

OPERATIONAL
MANAGEMENT
STANDARD

OMS No. 19
COMPLAINT MANAGEMENT

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1. Introduction

The City of Canada Bay Council endeavours to provide the highest level of customer service in its delivery of services and management of public funds. Council is committed to addressing and resolving enquiries and complaints, improving customer service delivery and increasing customer satisfaction.

2. Purpose

To ensure that:

- the community's right to comment is protected and promoted
- all complaints are dealt with in a timely and effective manner
- information that can assist in improving the Council is captured in a systematic way, allowing corrective actions to be put in place where necessary
- the community's satisfaction with Council services is increased

3. Definitions

3.1 What is a Complaint?

A complaint is an expression of dissatisfaction with Council's level and quality of service, its officers, agents, or policies and procedures affecting an individual or a group of customers.

3.2 What is not considered a complaint?

The City of Canada Bay will not consider the following as a complaint:

- an initial request for works or services
- a request for information or explanation of policies, procedures and decisions of Council
- a request for information regarding Council's assets or services
- an expression concerning the general direction or the performance of Council or its elected representatives
- an expression of disagreement with Council's policy, procedures or a lawfully made decision

3.3 Exceptions

This policy does not apply in circumstance where there is legislation covering the making of a complaint. For example:

- The making of a Public Interest Disclosure under the Public Interest Disclosures Act 1994
- The making of applications for internal review of alleged breaches of privacy under the Privacy and Personal Information Act 1998
- The making of applications for access to information under the Government Information (Public Access) Act 2009 (GIPA Act)

Complaints concerning Councillors, the General Manager, corrupt conduct, child protection, pecuniary interests, public interest disclosures and competitive neutrality are dealt within Section 11 – Other Complaints of this Policy.

3.4 Complaints that will not be investigated

The City of Canada Bay may determine that a complaint will not be investigated where that complaint:

- is considered frivolous, vexatious or not made in good faith or concerns a trivial matter
- is a second request for service received within the service level timeframe
- involves a matter where an adequate remedy or right of appeal exists, whether or not the complainant uses the remedy or right of appeal
- where a matter is subject to existing mediation process
- is a private neighbourhood disputes
- relates to a matter awaiting determination by the Council
- relates to matters already under investigation by the Minister for Local Government, the ICAC, the NSW Ombudsman's office, a Minister of the Crown or Government Department or the NSW Police Force
- relates to a matter before a court or tribunal

- relates to the appointment or dismissal of any employee or an industrial or disciplinary issue
- relates to the actions or conduct of private individuals, not contracted by Council
- involves a matter where the complainant declines or refuses to provide further information deemed necessary for action to be taken
- involves threats made against Council

Should the Council decide not to investigate a complaint; the complainant will be advised of the reason for the decision.

3.5 Anonymous Complaints

The City of Canada Bay encourages complainants to provide full contact information when lodging complaints.

In the event of an anonymous complaint, Council will determine whether the complaint will be investigated dependent upon the seriousness of the complaint, and provided there is sufficient information in the complaint to enable an investigation to be conducted. Council will determine whether there is a statutory requirement for identification of the complainant.

An anonymous complainant cannot be provided with reasons for any decision made about their complaint.

4. Complaint Handling Process

Tier 1 – Frontline Complaints Handling

Complainants are encouraged to provide feedback and lodge their complaint with the Customer Services Officer who provided the service or who dealt with the issue, as this is more likely to result in a speedy resolution to the complaint.

A staff member receiving a complaint of a minor nature should, within the scope of their sub-delegation of authority, deal with the complaint at that time or refer it immediately to the appropriate Council Officer who may be able to resolve the complaint on the spot.

Tier 2 – Management Complaints Handling

Where complaints cannot be resolved at the first point of contact, or where they are received in writing, they will be processed in Council's Request Management System, allocated a request number (RM No.) and tasked to the appropriate Manager to investigate and address.

All complaints will be acknowledged within 2 working days by phone or email, and addressed within 10 working days of receipt, except where further information is required.

If further information is required, the complainant will be informed within 10 working days of receipt. A finalised response must be sent to the complainant within 20 working days.

Contractors conducting work on behalf of the City of Canada Bay are required to report complaints regarding any aspects of their work to the council officer responsible for the contractor.

Tier 3 – Escalation and Internal Review

If the complainant remains unsatisfied with the response from Council, the complaint will be referred to the appropriate Director for determination and/or review.

Tier 4 – External Review - Referral

In circumstances where these internal processes are unable to resolve a complaint or satisfy the complainant, Council will recommend to refer the complaint to an appropriate external agency for review. Such agencies may include the NSW Ombudsman's Office, the Independent Commission against Corruption, the Division of Local Government or the Office of the Information Commissioner.

