

Policy title	Complaints
Responsible manager(s)	General Manager
Contact officer(s)	Public Officer
Directorate	Corporate and Commercial Services
Approval date	12 September 2017
Outcome area	Innovative and Proactive Leadership
Strategy	9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision
Delivery Program	9.1.2 Implement effective governance
Operational Plan	9.1.2.3 Assist the Council in meeting statutory obligations and roles

Purpose

Eurobodalla Shire Council is an organisation which exists to assist its customers and stakeholders consistent with the common good and within legal and statutory responsibilities. Dealing with complaints about Council's decisions, actions or procedures and analysing their causes is a positive process as it allows Council the opportunity to improve policy, procedures and services.

Council treats all complaints seriously. Every complaint received by council is given attention by appropriate staff in order to resolve the issues which are raised. Complaints should be resolved in a timely and cost effective manner.

The purpose of this policy is to facilitate a consistent, fair and equitable resolution to customer complaints at the earliest opportunity and in the most efficient, prompt and professional manner.

Policy aims

- Provide a framework for receiving and responding to complaints from the public, as a means of improving customer service in all areas of Council's operations.
- Ensure that issues which are the subject of complaints are addressed promptly, and in a manner which, as far as possible, ensures that such issues will not be the subject of future complaints.
- Ensure the validity of the complaint is ascertained and the principles of enquiry are applied.
- Provide transparency and awareness to the community regarding Council's policy and procedure regarding complaints from the public.

Policy statement

1	<p>Application</p> <p>This policy applies to complaints concerning Eurobodalla Shire Council's affairs, across all areas of Council. The policy provides a mechanism for handling the following types of complaints:</p> <ul style="list-style-type: none"> • Code of Conduct (Councillor or staff behaviour) • Maladministration or Serious and Substantial Waste of public resources • Serious breakdown in Council's operations or the Council as a whole not operating satisfactorily • Conflict of interest (pecuniary/non-pecuniary) • Corrupt or Criminal activity • Competitive Neutrality • Breach of legislation e.g. copyright, Privacy, access to Government information
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2	<p>Legislation</p> <p>Council complies with relevant legislation such as the <i>Local Government Act 1993</i>, <i>Government Information (Public Access) Act 2009</i>, <i>Independent Commission Against Corruption Act 1998</i>, <i>Ombudsman Act 1974</i>, <i>Public Interest Disclosures Act 1994</i>, <i>State Records Act, 1998</i> as well as the current version of the NSW Office of Local Government’s <i>Model Code of Conduct for Local Government Councils in NSW</i>.</p> <p>Council is guided by the NSW Ombudsman’s <i>Effective complaint handling guidelines</i> (Dec 2010) and Australian Standard <i>AS ISO 10002:2004, MOD: Customer satisfaction – guidelines for complaints handling in organisations</i>.</p>
3	<p>Complaints</p> <p>A complaint may relate to a specific activity, incident or issue involving Council, or to matters of a more philosophical or general nature regarding Council’s policy, processes and/or procedures.</p> <p><i>For the purposes of this policy, a complaint is an expression of dissatisfaction with:</i></p> <ul style="list-style-type: none"> • a decision that Council has made • Conduct of Councillors, employees, volunteers or contractors • a Council policy or procedure • information or a service received from Council after making an enquiry or service request, and/or the timeliness of Council’s response. <p><i>A complaint is not:</i></p> <ul style="list-style-type: none"> • a request for service (unless there was no response to a prior request) • a request for information or explanation of policies or procedures • the lodging of an appeal in accordance with a standard procedure, policy or lawfully made determination (unless this is recorded as a complaint about Council’s decision-making) • an objection to a determination made on a Development Application (DA) • a submission to an item on public exhibition or notification. <p>These matters may be more appropriately dealt with as Customer Service Requests (see below) or by contacting the relevant area of Council directly.</p>
4	<p>Customer Service Requests</p> <p>A Customer Service Request (CSR) is created when a customer contacts Council to request action or seek assistance relating to a Council service, function, facility, or to report a problem.</p> <p><i>A CSR is not the mechanism to make a complaint about a Council decision, action or procedure.</i></p> <p>Typical examples of CSRs are requests to:</p> <ul style="list-style-type: none"> • report damaged or faulty infrastructure (e.g. damaged footpaths, potholes in roads), including safety issues • report hazards (e.g. a tree branch has fallen)

