

EME030	COMPLAINT HANDLING		
POLICY OWNER:			
DEPARTMENT:	Office of the CEO		
CREATION DATE:		REVIEW SCHEDULE:	Annually
RELATED PROCEDURES:			
RELATED FORMS:			
RELATED DELEGATIONS:			
RELATED POLICIES:			
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EME030 Complaint handling

OBJECTIVES

To provide residents and ratepayers with consistent and clear principles, procedures and guidelines for the lodging, investigation, resolution, reporting back and implementation of decisions relating to complaints made to the Shire of Carnarvon.

To establish a clear process for the internal recording and reporting on complaints management to Elected Members.

To establish a mechanism where complaints about levels of service can be used as inputs into future strategic, annual, and financial planning analysis and decision-making by Elected Members.

POLICY STATEMENT/S

Notes

The Shire of Carnarvon aspires to provide a high level of service to its residents and ratepayers, to provide them with accessible and inclusive democratic services and to do so in a manner that is positive and respectful of members of the community.

The Shire recognises that from time-to-time members of the community may not be satisfied with Council services, processes, and decisions.

It also recognises that there needs to be a clear, simple, and accountable process available for people to lodge any complaint they may wish to make which provides assurance that responses will be considered objectively, and a positive outcome actively sought.

The Shire also takes the view that complaints can provide useful information and insights into community aspirations about future levels of service and into how existing processes, delivery, and communication to the community about services can be improved.

Principles





- a. A complaint is not a request for a service or a new level of service but is an expression of dissatisfaction about a Council service or action, accompanied by a request for redress. This redress might take the form of a seeking particular outcome for the individual making the complaint, or a more general desire to see a change to Council services and procedures.
- b. Members of the Shire of Carnarvon community will have access to a simple, accountable, and transparent complaints response service.
- c. Complaints will be regarded as a positive source of information for continuous improvement of Shire services and procedures.
- d. Complaints will be taken seriously and anyone approaching Council with a complaint will be listened to, understood and respected. The matter will be dealt with fairly and properly.
- e. Action will be taken to address their concern or fix the problem.
- f. Complaints will be dealt with quickly and in a manner that provides the complainant with a clear decision as soon as possible.
- g. Complainants will be given information about the process and progress on dealing with the matter raised. Regular updates on progress about their complaints will be provided until a decision is made. An explanation will be given about the process and any decisions made.
- h. Any response to a complaint received from a member of the Shire of Carnarvon community will seek positive outcomes which accommodate as much as possible the concerns of the complainant, if response can be delivered in a way that is consistent with Shire budget decisions and approved annual programmes, and regulatory accountabilities.
- i. If required, an apology in relation to the matter raised will be given.
- j. Complainants will always be informed of further mechanisms available to them for redress if they do not agree with decisions made.
- k. Responses to external statutory bodies investigating complaints will be undertaken in a positive, open, and timely manner.
- l. The confidentiality of complainants will be protected according to statutory standards and requirements.

[Complaints Procedure](#)

[The complaints procedure can be found on page 31](#)

Complaints Register

A Complaints Register will be maintained for all formal complaints received. It will record complainant details and issues raised, assign a complaint number, place of referral within the organisation, final decision, resolution if classified as minor, and final response letter reference.

Internal Management and Reporting





The Shire will:

- a. monitor response performance against agreed and published KPIs which will be reviewed on a four-yearly cycle.
- b. report complaints statistics and performance on an annual basis to the Council.

Information Inputs into Strategic Planning or Organisation Improvement

As part of any future integrated planning process or organisation improvement process, the Complaints Register will be reviewed to identify any emerging themes in relation to levels of service aspirations, or procedures and standards, as inputs into those processes.

Information will only be used in an aggregated form and the confidentiality of complainant information will be fully protected.

Persistent and Unreasonable Complaints

The Shire is committed to addressing complaints raised by members of the community in a positive way, seeking wherever possible, outcomes which address the concerns of complainants.

There will be situations where the decisions/actions of the Shire may be unacceptable to complainants, despite all efforts to achieve a positive outcome. In addition, a very small number of complainants may choose to express their complaints in an unacceptable or aggressive manner.

