

Complaints and Grievance Policy



1. RATIONALE

This Policy is consistent with the Australian Standards for complaint handling and the Ombudsman SA *Right of Review* Audit (completed November 2016).

2. POLICY STATEMENT

The City of Marion:

- Is committed to providing good governance practices through efficient fair and accessible mechanisms to resolve services complaints or grievances.
- Encourages customers and the community to raise issues and complaints with the Council as it provides the opportunity to improve services to the community.
- Recognises the importance of transparency in decision making and the need to provide a fair and objective process for the review of all decision and actions.

3. OBJECTIVES

The purpose of this Policy is to provide a fair, consistent and structured process for City of Marion's customers if they are dissatisfied with an action, decision or services. These actions, decisions or services may be delivered by the Council (being the elected body as a whole), an employee of the council or another person acting on behalf of the council.

Lessons learnt from a complaint investigation will be used to directly inform service improvement.

Where complaints cannot be settled in the first instance the City of Marion will ensure that they are dealt with through appropriate, more formal procedures by staff or Council with the authority to make decisions. Complainants will be referred to this Policy and the associated procedure which details the steps required for further review.

4. POLICY SCOPE AND IMPLEMENTATION

PRINCIPLES

This policy is based on the following principles:

- Fairness – All Complaints and grievances will be treated with procedural fairness, impartiality and transparency at all stages of the review.
- Responsiveness – taking into consideration the complexity of the matter, all complaints and grievances will be resolved in a timely manner.
- Efficiency – those involved in the complainant process will have the required skills, knowledge and resources to undertake the review.

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MANAGING INTERNAL COMPLAINTS AND GRIEVANCE

Complaints and grievances can vary in their complexity and seriousness. There are three ways in which a complaint or grievance can be resolved/reviewed:

1. Immediate response to resolve the matter

All staff are empowered to handle complaints in the first instance and it is preferable that they are dealt with promptly at the initial point of contact and at the appropriate officer level where ever possible.

2. Escalated to a supervisor or manager

When a complaint cannot be resolved in the first instance, it will be referred to either a supervisor or manager. Additionally, where the circumstances indicate that the complaint would be more appropriately dealt with at a high level, the matter will be escalated. Complaints of this nature must be made in writing and outline the specific nature of the complaint.

3. Internal Grievance Review – Review of Decision (pursuant to section 270 of the Local Government Act 1999)

When a complaint cannot be resolved in the first instance and/or by a supervisor or manager, it will be referred for internal review in accordance with the Complaints and Grievance Procedure. The complaint or grievance will be reviewed by the Manager Office of the CEO. The Manager Office of the CEO may investigate the matter themselves, or establish an internal Review Panel (depending on the complexity of the matter) or refer the matter to an independent investigator.

Any complaint or grievance relating to a decision made by the Chief Executive Officer or the Council at a Council or Committee Meeting, will be referred to the next General Council Meeting to determine how the matter will be reviewed, either by an internal Review Panel or outsourced to an independent investigator.

Complaints of this nature must be made in writing to the Manager Office of the CEO and outline the specific nature of the complaint and the dis-satisfaction with any internal review completed so far.

Applications must be accompanied by a prescribed fee of \$20 as set out in the Local Government (Application for Review Fee) Notice 2021. Council is entitled to waive this fee in exceptional but reasonable circumstances.

Applications for the review of decisions must be lodged within six (6) months of the decision in question being made. However, in exceptional but reasonable circumstances, the Manager Office of the CEO may agree to accept a late application. This will be assessed on a case-by-case basis.

This process will be the last level of internal review for the Council's complaint and grievance process.

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ALTERNATIVE DISPUTE RESOLUTION METHODS

The City of Marion prefers to try and resolve complaints and grievances internally but there will be circumstances where this is not possible. If this occurs, the dispute resolution methods available to complainants include:

1. Mediation – refer to Mediation
SAContact details:
Address: 175 Oaklands Road, Warradale SA 5046
Email: wreception@mediationsa.org.au
Phone: (08) 8350 0376
2. Ombudsman Review – refer to Ombudsman SA
Contact details:
Address: Level 9, 55 Currie Street, Adelaide SA 5000
Email: ombudsman@ombudsman.sa.gov.au
Telephone: (08) 8226 8699
3. Legal action

TIMEFRAME

Timeframes for complaints and grievances will be dependent on the complexity of the matter. Complainants will be advised upfront of the likely timeframe required to investigate

a matter and updated on progress where necessary. Timeframes may change as matters progress. The estimated timeframe for complaints and grievances are as follows:

1. Immediate response to resolve the matter

1-3 working days
2. Escalated to a supervisor or manager

10 working days of the matter being escalated
3. Internal Grievance Review (pursuant to section 270 of the Local Government Act 1999)

6 – 8 weeks of the matter being referred to the Manager Office of the CEO but may take up to six months for complex matters.