	<ul style="list-style-type: none"> • request Council assistance with compliance matters concerning neighbouring property (e.g. noise or unauthorised building works) • report animal control matters (e.g. barking dog, escaped livestock) • repair or replace a damaged water meter. <p>CSRs can be lodged through the following Council areas:</p> <ul style="list-style-type: none"> • Customer Assistance 4474 1000 • Moruya Depot 4474 1391 • Narooma Depot 4476 4144 • Batemans Bay Depot 4472 4035 • In person – customers can visit our Customer Assistance Centre at our main office, Eurobodalla Shire Council, cnr Vulcan and Campbell Street, Moruya. <p>Alternatively customers can email council@esc.nsw.gov.au and have the matter appropriately assigned to a member of staff for investigation and resolution.</p> <p>Please see Council’s Customer Service Policy for more information.</p>
5	<p>Type and Seriousness of Complaints</p> <p>Complaints to Council will vary in type and seriousness. In many circumstances the onus will fall on staff to determine the seriousness of the complaint, and what action may be appropriate in responding to the complainant. Council’s procedure is straightforward and provides for a number of levels for investigating complaints.</p> <p>Complaints can often be resolved very quickly and informally by the member of staff with whom customers have been dealing. Customers are encouraged to contact the member of staff, explain what has gone wrong and give them the opportunity to respond and resolve the issue immediately to the satisfaction of the complainant.</p> <p>Where the complaint is deemed to be of a more serious nature, staff should make a written record of the complaint and the advice provided to the complainant, and inform their supervisor or manager and the Public Officer immediately.</p> <p>Where a complaint is not resolved at the initial stage, or a more substantial inquiry or investigation is required, or in situations where Council has statutory obligations to refer complaints to external agencies, the complaint will be handled by the Public Officer or the General Manager.</p> <p>Where a report to Council is required due to the seriousness or complexity of the complaint, the matter should be referred directly to the General Manager.</p> <p>Where a complaint cannot be resolved internally by Council it will be referred to an appropriate external agency, or to some alternative dispute resolution procedure or, as a last resort, any legal remedy.</p> <p>Complaints about the Public Officer will be referred to the General Manager and complaints about the General Manager will be referred to the Mayor.</p>

<p>6</p>	<p>Lodging and Handling Complaints</p> <p>Council aims to make it as easy as possible for customers to contact Council by providing several options for customers to make contact:</p> <ul style="list-style-type: none"> • By phone - on (02) 4474 1000. A staff member will record the complaint. • Online – customers can lodge a complaint via Council’s website www.esc.nsw.gov.au by selecting the ‘Your say’ button at the right hand side of the toolbar. • By Email – council@esc.nsw.gov.au • In person – Make an appointment with the relevant Manager or the Public Officer at the Customer Assistance Centre at our main office, Eurobodalla Shire Council, cnr Vulcan and Campbell Street, Moruya. • In writing – complaints made in writing should be addressed to The Public Officer, Eurobodalla Shire Council, PO Box 99, Moruya NSW 2537 <p>Community members who approach Council staff outside of the contact methods stated above will be advised to make their complaint by contacting Council using any of the methods listed above.</p> <p>All complaints will be acknowledged initially within 10 working days.</p> <p>Council aims to resolve complaints as quickly as possible. Customer complaints that cannot be resolved on the spot will be assigned to the appropriate officer for action. The customer will be kept informed throughout the process by the investigating officer. If the complaint is of a complex nature that requires additional time to solve, the customer will be informed of predicted timeframes by the investigating officer.</p> <p>In dealing with complaints Council will:</p> <ul style="list-style-type: none"> • respond promptly • investigate thoroughly and objectively • keep customers informed of what is happening • respect (as far as possible) customer desire for confidentiality. <p>Information relating to complaints is recorded and used for statistical and reporting purposes, to inform the decision making process and improve Council’s service to the community.</p>
<p>7</p>	<p>Councils’ statutory obligations to refer complaints to external agencies</p> <p>There are a number of external accountability/complaint bodies that receive and investigate complaints about the conduct of councils. Depending on the nature of the complaint, it may have to be referred to one of the agencies listed below.</p>
<p>7.1</p>	<p>Allegations of Inappropriate Conduct, Conflict of Interest (Pecuniary or non-Pecuniary), or Improper use of Positions</p> <p>Complaints alleging breaches of Council’s Code of Conduct by a councillor or member of staff must be dealt with under the Code of Conduct.</p> <p>Council’s Code of Conduct requires all complaints within the following categories to be immediately directed to the General Manager:</p>

