



# POLICY & PROCEDURE

## Councillor Complaints Handling

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### 1 Purpose

Hindmarsh Shire Council recognises that members of the public have the right to complain about the behaviour of their elected representatives and is committed to a Councillor complaint handling system that reflects the needs, expectations and rights of the community.

This Policy informs:

- how a member of the public can submit a complaint against a Councillor.
- where a Councillor is the subject of a complaint against Council, how it is to be investigated.
- roles and responsibilities.

This policy provides a model approach to complaints handling and outlines the essential features of Council's system to deal with complaints about Councillors. The material in this policy is based on best practice advice from the Victorian Ombudsman's Office.

### 2 Scope

This Policy does not apply in the case of complaints which must legally be addressed in some other manner such as:

- a Protected Disclosure in relation to Councillors under the *Public Interest Disclosures Act 2012*; or
- the Councillor Code of Conduct; or
- the Councillor Code of Conduct provisions under the Act.

This policy should be read in conjunction with:

- Councillor Code of Conduct
- Sections 141, 142 and 143 of the Act

Disputes between Councillors are dealt with through the dispute resolution procedures within the Code of Conduct.

### 3 Definitions

**Council** means Hindmarsh Shire Council

**Complaint** means an expression of dissatisfaction with the behaviour of a Councillor or group of Councillors

<b>CEO</b>	means Chief Executive Officer
<b>EDRMS</b>	means Council's Electronic Document and Records Management System

## **4 Policy**

### **4.1 Reference to Mayor**

Where the complaint is about the Mayor, all references in this Policy shall refer to the Deputy Mayor.

### **4.2 Roles and Responsibilities of Council Staff, the CEO and the Mayor**

Frontline staff, other officers, the Chief Executive Officer, the Mayor, or individual Councillors may receive the complaint, whether 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 either directly or via a more senior officer (where appropriate) to the Mayor.

The Mayor will examine the information forming the basis of the complaint and may, at their 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.

### **4.3 Accessibility**

Hindmarsh Shire 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 fax 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 and respond to anonymous complaints, provided we have received enough information to do so. 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 Councillor Complaint Handling Policy is available from Council offices and on the Council website.

## **5 Complaints Handling Procedure**

### **5.1 Overview**

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

1. **Complaint received** - 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' briefing or Council meeting for direction on the approach to an internal review

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 request further investigation by an external agency.

## **5.2 Receiving the Complaint**

Complaints about a Councillor or group of Councillors will be referred to the Mayor. In the absence of the Mayor or where the Mayor is the subject of the complaint, complaints will be referred to the Deputy Mayor. If it is not appropriate or possible for either the Mayor or Deputy Mayor to manage the complaint, it will be referred to the Councillor who has most recently served as Mayor. Should no Councillor meet these criteria, it will be referred to the CEO to engage an external party to manage the complaint.

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
- 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 and assess the complaint to determine how it should be dealt with.

A person who makes a complaint but is not affected by the issue raised will receive an acknowledgment and advice that the matter will be dealt with in accordance with the complaints handling policy.

For example, issues that would not constitute a complaint for the purpose of this procedure include: an expression of dissatisfaction in the general direction and performance of the Council or its Councillors, complaints by an unaffected party, and anonymous complaints without the provision of supporting documentation.

If Council is not the right organisation to respond to the complaint, staff will refer the complainant to an organisation that can help.

## **5.3 Investigation**

Those receiving the complaint will refer the complaint to the Mayor (or in specific circumstances, the Chief Executive Officer) for investigation.

The Mayor (or other Councillor acting in the Mayor's place where necessary) 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.

#### **5.4 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.

#### **5.5 Alternative Procedures for Specific Matters**

##### **5.5.1 Complaints/Allegations about Corrupt Conduct**

Where a complaint involves allegations of corrupt conduct, it will be handled in accordance with the *Public Interest Disclosure Act 2012* and Council Public Interest Disclosure Procedures. IBAC accepts complaints about suspected corruption and misconduct in the public sector, including:

- taking or offering bribes
- using a position of influence dishonestly
- committing fraud or theft
- misusing information from the workplace.

##### **5.5.2 Maladministration**

The Victorian Ombudsman can take complaints about the actions and decisions of councils, including complaints about:

- services
- communication
- complaint handling
- compliance with policies, procedures or law
- other actions or decisions which may be unreasonable

##### **5.5.3 Criminal Offences**

The Local Government Inspectorate investigates matters related to council operations including criminal offences involving councillors, senior council officers or any person subject to the conflict of interest provisions of the *Local Government Act 1989* and *Local Government Act 2020*.

#### **5.6 Privacy and Confidentiality**

Information received by Council relating to a complaint, including personal information, will be handed in accordance with Council's Privacy Policy, Confidentiality Policy and the *Privacy and Data Protection Act 2014*.

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

### 5.7 Recording and Reporting on Complaints

All complaints are recorded in a secure site in Council's 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 complaints
- 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 the Manager People and Performance.

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

- number of complaints upheld, partially upheld, not upheld
- performance against timelines set by Council, i.e. average time to respond
- number of complaints escalated to an external body

We will report against our complaint handling key performance indicators annually at Senior Management Team meetings.

We will also detail any service improvements made in response to complaints received.

### 5.8 Administrative Updates

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.

## 6 References

Related documents	Legislation
Councillor Code of Conduct	<i>Charter of Human Rights and Responsibilities Act 2006 (Vic)</i>

Public Interest Disclosures Policy	<i>Freedom of Information Act 1982 (Cwlth)</i> <i>Privacy and Data Protection Act 2014 (Vic)</i> <i>Local Government Act 2020 (Vic)</i> <i>Public Interest Disclosures Act 2012 (Vic)</i>
Councillor Gifts and Hospitality Policy	
Bullying Prevention Policy	
Councill Expense Entitlements Policy	

**7 Document Control**

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