

Policy Owner	Governance Coordinator
Department	Office of the Chief Operating Officer
Date adopted/endorsed	16 January 2024
Resolution number (if applicable)	23/324OC
Next review due	January 2025
TRIM reference	23/114846

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Policy statement / Objectives

Kiama Municipal Council is committed to ensuring that all feedback received by Council is addressed promptly and fairly through a transparent and consistent process.

The objectives of the policy are to:

- Recognise the customers right to raise concerns about their dealings with Council;
- Provide a clear and transparent process for the lodgement and management of compliments and complaints;
- Improve public confidence that complaints will be dealt with and that relevant legislation, regulations and Council policies, including the Code of Conduct, will be enforced;
- Outline the reporting mechanisms where complaint handling statistics will be made publicly available; and
- Facilitate continuous improvement of Council’s services.

Council’s complaints management framework is underpinned by the following principles:

- **Accessibility:** The process for the community to lodge a complaint and the investigative process are easy to access and understand. There is no charge to lodge a complaint.
- **Accountability:** Provide transparency for public scrutiny into the Council complaint management framework to allow reporting to management and annual reporting. Accountabilities for complaint handling are clearly defined and documented within this policy.
- **Confidentiality:** Confidentiality to be accorded to complainants and how complaints should be considered to ensure confidentiality is maintained. In particular, personally identifiable information about any individual should only be disclosed or used in compliance with all relevant privacy laws and ethical obligations.
- **Continuous improvement:** Complaint feedback and complaint statistics are reviewed and utilised for improvements to service delivery, to identify systemic issues and to enhance public confidence that complaints will be addressed and that the relevant legislation, regulations and policies, including the Code of Conduct, will be applied.
- **No detriment:** We will take all reasonable steps to ensure that people making complaints are not adversely affected because a complaint has been made by them or on their behalf.

- Objectivity and fairness: Complaint processes are open, transparent, and objective with fair and reasonable outcomes.
- Responsiveness: Complaints are acknowledged, assessed and resolved within the specified service standard.
- Review: There are internal and external complaint decision review avenues, which are notified to complainants.
- Solutions focused: Staff will consider complaints, make enquires where necessary, talking with the complainants in seeking resolutions at the first opportunity.

Scope

This policy applies to all Council officials receiving or managing complaints from the public made to or about us, regarding our services, practices, procedures, products, systems and complaint handling.

Due to legislative or policy requirements, certain types of complaints may need to be handled in a particular manner that will be referred to, but not fully detailed in this policy.

References

- Local Government Act 1993
- Privacy and Personal Information Protection Act 1998
- Independent Commission Against Corruption Act 1988
- Ombudsman Act 1974
- Children's Guardian Act 2019
- Public Interest Disclosures Act 2022
- Government Information (Public Access) Act 2009
- Children and Young Persons (Care and Protection) Act 1998
- Child Protection (Working with Children) Act 2012
- Health Records and Information Privacy Act 2002
- Aged Care Act 1997
- Retirement Villages Act 1999
- Retirement Villages Amendment Act 2020
- NSW Ombudsman Effective Complaint Handling Guidelines (3rd Ed – Feb2017)
- Local Government State Award 2023
- Royal Commission into Institutional Responses to Child Sexual Abuse Final Report

Council Policies:

- Blue Haven Retirement Villages Complaint Handling Process
- Code of Conduct for Councillors
- Code of Conduct – Council staff, Contractors & Volunteers
- Code of conduct for A ged Care
- Procedures for the Administration of the Code of Conduct
- Public Interest Disclosure Policy
- Unreasonable Complainant Conduct Policy

- Child Safe Policy
- Child Safe Behavioural Standards
- Privacy Management Plan
- Mandatory Notification Data Breach Policy
- Grievances Policy

Consultations

- Employees and Councillors
- Community
- Office of Children’s Guardian
- NSW Ombudsman
- Office of Local Government
- Aged Care Quality and Safety Commission

