

POLICY FOR HANDLING COMPLAINTS ABOUT A COUNCILLOR

	Approval Date: 14 October 2015
	Review Date: Within 12 months of a Council election
Author:	Executive Services
Responsible Director:	Chief Executive Officer
Relevant Legislation/Authority	<p><u>Legislation:</u> Charter of Human Rights and Responsibilities Act 2006 Freedom of Information Act 1982 Privacy and Data Protection Act 2014 Local Government Act 1989 Protected Disclosure Act 2012</p> <p><u>Policies:</u> Councillor Code of Conduct Protected Disclosure Act Procedures Councillor Access to Information Policy Councillor Gift Policy Councillor Bullying Prevention Policy Councillor Discrimination and Harassment Prevent Policy Councillor Support and Reimbursement of Expenses Policy Councillor Media Policy Councillor IT Use Policy</p>

1. INTRODUCTION

The Greater Bendigo City Council recognises that members of the public have the right to complain about the behaviour of its elected representatives, and is committed to a Councillor complaints handling system that reflects the needs, expectations and rights of members of the community.

This policy applies to all complaints received by the Council about the behaviour of a Councillor and the complaints handling procedure outlines how complaints will be handled.

In doing this, the Council will recognise, promote and protect our resident’s rights, including the right to comment and complain; ensure that the system for resolving Councillor complaints is fair, easily accessible and efficient; and, most importantly, learn from complaints.

This policy provides a model approach to complaints handling and outlines the essential features of Council’s system to deal with complaints about Councillors.

While there is no legislative requirement to have a complaints policy, the material in this policy is based on best practice advice from the Victorian Ombudsman’s Office.

2. OBJECTIVES

The policy aims to:

- put in place an open and transparent Councillor complaint handling system
- specify the key performance indicators to which we will hold ourselves accountable
- establish our timeframes for resolving complaints
- clarify the roles and responsibilities of the Mayor
- ensure that principles of natural justice and procedural fairness are applied and that complaints about Councillors are handled fairly and objectively; and
- set out how staff record and analyse Councillor complaint data to identify areas where we can improve.

3. GUIDING PRINCIPLES

This policy is based on seven principles, as outlined in the Ombudsman's Councils and complaints – A good practice guide.

1. **Commitment:**
We are committed to resolving complaints that we receive. Our culture recognises people's right to complain and considers complaint handling to be part of our core business of serving the community and improving service delivery.
2. **Accessibility:**
People can easily find out how to complain to us, and we actively assist them with the complaints process.
3. **Transparency:**
The complaint handling system clearly sets out how to complain, where to complain, and how the complaint will be handled. The steps taken to respond to a complaint are recorded and will stand up to scrutiny.
4. **Objectivity and fairness:**
Under the complaint handling system, complainants and Councillors are treated with respect and courtesy, and complaints are judged on merit and fact.
5. **Confidentiality:**
The complaint handling system protects the personal information of people making a complaint, and Councillors are informed only on a 'need to know' basis.
6. **Accountability:**
We are accountable, both internally and externally, for our decision making and complaints handling performance. We provide explanations and reasons for decisions, and ensure that our decisions are subject to appropriate review processes.
7. **Continuous improvement:**
We regularly analyse complaint data to find ways to improve how we operate and how we deliver our services. We then implement these changes.

4. SCOPE

This policy applies to all external complaints about Councillors. Disputes between Councillors are dealt with through the dispute resolution procedures within the Code of Conduct.

5. DEFINITIONS

complaint means an expression of dissatisfaction with –

- the quality of behaviour of a Councillor or group of Councillors

complainant means a person or entity affected by the behaviour of a Councillor who brings this to the notice of the Council. A person who makes a complaint who is not affected will receive an acknowledgment and advice that the matter will be dealt with in accordance with the complaints handling policy.

complaints handling system means the way individual complaints are dealt with by the Council, including policy, procedure, technology, reporting, evaluation and improvement.

6. ROLES AND RESPONSIBILITIES OF COUNCIL STAFF AND THE MAYOR

Frontline staff, other officers, the Chief Executive Officer, the Mayor or individual councillors may receive the complaint, either by telephone, email or face-to-face interaction. Those receiving complaints will clarify the nature of the complaint and the outcome the complainant is seeking, and refer the complaint directly or via a more senior officer (where appropriate) to the Mayor.

Chief Executive Officer will receive complaints about the Mayor and will refer the complaint to the current councillor last serving as mayor for consideration in accordance with this policy.

The Mayor will examine the information forming the basis of the complaint and may, at his or her discretion, discuss in confidence the nature of the complaint with the Chief Executive Officer to determine whether any internal or external assistance is required to document or investigate the complaint.

7. HOW TO MAKE A COMPLAINT

A person can make a complaint in a number of ways.

Mail:	Greater Bendigo City Council P.O. Box 733 Bendigo Vic 3552
Telephone:	5434 6000
Email:	requests@bendigo.vic.gov.au
In person:	Municipal Offices 195-229 Lyttleton Terrace Bendigo
Fax:	5434 6200
Internet:	www.bendigo.vic.gov.au

8. ACCESSIBILITY

Anyone who has been affected by the behaviour of a councillor or group of councillors can make a complaint.