	<ul style="list-style-type: none"> • Complaints about practices or procedures underpinning, or arising from, Council’s decision-making processes; • Complaints about the conduct of, or alleging impropriety in the actions of, Council staff or councillors (including alleged corrupt conduct, pecuniary interest, or improper use of position). <p>These complaints will be handled according to the current version of the Procedures issued by the Office of Local Government (OLG). Staff receiving and recording such a complaint must ensure that the complaint and all allegations contained therein remains confidential, and is not discussed other than with the Public Officer or General Manager.</p> <p>Complaints alleging a serious breakdown in Council's operations or the Council as a whole not operating satisfactorily, breaches of the pecuniary interest provisions of the <i>Local Government Act 1993</i> or a failure to disclose political donations by a Councillor should be referred to the OLG.</p>
<p>7.2</p>	<p>Maladministration and/or Serious and Substantial Waste</p> <p>Where a member of the public reports matters related to maladministration by Council, or serious and substantial waste of public resources, the matter is to be reported immediately to the Public Officer or General Manager.</p> <p>The General Manager has a duty to report such matters to the NSW Ombudsman.</p>
<p>7.3</p>	<p>Competitive Neutrality</p> <p>The concept of Competitive Neutrality is based on the ‘level playing field’ concept or the concept that businesses which are publicly owned should have no net competitive advantage over a business that is privately owned. Where Council competes in the market place it should do so without utilising its public position to gain an unfair advantage over a private sector competitor.</p> <p>Competitive Neutrality is one of the principles of competition policy and dealing with the complaint requires a detailed understanding of the policy and its ramifications. Complaints regarding Competitive Neutrality should be immediately referred to Council's Public Officer or the Office of Local Government.</p>
<p>7.4</p>	<p>Corrupt Conduct</p> <p>Where a member of the public reports any matter related to unethical conduct, fraud, or corruption the matter is to be reported immediately to the General Manager. The General Manager has a statutory obligation to report complaints alleging corrupt conduct to the Independent Commission against Corruption (ICAC) under section 11 of the <i>Independent Commission Against Corruption Act 1988</i>.</p>
<p>7.5</p>	<p>Criminal Conduct</p> <p>Complaints involving criminal activity are to be immediately referred to the Public Officer or General Manager for further referral to the Police.</p>
<p>7.6</p>	<p>Complaints about Information (Access, Copyright, or Privacy)</p> <p>Complaints about copyright, or access to information held by Council under the <i>Government Information (Public Access) Act 2009</i> should be made to the Public Officer.</p>

