

## 1.12 Complaints Handling

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### **PART A - Policy**

#### **Objective**

To establish an effective complaints handling system that will provide the framework and basis for all complaints to be resolved in a fair, efficient and structured manner

#### **Policy Statement**

The Council and the Shire of Dandaragan have a statutory obligation to carry out their functions in a fair, impartial, transparent, responsive and efficient manner for the benefit of all residents.

The Council and the Shire of Dandaragan recognises that its residents have a right to expect that these principles will underpin its decisions and delivery of excellent customer service.

When residents believe that their expectations have not been met, they have the right to expect that the Shire will deal with their concerns in a professional, respectful, satisfactory and timely manner.

The Shire welcomes complaints with respect to customer service as a form of feedback, and will use this feedback to:

- provide opportunities for system and process improvement;
- provide equitable redress to customers for poor service and processes;
- provide an opportunity to actively resolve service complaints and reduce the incidence of recurring complaints.

Residents submitting a complaint to the Shire can expect that:

- officers will regularly provide updates on the progress of the complaint and the expected timeframes for resolution;
- they are provided with information on the Shire's complaints handling process;
- they will be treated with tact, courtesy and fairness at all times; and
- appropriate confidentiality of the complaint will be maintained upon request.

#### **Definition of a Complaint**

A 'Complaint' is an expression of dissatisfaction with the standard of service, action or lack of, by the Council or Shire staff, affecting an individual person or group of people. Issues the Shire will not consider as complaints under this Policy are:

- a request for Shire services.
- a request for information or explanation of policies or procedures or decisions of Council.
- reports of damaged or faulty infrastructure (e.g.: damaged footpath, potholes in the road)

- reports of hazards (e.g.: fallen tree branch).
- reports concerning neighbours or neighbouring property (e.g.: noise or unauthorised building works - including disputes between property owners).
- the lodging of an appeal in accordance with procedure or policy.
- issues relating to Statutory Functions with respect to Planning, Building, Health or Ranger Services; and
- debt collection matters.

The Shire also will not consider or investigate as complaints issues that are over two years old [this accords with the time limit for general prosecutions of issues under the *Local Government Act 1995*].

*In the context of this policy, complaints involving the behaviour of Employees and Elected Members is excluded. These matters will be handled under the Shire's Council Code of Conduct and Employee Code of Conduct.*

## **PART B - Management Procedures**

### **Purpose**

To ensure that the Shire has an effective complaints handling system incorporating guidelines for dealing with complaints submitted or referred to the Shire concerning the performance of its statutory obligations and the level or quality of services provided. See the Definitions – Complaint section for what does and does not constitute a complaint for the purposes of this procedure.

This procedure also includes the process for internal review of the Shire's complaints handling that will provide the framework and basis for all complaints to be resolved in a fair, efficient, impartial, transparent, responsive and structured manner for the benefit of residents.

### **Definitions**

#### **Complaint**

A complaint is an expression of dissatisfaction with the standard of service, action or lack of, by the Shire or its staff, affecting an individual person or group of people. A valid complaint is one where the Council or Shire may appear to have failed to respond appropriately to a request for a decision, service or a report

For the purposes of the Policy and this Procedure, a complaint does not include:

- a request for Shire services.
- a request for information or explanation of policies or procedures or decisions of Council.
- reports of damaged or faulty infrastructure (e.g.: damaged footpath, potholes in the road).
- reports of hazards (e.g.: fallen tree branch).
- reports concerning neighbours or neighbouring property (e.g.: noise or unauthorised building works). Including disputes between property owners.
- the lodging of an appeal in accordance with procedure or policy.
- issues relating to Statutory Functions with respect to Planning, Building, Health or Ranger Services; and
- debt collection matters.

*[An anonymous complaint will be handled as provided in the "Complaint types and subsequent actions" section of this Procedure].*

#### **Shire Officials / Delegates of Council**

Shire officials include elected members, staff and delegates of Council. A delegate of Council is a person or body to whom a function of Council is delegated, such as staff, elected members, community representatives, volunteers, consultants and contractors.

#### **Malicious complaint**

A complaint made for the purpose of hurting another person (their career, their reputation or their livelihood).

#### **Vexatious complaint**

Complaints that are not supported by any evidence and there is other evidence to suggest that the complaint was made primarily for the purpose of causing annoyance or obstruction of process.

## **Detail**

### **Principles for handling complaints**

- Complaints should be resolved in a timely and cost-effective manner and, where possible, without recourse to legal action.
- Staff should seek to resolve difficulties, disagreements or disputes by discussion, negotiation, mediation or conciliation wherever possible.
- Complainants have the following rights:
  - Only directly involved parties can lodge a service complaint
  - The Shire should inform members of the public that they have the right to lodge a complaint if they are unsatisfied with a particular action, decision or service.
  - Any complaint lodged will be assessed and investigated in a timely manner.
  - The person who lodges the complaint has the right for their privacy to be maintained, if requested.
  - Complainants will not be subjected to any form of prejudice, harassment or reprisal.