Greater Bendigo City Council provides information on its website and freely available at its offices to advise members of the public how to make a complaint about a councillor or group of councillors and the steps involved.

This process will be promoted internally for staff and externally for members of the public.

A complaint may be made in person or by telephone, post, email or facsimile and will be treated as confidential.

A complainant may use an advocate or authorised personal representative to progress their complaint.

If required, an interpreting service will be provided to facilitate the complaint.

We accept anonymous and respond to anonymous complaints, provided we have received enough information to do so.

The Council recognises the diversity of our community and complaints may be submitted in the format that is most appropriate and comfortable for the complainant.

The Policy for Handling Complaints about a Councillor is available from Council offices and on the Council website.

9. COMPLAINTS HANDLING PROCEDURE

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this, such a change may be made administratively. Examples include a change to the name of a Council unit, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be made with the resolution of Council.

Overview

The Council takes a four-tiered approach to complaint handling, as follows:

1. receive and clarify the complaint;
2. investigation: the Mayor will refer the complaint for investigation;
3. internal review: the matter would be referred to a councillors' forum or Council for direction on the approach to an internal review; and
4. access to external review: if the complainant is not satisfied with the outcome of the internal review, they are informed of any rights they have to go to an external agency to request further investigation.

Procedures

Complaints about a councillor or group of councillors will be referred to the Mayor. In the absence of the Mayor, complaints will be referred to the current councillor last serving as mayor not the subject of the complaint.

If the complaint is about the Mayor, the complaint will be referred in the first instance to the Chief Executive Officer who will direct the complaint to the current councillor last serving as mayor.

The councillor who is the subject of the complaint will be notified by the mayor after the complaint has been clarified.

A complaint will be recorded in writing and every interaction with the complainant will be documented. All documentation relating to the complaint, regardless of how it is received, will be kept confidential. Complaints should be made as soon as practicable after the incident or issue giving rise to the complaint.

The complaint should include the following, if relevant:

- the date, time and location or event;
- the nature and description of the complaint; and
- a statement identifying what the complainant seeks as an acceptable outcome to the complaint by way of resolution.
- The complaint will be acknowledged within 10 business days of receipt.
- Those receiving the complaint will clarify the complaint and the outcome the complainant is seeking.
- Those receiving the complaint will assess the complaint to determine how it should be dealt with. For example, an expression of dissatisfaction in the general direction and performance of the Council or its councillors, third party complaints and anonymous complaints without the provision of supporting documentation, would not constitute a complaint for the purpose of this procedure.
- If the Council is not the right organisation to respond to the complaint, staff will refer the complainant to an organisation that can help.

Investigation

- Those receiving the complaint will refer the complaint to either the Mayor for investigation or, if necessary, the Chief Executive Officer.
- The Mayor or, if necessary, the current councillor last serving as mayor, will advise the complainant how long it will take to respond to the complaint depending on the nature of the complaint and the degree of complexity.
- The Mayor will aim to resolve all complaints within 28 days.
- If it takes longer than 28 days to resolve a complaint, the Mayor will contact the complainant prior to or at this time and explain why.
- The Mayor will write to the complainant to advise them of the outcome. The outcome letter will contain reasons for the decision made in relation to the complaint.
- Where possible, the Mayor will contact the complainant via telephone to discuss the outcome of their complaint prior to sending the outcome letter

Internal review

Complaints that are not resolved within 28 days will be subject to review.

The review will be conducted by a suitably qualified and experienced person or organisation identified by Council.

A written outcome letter signed by the person responsible for the internal review will be provided to the complainant at the conclusion of every internal review.

Where available, the outcome letter will advise the complainant of any avenues of external review available in relation to the matter.

Complaints about specific matters – alternative procedures

Complaints about allegations of corrupt conduct

Where a complaint involves allegations of corrupt conduct, it will be handled in accordance with the Protected Disclosure Act Procedures.

Privacy and confidentiality

When gathering information to respond to a complaint, we will only:

- use it to deal with the complaint or to address issues arising from the complaint
- disclose it in a de-identified format when disclosing data to the public
- share it with council staff on a need to know basis.

Recording complaints

All complaints are recorded in a secure site in the City of Greater Bendigo document handling system.

Executive Office staff will ensure complaints are registered with necessary security levels.

We analyse our complaint data and provide annual reports to Council on how we can reduce complaints and improve services.

We record the following information for each complaint:

- the complainant's details
- how the complaint was received
- a description of the complaint
- the complainant's desired outcome (if known)
- the person responsible for handling the complaint
- any action taken, including contact with the complainant, response times and the outcome
- any recommendations for improvement, and who is responsible for implementing them.

Any queries regarding the recording of complaints should be directed to Manager, Executive Services.

Reporting on performance

To measure our performance, we have the following key performance indicators:

- complaints upheld, partially upheld, not upheld
- performance against timelines set by council i.e. average time to respond
- number of changes made to services as a result of complaints
- number of complaint outcomes overturned on internal review
- complaints escalated to an external body.

We will report against our complaint handling key performance indicators:

- annually at governance meetings.
- we will also detail any service improvements made as a result of complaints received.