	<p>Complaints about breaches of any information protection principles applying to the Council should be made to the Privacy Contact Officer or Right to Information Officer. In some cases these complaints may be referred to the NSW Information and Privacy Commissioner.</p>
<p>8</p>	<p>Confidentiality and Anonymity</p> <p>Council protects the personal information of its customers in accordance with its adopted Privacy Management Plan and the <i>Privacy and Personal Information Protection Act 1998 (PPIPA)</i>, the <i>Health Records and Information Privacy Act 2002 (HRIPA)</i>, the <i>Government Information (Public Access) Act 2009</i> and the <i>Local Government Act 1993</i>.</p> <p>Where possible Council does not disclose the identity of complainants, however Council will sometimes be required to disclose information about complaints, for example, in response to a court order or subpoena).</p> <p>Anonymous complaints made to Council can be difficult to investigate. Often investigating staff will need more information from the person making the complaint and this cannot be obtained if the source is anonymous.</p> <p>Anonymous complaints will not ordinarily be investigated or acted on in any way except where circumstances dictate otherwise, for example if the issue raises a serious matter or is a threat to public health or safety, and/or there is sufficient information in the request to carry out an investigation.</p>
<p>9</p>	<p>Unreasonable Complainant or Customer Conduct</p> <p>Council has obligations to keep staff and councillors safe from harm. This means that Council may restrict the way it provides services to individuals who display inappropriate behaviour or are unreasonable. Council will only do this in extreme cases and in accordance with procedures for managing unreasonable customers.</p>
<p>10</p>	<p>Customer Rights to Review:</p> <p>Should a customer be dissatisfied with the handling or determination of their complaint, they may request that an internal review of the complaint be conducted by the Public Officer.</p> <p>Should a complainant be dissatisfied with the internal review, they may:</p> <ul style="list-style-type: none"> • approach an outside agency to seek resolution, such as the Ombudsman, ICAC, the Information and Privacy Commission, or the OLG • seek alternative dispute resolution • instigate appeal procedures or other legal remedies. <p>External Agency Contacts</p> <ul style="list-style-type: none"> • NSW Ombudsman 1800 451 524 www.ombo.nsw.gov.au • ICAC 1800 463 909 www.icac.nsw.gov.au • Office of Local Government 02 4428 4100 www.olg.nsw.gov.au • Information and Privacy Commission 1800 472 679 www.ipc.nsw.gov.au

Implementation

Implementation steps		Responsibility
1	<p>Public Officer</p> <p>Under <i>the Local Government Act 1993</i>, Council’s Public Officer is specifically charged with the responsibility of dealing with complaints from the public concerning Council’s affairs. The Public Officer will also arrange any internal reviews of complaints where the customer has requested that an internal review be conducted.</p>	Public Officer
2	<p>Code of Conduct Complaints</p> <p>Complaints about alleged breaches of the Code of Conduct by Councillors or staff will be specifically handled via the OLG Procedures for Administration of the Model Code of Conduct (current version). Under the Code, the investigation of all complaints about Councillors and the General Manager is managed by an independent conduct reviewer.</p>	General Manager Complaints Coordinator Conduct Reviewer
3	<p>Reporting of Complaints</p> <p>On a six monthly basis (September and March) the Public Officer will provide a summary of complaints received to the Executive Leadership Team. This summary will comprise details of the type and number of complaints received and an outline of how they were resolved, the average time for resolution and recommendations of any changes to policy, procedures and services made as a result. These summaries will form the basis of an annual report to Council from the Public Officer.</p>	Public Officer
4	<p>Complaints about this Policy</p> <p>Complaints about this policy will be referred directly to the Public Officer and handled in accordance with the Complaints Policy. Complaint records will be used as a tool to analyse the history of concerns and to assist determination of follow up actions.</p>	Public Officer
5	<p>Consultation</p> <p>This policy has been developed based on guidelines issued by the NSW Ombudsman, on current ‘best practice’ and referral to relevant legislation. Proposed substantive changes to this policy will be placed on public exhibition for public comment and submissions as required.</p>	As appropriate

Review

This policy will be reviewed every 4 years. It may also be reviewed and updated as necessary if legislation requires it; or when Council’s related policies, functions, structure or activities change; or when technological advances or new systems change the way that Council manages complaints.