5. Principles

Effective complaints management benefits the organisation in the following ways:

- Promotes active citizenship by providing clearly communicated mechanisms for the community to have input into service delivery and improvement
- Provides valuable feedback on Council's performance
- Allows Council to identify areas, processes or skills that need improvement
- Gives Council a second chance to serve, satisfy or clarify issues for dissatisfied customers

6. Confidentiality

Council does not disclose the identity of complainant(s), in accordance with Customer Access to Information Policy. Council also manages personal and private information collected by Council in accordance with Council's Privacy Management Plan 2011, the Privacy and Personal Information Protection Act 1988.

7. Safeguards against victimisation and retribution

Allegations of victimisation and retribution as a result of lodging a complaint will be investigated if substantiated. If a community member experiences such behaviour they should lodge a complaint with the General Manager.

8. Lodging a Complaint

When lodging a complaint, complainants need to provide the following:

- Name
- Address
- Email address
- contact number
- Detail description of the complaint.

Complaints may be lodged with Council as follows:

| | |
|-------------------------------|---------------------------------------|
| Address | 1A Marlborough St, Drummoyne NSW 2047 |
| Mailing address | Locked Bag 1470 Drummoyne 1470 |
| Working days and hours | Monday-Friday, 8.30am-4pm |
| Phone | 9911 6555 |
| Email | council@canadabay.nsw.gov.au |

8.1 To a Councillor

Complaints can be made to Councillors. In these circumstances it will be the responsibility of the Councillor to refer the matter to the General Manager as soon as practicable after having received the complaint.

Upon receipt of a complaint, the procedure as outlined in Section 4 of this Policy will be followed.

9. Assistance with Lodging a Complaint

Council is committed to ensuring complainants are not disadvantaged and will provide assistance to any person who wishes to make a complaint.

Should an interpreter be required, Council will provide a language aide staff member or arrange for an interpreter through the Telephone Interpreter Service (TIS).

10. Remedies

Remedies may include:

- an apology where Council has made a mistake or where a Council Officer's comments or behaviour have offended
- provision of the desired service
- a refund of overcharged or incorrectly charged monies
- provision of more information about Council's policies and/or the decision making process including regular progress updates
- a commitment to investigate and/or review Council procedures or practices where a complaint is justified
- recommendation to refer the complaint to an external body where Council cannot resolve the matter to the satisfaction of the complainant

11. Other Complaints

11.1 Complaints - Staff

Complaints in regard to staff concerning alleged breaches of the Code of Conduct will be directed to the General Manager in the first instance.

The General Manager will assess the complaint in accordance with Council's Code of Conduct.

11.2 Complaints - Mayor/Councillors

Complaints in regards to the Mayor or Councillors concerning alleged breaches of the Code of Conduct will be directed to the General Manager in accordance with Council's Code of Conduct and will be referred in the first instance to the General Manager.

The General Manager will assess the complaint in accordance with Council's Code of Conduct.

11.3 Complaints - General Manager

Complaints concerning the General Manager will be directed to the Mayor in the first instance.

The Mayor will assess the complaint in accordance with Council's Code of Conduct.

11.4 Complaints Concerning Corrupt Conduct

Complaints concerning allegations of corrupt conduct (as defined by Sections 7, 8 and 9 of the Independent Commission Against Corruption Act 1988) will be referred immediately and directly to the General Manager.

Where there is reasonable suspicion that corrupt conduct is or may be involved, a report will be forwarded to the ICAC.

Under Section 11 of the Independent Commission Against Corruption Act 1988, the General Manager must report to the Independent Commission Against Corruption in circumstances where there is reasonable suspicion that corruption in any form has occurred within Council.

The reporting of such matters to ICAC will not delay reporting to the Police or any other authority.

11.5 Complaints Concerning Child Protection

In accordance with Council's Child Safe Code of Conduct, and the Children and Young Person's Protection Policy, any child protection concerns must be reported in the first instance to senior management of the relevant work area. A Complaints and Allegations Record Form is to be completed, and the People and Culture team, and upper levels of management will be involved if required.

The Mandatory Reporter Guide on the Department of Communities and Justice's ChildStory Reporter Community will assist in determining if the child is at risk of significant harm: <https://reporter.childstory.nsw.gov.au/s/>

If so, a Child Protection report will be made to the Department, either online or via the Child Protection Helpline (132 111). The Police (000) will need to be contacted if the child or young person is in imminent danger.