Definitions

Term	Definition
Child	A person who is under the age of sixteen (16) years.
Complaint	<p>A complaint is an expression of dissatisfaction with the level or quality of service provided by Council. This includes dissatisfaction with:</p> <ul style="list-style-type: none"> • the outcome of a decision; • any delay in a Council’s decision/action; • the level or quality of service; • the failure to adhere to a policy or procedure; and/or • or, the behaviour of an employee or agent of Council, which can be investigated and acted upon. <p>A complaint is not a routine service request (defined below) for action or an enquiry about the progress of a matter.</p>
Complaint Management Framework	All policies, procedures, practices and staff council uses in the management of complaints.
Dispute	An unresolved complaint escalated either within or outside of Council.
Feedback	Opinions, comments and expressions of interest or concern, made directly or indirectly, explicitly or implicitly, to or about us, about our products, services or complaint handling where a response is not explicitly or implicitly expected or legally required.
Frivolous Complaint	Frivolous complaints are complaints deemed to be trivial or unreasonable in nature, typically made with the intent of causing a nuisance.
Grievance	A clear, formal written statement by an individual staff member about another staff member or a work-related problem.
Policy	A statement of instruction that sets out how we should fulfil our vision, mission and goals.

Term	Definition
Procedure	A statement or instruction that sets out how our policies will be implemented and by whom.
Public Interest Disclosure	A report about wrongdoing made by a public official in NSW that meets the requirements of the Public Interest Disclosures Act 2022.
Service request	The definition of a service request is likely to include: <ul style="list-style-type: none"> • requests for approval; • requests for action; • routine inquiries about Council's business; • requests for the provision of services and assistance; and/or • requests for explanation of policies, procedures and decisions.
Unreasonable complainant conduct	Unreasonable complainant conduct can be defined as 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.
Vexatious complaints	Vexatious complaints are complaints received without sufficient grounds, aiming to cause annoyance or harm to the subject of the complaint.
Young person	A person who is aged sixteen (16) years or above but who is under the age of eighteen (18) years.

Variation and review

Council reserves the right to review, vary or revoke this policy.

Review history

Date reviewed	Date adopted/endorsed	Brief detail of amendments
	July 2006	Policy adopted
December 2004	14 December 2004	Policy reviewed
October 2023	16 January 2024	New Policy template Addition of triage approach Addition of response timeframes Clarity of service requests Addition of grievance, PID, code of conduct, child safe process reference Addition of Unreasonable Complainant Conduct Policy reference.

POLICY

1. Types of complaints

1.1. What is a Complaint?

A complaint is an expression of dissatisfaction with Council's:

- decisions;
- policies;
- procedures;
- fees or charges;
- employees;
- agents (including contractors and volunteers);
- level or quality of services provided (including facilities provided or goods sold); and/or
- failure to respond to a previous request for service.

1.2. What is not a complaint?

The following are not considered to be complaints (unless it is an expression of dissatisfaction that a previous request has not been responded to):

- a request for Council services;
- a request for documents, information or an explanation of policies or procedures;
- neighbourhood disputes or requests for Council to exercise a regulatory function including reports about neighbours, noise, dogs, unauthorised building work, or other regulatory function;
- the lodging of a submission, appeal or objection in accordance with a statutory process, standard procedure or policy (unless it is recorded as a complaint about the Council's decision making);
- reports of damaged or faulty infrastructure;
- an expression of disagreement with a lawfully made decision; and/or
- an expression concerning the general direction or performance of Council's elected representatives.

1.3. Frivolous or vexatious complaints

Frivolous complaints are complaints that are considered to be trivial or senseless. Frivolous complaints are usually made with the intention of causing a nuisance. Similarly, vexatious complaints are complaints that are made without sufficient grounds only to cause annoyance or harm to the subject of the complaint.

Council acknowledges that most complaints are not frivolous or vexatious and are made in good faith. However, occasionally Council may receive complaints that it deems to be frivolous or vexatious. Council may determine not to investigate frivolous or vexatious complaints.