The policy may be revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council updates or revokes it sooner. *Note: The next general local government election is expected to be held in September 2020.*

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Complaints or Customer Feedback Survey Responses	Council records
Reduction in level of complaints over time	Council records
Evidence that improvements have been identified and rectified	Council records

Internal Review or investigation	Council officers
External Review or Investigation (e.g. Pecuniary Interest and Disciplinary Tribunal)	As applicable

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Customer Service Policy Code of Conduct Policy Public Interest Disclosures Internal Reporting Policy Privacy and Protection of Personal Information Policy	www.esc.nsw.gov.au
<i>Local Government Act 1993</i>	www.legislation.nsw.gov.au/maintop/view/inforce/act+30+1993+cd+0+N
<i>Model Code of Conduct for Local Government Councils in NSW (2015)</i>	www.olg.nsw.gov.au/sites/default/files/Model%20Code%20of%20Conduct%20-%20November%202015.pdf
<i>Procedures for Administration of Model Code of Conduct (2013)</i>	www.olg.nsw.gov.au/sites/default/files/Procedures-for-Administration-of-Model-Code-of-Conduct.pdf
<i>Effective complaint handling guidelines - 2nd edition (Dec 2010)</i>	www.ombo.nsw.gov.au/_data/assets/pdf_file/0012/3612/GL_EffectiveComplaintHand_Dec10.pdf
<i>Complaints management in councils: practice note 9. (rev.ed.2009)</i>	www.olg.nsw.gov.au/sites/default/files/Practice-Note-No9-Complaints-Management-Revised-July-2009.pdf
<i>Australian Standard Customer satisfaction – guidelines for complaints handling in organisations (AS ISO 10002:2004, MOD)</i>	www.saiglobal.com/PDFTemp/Previews/OSH/AS/AS10000/10000/10002-2006.pdf
<i>Crown Lands Act</i>	www.austlii.edu.au/au/legis/nsw/consol_act/cla1989134

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au
NSW Ombudsman	www.ombo.nsw.gov.au
ICAC	www.icac.nsw.gov.au
Information and Privacy Commission NSW	www.ipc.nsw.gov.au
Pecuniary Interest and Disciplinary Tribunal	www.olg.nsw.gov.au/commissions-and-tribunals/nsw-civil-and-administrative-tribunal/pecuniary-interest-and-disciplinary-tribunal

Definitions

Word/Term	Definition
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Competitive Neutrality	Where Council as a supplier of services is not to use their public position to gain an unfair advantage over a private sector competitor in the marketplace
Complaint	Expression of dissatisfaction with a decision, the quality or timeliness of a service provided, or the behaviour of employees, contractors or volunteers. A complaint may relate to a specific incident or issue involving Council, or to matters of a more philosophical or general nature regarding Council's processes and/or procedures.
Conflict of interest	A conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
Corrupt Conduct	Dishonest or partial exercise of any official functions by a public official
Customer Service Request (CSR)	Requests for information or service which are dealt with by lodging a service request through Council's CSR system and having the item appropriately assigned to a member of staff for action
Personal Information	Information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
Pecuniary Interest	An interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person

Change history

Version	Approval date	Approved by	Minute No	File No	Change
1	24 Nov 2009	Council	09/369	E06.0380 E09.3418	Policy Adopted - Report G09/145
2	10 Sep 2013	Council	13/272	E06.0380 E13.7095	Policy reviewed and updated at commencement of new Council term.
3	12 Sep 2017	Council	17/305	E06.0380 E16.0297	Policy reviewed and updated at commencement of new Council term. No significant changes.

Internal use

Responsible officer	General Manager			Approved by	Council
Min no	17/305	Report no	FBD17/061	Effective date	12 Sep 2017
File No	E06.0380	Review date	Sep 2020	Pages	9