In addition, if an allegation against an employee or volunteer is made, then an investigation will be launched to determine if it constitutes Reportable Conduct, which must be reported to the Office of the Children's Guardian under their Reportable Conduct Scheme, within 7 days: <https://ocg.nsw.gov.au/organisations/reportable-conduct-scheme>

Any Council employee who is investigated and is found to have committed an offence against a child or young person will be subject to Council's disciplinary processes, and a report to the Police (000) will be made as required.

11.6 Complaints Concerning Pecuniary Interests

All complaints relating to pecuniary interest matters will be forwarded to the General Manager for referral to the Chief Executive of the NSW Office of Local Government.

11.7 Complaints Concerning Public Interest Disclosures

Complaints by Council Officials alleging corrupt conduct, maladministration, serious and substantial waste of public money, and government information contravention are considered Public Interest Disclosures in accordance with the Public Interest Disclosures Act (1994).

All complaints made which are public interests disclosures will be managed in accordance with Council's Public Interest Disclosures Policy.

11.8 Complaints Concerning Competitive Neutrality

The City of Canada Bay supports the principles of competitive neutrality by ensuring that Council business operates without any net competitive advantages over other businesses as a result of its public ownership.

Council will receive and consider any complaint alleging that Council has not abided by the spirit of competitive neutrality in the conduct of a business activity.

Any complaint of this nature received by Council will be managed in accordance with this policy and associated procedures.

12. Complainants

The City of Canada Bay accepts that the process of making a complaint to an organisation can sometimes be difficult and distressing. It is acknowledged that this may result in difficulties in communicating concerns.

In a small percentage of cases, despite the best efforts of Council, it may be challenging to manage complainants whose conduct is unreasonable, and whose actions or motivations are unacceptable.

Council will treat all complaints with the utmost seriousness and will take reasonable steps to manage these situations, while fulfilling the obligation to provide its employees with a safe workplace and to ensure appropriate use of public resources.

12.1 Malicious, Frivolous and Vexatious Complaints

In the case of malicious, frivolous and vexatious complaints, as well as persistent and difficult complainants, Council reserves the right to put in place administrative controls to assist in the management of the issue.

The following provisions apply to these types of complainants and anyone acting on their behalf:

Council will take no further action on a complaint if, following investigation, it is found that the complaint:

- was made maliciously to damage a person's career, reputation or livelihood
- is of trivial and superficial nature
- is not supported by any evidence and made primarily for the purpose of causing annoyance

A decision to take no further action on the complaint will be made by the General Manager and the complainant will be informed in writing of that decision.

The General Manager may, at his/her discretion, seek legal advice with respect to the implications of the suspected vexatious or malicious complaints.

12.2 Persistent Complainants

From time to time, the Council will encounter situations where:

- The complainants persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response or while the complaint is being addressed (care must be taken not to disregard new issues which are significantly different from the original complaint as they need to be addressed as separate complaints).
- The complainants persist in pursuing a complaint, despite reasonable efforts of the Council to help them specify their concerns, and/or where the concerns identified are not within the realm of the Council to investigate.
- Complaints are about the same or similar issue(s) and the Council has either addressed or dismissed the issue(s) as being without substance.
- The complainants have excessive contact with the Council and place unreasonable demands on staff. For the purpose of determining an excessive number, a contact may be in person, by telephone, letter or email or social media. Discretion will be used in determining the precise number of excessive contacts applicable under this section, using judgement based on the specific circumstances of each individual case.
- There is any inference that the complainants have recorded meetings or face-to-face or telephone conversations without the prior knowledge and consent of other parties involved.
- The complainants are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Persisting in interpreting the law or policy in a way that is not in accordance with generally accepted or expert views on the issue and insisting that action is taken accordingly.

Under these circumstances, in order to avoid resources to be unreasonably diverted, Council may decide to put in place an administrative control to limit responses to future complaints.

Details of the number and nature of the complaints and subsequent responses from Council will be provided to the Manager Customer Services, who will make a recommendation to the General Manager that further correspondence and/or telephone contact is to be restricted.

If a decision is made to endorse the recommendation, the General Manager will notify the complainant in writing, that the Council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as a persistent complainant and as such the Council does not intend to engage in further correspondence dealing with the complaint.

The complainant will be advised that any future written material on the complaint subject will be filed.

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

12.3 Difficult Complainants

Complainants who display aggressive or abusive behaviour such as abusive language (oral or written), threats, sexual remarks, rudeness, or have threatened or used physical violence towards Council Officers or property at any time, may be restricted from access to Council buildings or staff. Details of such behaviour will be provided to the General Manager.

If a decision is made to restrict access, the General Manager may notify the complainant:

- that the complainant is not permitted to enter Council buildings for a period of time

- that no phone calls will be accepted
- that they may only correspond with Council in writing
- of the nature and duration of restrictions placed upon them

At times Council may decide to nominate a legal representative to maintain contact with the complainant. The complainant will be notified of this person.

