and the action or service of Council that has been the source of the complaints is addressed. This may be through corrective and preventative actions and innovative improvements.

There are periodic audits of the complaints handling system and appropriate action plans formulated to address any deficiencies.

2.42.5 **Statutory Complaint Handling Procedures**

Council's statutory obligations to refer complaints to external agencies

There are a number of accountability/complaint bodies established by the NSW Government that receive and investigate complaints:

The Independent Commission Against Corruption (ICAC)

Under section 11 of the *Independent Commission Against Corruption Act 1988*, a general manager of a council has a duty to report to ICAC any matter he or she suspects on reasonable grounds concerns or may concern corrupt conduct.

The Office of Local Government

The Office of Local Government investigate pecuniary interest matters, political donations disclosure matters, councillor misbehaviour and protected disclosures relating to serious and substantial waste. The Office also deals with complaints that indicate a serious breakdown in council operations or serious flaws in council processes.

The NSW Ombudsman

The NSW Ombudsman has jurisdiction to investigate complaints alleging maladministration by councils, Councillors and council staff.

Information and Privacy Commission

The Information and Privacy Commission can investigate and review council determinations made under NSW Privacy legislation. You can make a complaint to the Information Commission about the way council acts (or fails to act) when exercising its functions under the GIPA Act.

NSW Small Business Commissioner

The NSW Small Business Commissioner is an independent statutory officer. The role of the Office of the Small Business Commissioner in helping small businesses is laid out in the Small Business Commissioner Act, 2013. The Office offers a service to help small business talk to Councils about their problems, and work towards a solution through negotiation, communication and mediation, rather than litigation.

2.52.6 Councils' Statutory Complaint Handling Obligations

Complaints under the Code of Conduct

Council has a Code of Conduct applicable to Councillors, staff and delegates of Council. Complaints relating to alleged breaches of the Code of Conduct by a Councillor, member of staff or delegate of the Council must be dealt with in accordance with the procedures prescribed under the Code of Conduct.

All Council staff receive training in relation to their obligations and responsibilities under the Code of Conduct.

Complaints about privacy breaches

Council is a public sector agency for the purposes of the Privacy and Personal Information Protection Act 1998 (PPIPA). Under that Act, a person may seek an internal review by a council of the following conduct:

- a breach of any information protection principles applying to the council
- a breach of the Privacy Code of Practice for Local Government
- disclosure of personal information held on a public register in a manner inconsistent with that permitted under the Privacy Code of Practice for Local Government
- a breach of a health privacy principle under the Health Records and Information Privacy Act 2002 (HRIPA) that applies to the council
- a breach of a health privacy code of practice that applies to the council.
- Council is obliged to notify the Privacy Commissioner of internal reviews and report their findings.

Competitive neutrality complaints

Competitive neutrality seeks to ensure that competition between public and private businesses happens on a fair basis. Competitive neutrality requires that public sector business activities which are in competition with the private sector should not have

competitive advantages or disadvantages simply by virtue of their government ownership or control.

Under the principles of national competition policy, all levels of government must establish an effective system to deal with complaints relating to competitive neutrality in respect of their business. Complaints regarding competitive neutrality must be referred to the Manager ~~Corporate Strategy, Communications and Governance~~ Governance and Risk.

2.62.7 Other appeal mechanisms

Where rights of appeal to outside tribunals or other legal remedies exist, dissatisfied complainants should be advised of these avenues of redress after all others have been exhausted.