### **Lodging and processing of complaints**

Complaints may be lodged with the Shire in the following ways:

- In writing including by email or other electronic means or by completing a Complaint/Feedback Form (Attachment 1) available at any of the Shire's public service counters.
- Verbally, where requested by the complainant for any reason that would prevent the person from making a written complaint. Shire staff who receive a verbal complaint are to produce a written version for internal use.

Complaints must include the name, address and contact number of the complainant and a brief description of the problem.

Where staff are subjected to anti-social or aggressive/threatening behaviour by a group or individual, they are to call the police in the first instance.

Upon receipt of an initial complaint, Shire staff will:

1. Ensure that the complaint is provided to Records Staff for registration as a Customer Complaint in the Shire's Records Management System;
2. Endeavour to resolve issues that are the subject of complaints at the first point of contact;
3. Refer the complaint to the appropriate staff member/department should the complaint relate to a different work area of the Shire;

### Referral of Complaint for Investigation

Upon receipt of a referred complaint, the responsible officer is to:

1. Provide acknowledgement to the complainant within five (5) working days following receipt of the complaint, and continue to ensure the complainant is kept informed of the progress regarding investigation and resolution of the complaint;
2. Record any actions taken, any communication (verbal or written) and the resolution in the Shire's Complaints Database in Synergy;
3. Ensure, wherever possible, all complaints are resolved within fourteen (14) working days from the date of lodgement of the complaint, and provide written advice to the complainant as to the outcome of investigations. Should there be a requirement for extra time to resolve the complaint, advice is to be provided to the complainant, including an expected completion date;
4. The complainant is to be advised of the outcome of the investigation of the complaint and where appropriate, an offer of redress will be made and the complainant will be advised of any measures taken to minimise the chances of the issue(s) underlying the complaint occurring again;
5. In instances where complaints are of a more serious nature, are not satisfactorily resolved or require investigation across a number of work or service areas, the complaint should be referred to the relevant Executive Manager or the CEO to investigate and resolve;
6. Delegates of Council who are conducting works on behalf of the Shire are required to report directly to their supervisor any complaints received by them regarding any aspects of the Shire's operations or their work. The delegate's supervisor will address issues pertaining to the complaint. Should the supervisor fail to resolve the complaint, it should be referred to the Service Area's Executive Manager/Manager for further review if appropriate.

### **Recording of Complaints**

All complaints received by the Shire will be recorded in the Shire's Records Management System, as a 'complaint'. The relevant Executive Manager is to be advised of the complaint and who it has been referred to for action.

Staff must distinguish between a complaint and a request for service. Where a resident is requesting a service and there is no prior indication of failure to provide that service to the resident, the request will be recorded in the 'Works Requests' Database in the Shire's Records Management System as a standard service request.

## **Complaint types and subsequent actions**

### ***Planning, Building, Health and Ranger Services – Statutory Functions***

Complaints relating to Statutory Functions with respect to Planning, Building, Health and Rangers will not be investigated under the Policy or this Procedure, although the general principles for the handling of complaints in this Procedure will be applied.

### ***Anonymous complaints and confidentiality***

Anonymous complaints will not be pursued unless they can be independently corroborated as the Shire cannot determine the validity and nature of the complaint nor seek additional information to investigate the complaint when the source is unknown. Independently corroborated, for this procedure's definition, means either:

- Complaints from non-anonymous complainants on similar subjects, or the same staff member.
- An easily investigated method of corroboration. E.g., a check of records for notes from a meeting, a diary entry for access of a property, a photo from a parking infringement.

Where an anonymous complaint has been independently corroborated, such cases will be dealt with in a similar manner to complaints where the complainant has been identified, except where there is a statutory requirement for identification of the complainant.

The Shire encourages complainants to provide personal or business contact information when lodging complaints, however where a complainant requests their identity and complaint details remain confidential; the Shire will ensure that disclosure of any personal information to third parties is not made.

### ***Malicious, Frivolous and Vexatious complaints***

All complaints received by the Shire will be investigated as a serious matter. However, if following investigation, a complaint is found to be malicious, frivolous or vexatious, a recommendation will be made to the Chief Executive Officer (CEO) that no further action is to be taken regarding the complaint.

Following the recommendation, the complainant will be informed in writing of the decision.

The Shire may, at its discretion, seek legal advice with respect to implications of the suspected vexatious or malicious complaints.

### ***Persistent complainants***

In some instances, the Shire will encounter complainants who are persistent and write repeatedly to the point that resources are unreasonably diverted. Where complaints are about the same or similar issue(s) and the Shire has addressed or dismissed the issue(s) as being without substance, then an administrative control may be put in place to limit responses to future complaints.