12.4 Administrative Control

Where Council has placed a ban on a complainant, Council will review the control depending on the severity of the matter. The complainant will be notified in writing of the ban.

All threats of violence will be reported to the NSW Police Force and the complainant will be banned from entering Council's premises for a period of time to be determined by Council. The complainant will be notified in writing by Council.

12.5 Review of Controls

Council will review the ban depending on the severity of the matter. The complainant will be advised in writing once the ban has been lifted.

13. Monitoring

All complaints will be entered into Council's corporate database to allow for reporting and trend analysis. Specifically Council's Executive will be assessing whether issues are systemic or recurring, and subsequently implement steps to improve processes and reduce further complaints.

14. Reporting

On a monthly basis the Governance and Customer Services Manager will provide reports to the Executive on complaints received and subsequent follow up and departmental action.

Monthly, reports will provide the following information on each complaint:

- the issue at the centre of the complaint
- dates and history of complaint, if available
- team/ Manager responsible to address the complaint
- action taken to address complainant's issues
- feedback from the complainant, where available, as to satisfactory resolution of the complaint or otherwise

15. Implementation Statement

To ensure this policy is implemented effectively, Council will employ a variety of strategies as follows:

- training on complaints handling, including child protection related disclosures, for staff as part of induction and training programs
- specific training for Managers on how to analyse and respond to complaint types, to promote a culture of continuous improvement
- use of Council website to promote policy and procedures

16. Related Information / Glossary

- Local Government Act 1993
- Privacy and Personal Information Protection Act 1998
- Independent Commission Against Corruption Act 1988
- Ombudsman Act 1974
- NSW Ombudsman's Effective Complaint Handling Guidelines (2004)
- Australian Standard ISO 10002:2004, MOD, Customer Satisfaction – Guidelines for complaints handling in organisations
- Public Interest Disclosures Act 1994
- Council's Public Interest Disclosures Act 1994 – Internal Reporting Policy 2011

- Government Information (Public Access) Act 2009
- Council's Code of Conduct
- Council's Child Safe Code of Conduct
- Council's Privacy Management Plan 2011
- Council's Children and Young Persons Protection Policy
- NSW Ombudsman and Department of Local Government, Practice No 9 – Complaints management in Councils (2009)
- Civil Liability Act (2002)

17. External Agencies

| Agency | Nature of Complaint |
|--|---|
| <p>NSW Ombudsman Level 24, 580 George Street, SYDNEY NSW 2000 Phone: 02 9286 1000 or 1800 451 524 Fax: 02 9283 2911 Email: nswombo@ombo.nsw.gov.au</p> | <p>Matters concerning maladministration</p> |
| <p>NSW Office of Local Government Locked Bag 3015, NOWRA NSW 2541 Phone: 02 4428 4100 Fax: 02 4428 4199 Email: dl@dlg.nsw.gov.au</p> | <p>Matters concerning serious Council misconduct or pecuniary interest matters</p> |
| <p>The Independent Commission Against Corruption GPO Box 500, SYDNEY NSW 2001 Phone: 02 9318 5999 or 1800 463 909 Fax: 02 9264 5364 Email: icac@icac.nsw.gov.au</p> | <p>Matters concerning corrupt conduct, which is defined as dishonest or partial exercise of any official functions by a public official. The General Manager is required to report suspected cases of corrupt conduct to the ICAC.</p> |
| <p>NSW Office of Children's Guardian Office of the Children's Guardian Locked Bag 5100 Strawberry Hills NSW 2012 Phone: 02 8219 3600</p> | <p>Matters concerning the Child Safe Scheme</p> |
| <p>Anti-Discrimination Board PO Box a2122, SYDNEY SOUTH NSW 1235 Phone: 02 9268 5555 or 1800 670 812 Fax: 02 9268 5500</p> | <p>Matters in relation to discrimination, disability and harassment</p> |
| <p>Australian Competition and Consumer Commission GPO Box 3648, SYDNEY NSW 1044 Phone: 02 9230 9133 Fax: 02 9232 6107</p> | <p>Competitive neutrality complaints</p> |
| <p>Information and Privacy Commission GPO Box 7011 SYDNEY NSW 2001 Free call phone: 1800 INFOCOM (1800 463 626) Email: ipcinfo@ipc.nsw.gov.au</p> | <p>Breaches of the Government Information (Public Access) Act 2009 (GIPA Act) and the Privacy and Personal Information Act 1998.</p> |

18. Review

The Complaint Handling Policy will be reviewed on a four yearly basis to ensure the processes are responsive and appropriate in addressing issues raised by complainants

19. Complaints Flowchart