Determining whether a complaint is frivolous or vexatious involves a judgement call that is based on the nature of the complaint and any supporting information. A determination that a complaint is frivolous or vexatious can be made by the Chief Executive Officer, a Director or the Public Officer.

1.4. Unreasonable and persistent complaints

In rare circumstances Council may be required to deal with difficult customer behaviour amounting to unreasonable or persistent complaints. In those circumstances, Council may deal with the complaint in accordance with Council's Unreasonable Complainant Conduct Policy.

1.5. Complaints that will not be investigated

Council may decide that a complaint will not be investigated in circumstances where the complaint:

- is considered frivolous, vexatious or not made in good faith;
- is considered to be an unreasonable or persistent complaint that is being dealt with in accordance with Council's Unreasonable Complainant Conduct Policy;
- is a second request for service within a reasonable service level timeframe;
- involves a matter where an adequate remedy or right of appeal exists;
- is a matter that is subject to existing mediation processes;
- relates to a matter awaiting determination by the Council;
- relates to a matter before a court or tribunal;
- relates to the appointment or dismissal of an employee, or an industrial or disciplinary issue; and/or
- involves threats against Council or its staff.

Should Council decide not to investigate a complaint, the complainant will be advised of the reason for the decision. A determination that a complaint will not be investigated can be made by the Chief Executive Officer, a Director or the Public Officer or relevant Manager.

2. Responsibilities

All Council Officers are responsible for complaint management and are required to comply with the provisions of this policy. All Council Officers are required to respond to complaints in a courteous, fair, timely and confidential manner, and in accordance with the service standards outlined in this policy. Specific complaint management responsibilities are assigned below and may be altered at the discretion of the Chief Executive Officer,

2.1. Councillors

Councillors have a responsibility to accept complaints and ensure the matter is referred to Council's Officers as soon as practicable after receiving the complaint. Generally, Councillors are to refer complaints to Council's Officers via council mailbox. Councillors may also choose to speak directly with the Chief Executive Officer about complaints they receive.

2.2. Chief Executive Officer

The Chief Executive Officer has a leadership role in the management of complaints, they may allocate responsibility for particular complaints as deemed necessary. The Chief Executive Officer and is responsible for:

- accepting complaints;
- reporting publicly on Council's complaint handling;
- provide adequate support and direction to key staff responsible for handling complaints; and
- regularly review reports about complaint trends and issues arising from complaints. Encourage all staff to be alert to complaints and assist those responsible for handling complaints resolve them promptly.

2.3. Public Officer

The Public Officer is responsible for:

- accepting complaints;
- investigating complaints and deciding on appropriate outcomes and remedies;
- conducting internal reviews of complaints referred to the Public Officer;
- Encourage all staff to be alert to complaints and assist those responsible for handling complaints resolve them promptly; and/or
- administering and overseeing the performance of this policy.

2.4. Directors and Senior Staff

Directors and Senior staff are responsible for:

- accepting complaints;
- investigating complaints and deciding on appropriate outcomes and remedies;
- investigating and resolving complaints received about Managers; and/or
- investigating and resolving complaints referred to them for review.

2.5. Managers and Supervisors

Managers and Supervisors are responsible for:

- assisting people to make complaints, if needed;
- complying with this policy and associated procedures;
- accepting complaints, escalate as required; and/or
- investigating complaints and deciding on appropriate outcomes and remedies.

2.6. All employees

All employees are to treat all people with respect, including people who make complaints. Employees should assist with making complaints if required, and make attempts to resolve complaints to the satisfaction of Council and customers. If a complaint cannot be resolved, or if requested by the customer, Council Officers are required to record and refer complaints to their Supervisor or Manager.

3. Making complaints

Council will respond to complaints whether they are provided in writing or verbally. Written complaints are preferred as they assist with the efficient administration, investigation and resolution of customer concerns. When lodging a complaint, customers should include details such as their name, address, contact number, a brief description of the complaint and supporting information if available.