Under these circumstances, details of the number and nature of complaints will be provided to the Executive Management Team who may make a recommendation to the CEO that further

correspondence and/or telephone contact is to be restricted. The CEO will consider all facts and issues of the individual case prior to acting on any recommendation(s). If a decision is made to endorse the recommendation, the CEO will write to the complainant explaining the Shire's intention not to acknowledge or respond to further correspondence on the matter(s) unless new information is provided that warrants action. The complainant will be advised that future written material will be filed.

With respect to telephone calls, the complainant may be told that their calls will only be taken during restricted times and then only by a specific officer; or that no future phone calls will be accepted or interviews granted about the same matter.

### ***Difficult Complainants***

In cases where a complainant's behaviour is aggressive or threatening, or where the complainant:

- is consistently rude, abusive or makes threats to staff or third parties using Shire services or on Shire premises; or
- causes damage to Shire property or threatens physical harm to staff or third parties.

Staff should contact the CEO, and report the details of the complainant's behaviour to their Manager and HR. A report, supported with any witness statements where available, should be prepared by the Executive Managers Team and the CEO to determine whether the complaint should be reported to the WA police, and to decide whether the complainant's access to the Shire premises is to be restricted.

The CEO will consider all the facts and issues of each case and may notify the complainant that they are not permitted to enter the Shire buildings for a period of time, that no phone calls will be accepted and that they may only correspond with Shire in writing.

The CEO will notify the complainant in writing of the nature and the duration of restrictions placed upon them and if a report to the WA Police has been lodged.

Where a complainant has been provided with a notice of restriction, and that person attempts to enter Shire premises, staff are advised to call the police, as the police have the authority to remove them.

### ***Complaints that will not be investigated***

This procedure primarily relates to circumstances where there is no statutory authority covering the resolution of a complaint. It focuses on complaints about Shire decisions or service delivery which is distinct from matters such as the reporting of corruption or misconduct of elected members and staff.

The Shire may determine that a complaint will not be investigated where that complaint:

- is considered frivolous, vexatious or not made in good faith or concerns trivial matters;
- involves a matter where an adequate remedy or right of appeal already exists, whether or not the complainant uses the remedy or right of appeal;
- where a matter is subject to an existing mediation process;
- relates to a decision made by a meeting of Council;
- relates to conduct before a court, coroner or tribunal;
- relates to a matter under investigation by the Minister for Local Government, Heritage,

Culture and The Arts, Corruption and Crime Commission, the WA Ombudsman's office, a Minister of the Crown or Government Department or the WA Police Service;

- relates to the appointment or dismissal of an employee or an industrial or disciplinary issue;
- relates to a decision, recommendation, act or omission which is more than one year old;
- relates to a matter awaiting determination by the Council;
- relates to actions or conduct of private individuals;
- involves a matter where the complainant declines or refuses to provide further information and/or there are threats made against the Shire and/or its staff.

The Shire also will not consider or investigate as complaints, issues that are over two years old [this accords with the time limit for general prosecutions of issues under the *Local Government Act 1995*].

In the context of the Policy and these Procedures, complaints involving the behaviour of Employees and Elected Members is excluded. These matters will be handled under the Shire's Codes of Conduct for Council and Employees.

If the Shire decides not to investigate a complaint, the complainant will be advised of the reason for the decision.

### **Review Process**

In instances where complaints have not been actioned or resolved in accordance with the above processes, or the outcome is regarded as unsatisfactory to the complainant, the following is to occur:

1. the complaint is to be referred to the relevant Executive Management Team who will investigate the matter and review the action and steps taken to resolve the complaint;
2. the relevant Executive Manager will provide a report to the CEO detailing the history of the complaint and the actions taken to resolve the issue(s);
3. the CEO will determine the appropriate resolution of the outstanding complaint and the review of the service complaint handling process;
4. should the CEO require an independent review of a complaint this will be carried out by the Executive Manager Corporate and Community Services. In circumstances where these internal processes are unable to resolve a complaint or satisfy the complainant, the Shire will refer the complainant to an appropriate external agency for review.

### **Referral of Complaint to another Authority**

A complainant may at any time they are not satisfied with the Shire's handling of their complaint be advised that they can refer it to another appropriate Authority for consideration.

These include the Department of Local Government, Heritage, Culture and The Arts, the WA Ombudsman or the Corruption and Crime Commission.

### **Reporting**

On a quarterly basis the Executive Secretary will provide a report to the CEO outlining complaints received for the previous quarter and subsequent follow-up and departmental action.

- Reports will provide the following information on each complaint:
- The issue at the centre of the complaint;
- The outcome of investigations in each instance;
- Action taken to address the complainant's issue(s);
- Time taken to address the complainant's issue(s);
- Feedback from the complainant, where possible, as to satisfactory resolution of the complaint or otherwise;
- Referral of the complaint to an external agency;
- Recommendations or actions taken to improve service.

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