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ITEMS EXCLUDED FROM THIS POLICY

The following matters are excluded from being reviewed pursuant to this Policy and associated procedure:

- If the complaint is made by an employee of the council and relates to an issue concerning his or her employment.
- It appears that the complaint is frivolous or vexatious.
- If the Complainant does not have a sufficient interest in the matter.
- Complaints which are determined to be about matters that are not Council's responsibility (i.e. neighbourhood disputes).
- Complaints that refer to staff or elected member misconduct or behaviour (will be referred to relevant Code of Conduct).
- Reports of fraudulent, corrupt or illegal activity (will be referred to the relevant authority).
- Matters that have existing appeal rights through their own legislations (i.e. Freedom of Information, Expiation of Offences act 1996, Development Act 1993 etc).
- Claims and Insurance decisions made by other agencies.
- A decision of Council to refuse to deal with, or take no further action in relation to, complaints about council members made pursuant to sections 262A to 262E of the *Local Government Act*.
- A decision of council relating to a recommendation of the Ombudsman Council can decide not to review a matter if the application has already been the subject of a review by the council or "an investigation inquiry or review by another authority" (section 270(4)). The decision maker in these circumstances is the council officer assigned to consider the application. A member of the public who is unhappy about this decision remains entitled to make a complaint to the Ombudsman.

Matters that fall outside statutory appeals procedures will be considered for the conduct of an Internal Grievance Review on the merits of the individual application.

UNREASONABLE COMPLAINANT

All complaints received by the City of Marion will be treated seriously and complainants will be treated courteously. However, occasionally the conduct of a complainant can be unreasonable. This may take the form of unreasonable persistence, unreasonable demands, lack of cooperation, argumentative or threatening behaviours.

Where a complainant's behaviour consumes an unwarranted amount of Council resources or impedes the investigation of their complaint, a decision may be made to apply restrictions on contact with the complainant. Before making any decision to restrict contact, the complainant will be warned that, if the specified behaviour(s) or actions continue, restriction may be applied.

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Any decision to restrict contact or suspend action on a complaint process will be made by the Chief Executive Officer and/or a General Manager. This will be communicated to the complainant in writing.

REPORTING

All matters reviewed via an Internal Grievance Review will be reported via the City of Marion Annual Report.

Part 2 – Complaints regarding Code of Conduct for Council Employees

Complaint procedure

Where a person alleges –

- an employee (or a relative of an employee) has sought or received a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of
- the employee to a person or to influence the employee in the performance or discharge of the employee's functions or duties; or
- an employee has failed to record, or correctly record, details of a gift or benefit received by the employee (or a relative of an employee) on the gift and benefits register; or
- the CEO has not appropriately maintained a register for gifts and benefits received by employees of the council,

they may submit a complaint alleging that an employee of council has contravened or failed to comply with the Code of Conduct for Council Employees, as prescribed in Schedule 2A of the *Local Government (General) Regulations 2013*.

A complaint must be given to the Chief Executive Officer, Manager Human Resources or Manager Office of the CEO. In the case of a complaint against the Chief Executive Officer, a complaint must be given to the principal member of the council, except in circumstances where it would be inappropriate to do so (such as where legislation requires the matter to which the complaint relates to remain confidential).

A complaint will be investigated and resolved according to the industrial and human resource procedures of the council.

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5. DEFINITIONS

<i>Term</i>	<i>Definition</i>
<i>Request for Services</i>	A request for service is an application to have Council or its representative take some form of action to provide a Council service. Council receives thousands of requests for services each year. This will include matters such as hard rubbish collection, street sweeping, pot holes, home care, etc. All requests for services will be logged within the City of Marion Customer Event System, and managed through this process.
<i>Feedback</i>	The City of Marion may receive feedback from customers on services provided. It is important to distinguish between feedback and a complaint. Feedback can take the form of comments, both positive and negative, which do not necessarily require a corrective action, alternation of service or a formal review of the decision.
<i>Complaint</i>	A Complaint is defined as an expression of dissatisfaction with a product or service delivered by the Council or its representatives that has failed to reach the standards set, implied or expected. This includes complaints about a service that has been, or should have been delivered.
<i>Grievance</i>	A grievance is defined as a wrong decision or action of Council, Council staff or representative. A grievance often occurs when complaints cannot be resolved or have caused significant distress to the complainant.

6. REFERENCES

- Complaints and Grievance Procedure
- Employee Code of Conduct
- Elected Member Code of Conduct
- Fraud and Corruption Policy
- Whistleblowers Policy

7. REVIEW AND EVALUATION

This policy will be made available to all staff, elected members and the community via the City of Marion website and Internal Register. This policy will be reviewed every four years in accordance with the Policy Framework.