3.1. Assistance in making a complaint

Council's officers will help customers lodge complaints where necessary. This may include providing reasonable assistance to put a complaint in writing or arranging a language aid if required. If a customer is unable to write a complaint and a staff member is unable to assist the customer in writing the complaint, staff should accept the complaint verbally and make a record of the complaint. In situations where a customer needs the assistance of a staff member to put a complaint in writing, customers are encouraged to make an appointment with the relevant staff member.

3.2. How to make complaints

Complaints can be made via:

- posted to: PO Box 75 KIAMA NSW 2533

- in person to: 11 Manning Street, Kiama NSW 2533
- by phone: (02) 4232 0444
- emailed to: council@kiama.nsw.gov.au
- online: www.kiama.nsw.gov.au/Contact-us

3.3. Consent of complainant

Complaints will generally not be accepted unless there is consent from the complainant. A complaint made on behalf of another person should be accompanied by the confirmation from the claimant consents to the disclosure of their complaint.

3.4. Anonymous complaints

Council will record anonymous complaints and act when there is sufficient information provided at the time the complaint is lodged. Council may be unable to validate a complaint or may seek further information to progress a complaint when the source of the complaint is unknown. Anonymous complaints therefore may not be investigated.. A decision not to investigate an anonymous complaint can be made by the Chief Executive Officer, Director, Public Officer or relevant Manager.

3.5. Withdrawal of complaint

Requests for the withdrawal of a complaint should be made in writing.

Council may continue investigate issues raised in the complaint even where the complainant has requested that the complaint be withdrawn where they involve issues of discrimination, serious safety breach or if is in the public interest to continue the investigation.

3.6. Remedies

Customers who lodge a complaint are invited to identify what action they would like to see taken to resolve their complaint. Council will consider the customer's request when investigating the complaint. However, it may not always be possible or appropriate for Council to take the requested action.

Remedies that might be available could include:

- an apology by Council where Council has made a mistake or where the actions of a Council Officer has caused offence;
- provision of the requested service;
- provision of more information about Council's policies or decision making processes, and/or regular updates;
- clarification of Council's position on the matter;
- a refund of overcharged or incorrectly charged monies;
- a commitment to investigate, review and/or recommend changes to Council policies or practices; and/or
- a recommendation to refer the complaint to an external body (where Council cannot resolve the matter to the satisfaction of the complainant).

4. Complaints handling

4.1. Receipt of complaint

Complaints will be recorded onto Councils Complaints register within three (3) days. Complaints files are given a confidential classification.

The Public Officer or Chief Executive Officer will assess the level of the complaint and determine the appropriate level of action.

The designated person assessing the complaint will send a written acknowledgement to the complainant within ten (10) working days of receipt.

4.2. Triage of complaint

Due to legislative or policy requirements, certain complaint types may need to be handled in a specific way. This may include, but are not limited, to the following complaint types, which are generally managed in accordance with another Council Policy, or referred to another agency:

- Criminal matters (NSW Police);
- Alleged corrupt conduct (Independent Commission Against Corruption);
- Public interest disclosures (Public Interest Disclosure Policy);
- Code of Conduct complaints (Procedures for the Administration for the Code of Conduct);
- Complaints regarding the Chief Executive Officer or Councillors (Procedures for the Administration for the Code of Conduct);
- Complaints and allegations against staff involving a child or young person (Child Safe Policy); and/or
- Competitive neutrality matters (TBC).

Complaints regarding the Chief Executive Officer will be referred in the first instance to the Mayor

In the first instance of receipt, the complaint will be triaged using a three-tiered approach to handling complaints as described below.

4.2.1. TIER 1 – Frontline complaint handling

- Attempted resolution by frontline staff; or
- The appropriate Manager leads the investigation.

Council's Officers will aim to address complaints at the first point of contact wherever possible. Frontline complaint handling involves:

Customers are encouraged to make their complaint to the Council Officer who provided the original service or who had previously dealt with their issue. This is more likely to result in a speedy resolution to the complaint.

If a customer is uncomfortable dealing with the original Council Officer or if the complaint is about the Officer who provided the service, the customer may choose to lodge their complaint with an alternative Officer (preferably in writing).

If a Council Officer receives a complaint about their own actions or level of service, the Officer must refer the complaint to their immediate supervisor.

When dealing with complaints Council Officers need to ensure that they operate within the scope of their position and delegated authority.

4.2.2. TIER 2 – Internal review

- Attempted resolution by the appropriate Manager or Director; or
- Escalation to Director, Public Officer or Chief Executive Officer to lead investigation.

It is appropriate for most complaints to be resolved by frontline staff. However, where a customer is unsatisfied with the original decision or the level of service provided, the customer may request a review of their complaint by a more senior Officer. For operational complaints, they will generally be escalated to the relevant Director.

Wherever possible, Second Tier complaints should be made in writing and include reasons as to why the customer is unhappy with the earlier decision or service.

If a customer is unsatisfied with the review process or with the actions of the reviewing Officer, the complaint can be re-submitted to the relevant Director, the Public Officer or the Chief Executive Officer for further investigation.

4.2.3. TIER 3 – External review

In some cases the customer may not be satisfied with the outcomes of Council's internal review or conciliation processes. If that is the case, Council's officers will advise the customer of external review options such as:

- the NSW Ombudsman;
- the NSW Office Of Local Government; and
- the Independent Commission Against Corruption (ICAC).

In some situations there may be legal remedies available to customers. Should that be the case customers are encouraged to obtain independent legal advice

4.3. Complaints Assessment Criteria

When investigating a complaint the investigator may take into account the following considerations:

- whether the complaint is trivial, frivolous, vexatious or not made in good faith;
- whether the complaint raises issues that would be more appropriately dealt with by another agency or body;
- whether the complaint should be dealt with under alternate policies/procedures;
- use of appropriate strategies such as explanation, counselling, training, informal discussion, negotiation or apology;
- whether the issue/s giving rise to the complaint have previously been addressed or resolved;
- the seriousness of the alleged complaint; and/or
- how much time has passed since the alleged matter occurred.

4.4. Confidentiality

Council will manage any complaints in a confidential manner

During the process of triage assessment, complaints criteria assessment and preliminary fact finding, the subject person of a complaint will not be notified.

Where an investigation is determined as appropriate, the investigator will inform the subject person at the appropriate stage of the investigation in line with procedural fairness.

4.5. Addressing complaints

After assessing the complaint, we will consider how to manage it. To manage a complaint we may:

- give the person information or an explanation;
- gather information from the person or area that the complaint is about; or
- investigate the claims made in the complaint.

We will keep the person making the complaint up to date on our progress particularly if there are any delays. We will also communicate the outcome of the complaint using the most appropriate medium. Which actions we decide to take will be tailored to each case and take into account any statutory requirements.

Council will aim to ensure that complaints are resolved within fifteen (15) business days. Where the nature of the complaint requires investigation or a more complex response, the complainant will be advised within the fifteen (15) business day timeframe of the anticipated timeframe for response and the Council officer who will be their direct contact during the process.

All complaints will receive a final response in writing. The letter will detail where relevant:

- the outcome of the complaint and any action we took;
- the reason/s for our decision;
- the remedy or resolution/s that we have proposed or put in place; and/or
- any options for review that may be available to the complainant, such as an internal review, external review or appeal.

The finalised outcome will be recorded on council complaints register.

5. Monitoring and reporting

The Public Officer is responsible for monitoring the complaints management framework and internal and external reporting on Council's complaints management performance.

Monitoring may include the use of audits, complaint satisfaction surveys and online listening tools and alerts.

Complaint detail remains confidential, therefore generally, assessment reports will include the following information:

- a description of the general nature of complaints received;
- the average complaint resolution time;
- a description of any significant issues arising out of complaints;
- a description of actions taken to address and resolve complaints;
- details of complaints resolved outside of the required timeframes; and
- feedback from customers where appropriate.

Related forms / Documents

Nil.

Attachments

Nil.

Authorisation

Name: By Council Minute 23/324OC from the 21 November 2023 meeting

Date: 16 January 2024