The Ombudsman Western Australia 2009 Guidelines identify that an organisation may experience what it terms 'Unreasonable Complainant Conduct' falling across three bands of behaviour:

- a. habitual or obsessive complainants, this includes people who:
 - o cannot 'let go' of their complaint
 - o cannot be satisfied despite the best efforts of the agency
 - o make unreasonable demands on the agency where resources are substantially and unreasonably diverted away from its other functions or unfairly allocated (compared to other customers)
- b. rude, angry, and harassing complaints
- c. aggressive complaints.

The Guidelines set out a framework for dealing with these behaviours.

Registering and discussing complaints with employees, whether verbal or written, in an abusive or aggressive manner is unacceptable. Having made clear, the intention of the Shire employees, interaction will be suspended until such time as the behaviour is guaranteed to be at an acceptable level.

Abusive, inflammatory written material or material designed to be intimidating associated with a complaint will be returned to the sender and not acted upon.

The Shire may in exceptional circumstances make the decision to identify a complainant as unreasonable in their behaviour and to limit, withhold or withdraw services associated with the complaint matter.



This can only be considered when the following threshold tests have been met:

- a. it can be clearly shown that the Shire's complaint procedure has been correctly implemented in all its facets and no material element of the complaint overlooked or inadequately addressed;
- b. the behaviour of the complainant has become so habitual, obsessive or intimidating that it constitutes an unreasonable demand on the Shire's resources; and
- c. all internal review or appeal processes have been exhausted; and
- d. the complainant has been advised of external review processes available to them and has chosen not to pursue those processes; or
- e. external review processes have been undertaken and have found against the complainant

Any decision made regarding withholding services will be made by the Shire of Carnarvon Council on receiving a formal report from the CEO. The report will set out the reasons for taking the proposed action and must explicitly address the threshold tests set out above.

The confidentiality of any person involved will be protected.

In considering any of these actions, account will be taken of whether the complainant has suffered a recent bereavement or is under known stress which may be a contributing factor to the behaviour.

Procedures

Lodging of Complaints

Complaints can be made:

- a. in writing via fax and emails and are to be directed to the generic shire address shire@carnarvon.wa.gov.au
- b. via the shire website
- c. in person by completing a customer feedback form at the Shire office
- d. by telephone.

Complainants are encouraged to lodge their complaint in writing but if made by telephone, the complainant will need to provide their name and contact details and information about their concerns.

The complaint will be recorded in the Complaints Register by the Shire employee receiving the complaint at first point of contact, along with information about the date at which it is referred for investigation, where referred and initial response.

Initial Resolution: Minor Matters

'Front of house' customer service employees and external works employees will be the first point of contact for many complaints received by Council. As a first principle they should attempt to resolve minor complaints as speedily as possible. Where there is no consequent budget cost or liability, or no



implications for the Council’s established policy position on a matter, then they have the authority to resolve the problem on the spot. Complaints must be recorded in the Complaints Register.

If the minor matter is resolved at this stage to the satisfaction of the complainant, this should be recorded by the person dealing with the issue in the Complaints Register. If the matter cannot be resolved satisfactorily, it should be referred to the relevant senior manager/ Chief Executive Officer with this referral also recorded in the Complaints Register. The complainant should be informed that the matter will be referred for further investigation and that they should expect a follow-up written communication within 5 working days confirming the process which will be followed.

Where there are potential implications for budgets, wider levels of service decisions, liability or the Shire’s established policy position, the complaint should be immediately referred to the relevant senior manager/ Chief Executive Officer for investigation as per the Stage 2 Complaints Procedure. The complainant should be informed that the matter will be referred for further investigation and that they should expect a follow-up written communication within 5 working days confirming the process which will be followed.

Stage 2 Complaints Processes

Where a complaint has been received and it is more than minor, or if a minor complaint that could not be satisfactorily resolved is referred on, they will be dealt with under the following processes:

Complaints in Relation to Council Services

If the complaint alleges illegal or corrupt action, the CEO will automatically refer the matter to a relevant outside agency.

In all other cases, the following process will be followed:

- a. The complainant will receive an initial phone-call from the relevant person with the authority to deal with the matter with the intent of trying to resolve the concern raised, within the specified time set out in Appendix 1. If the matter is resolved this will be logged in the Complaints Register.
- b. If the matter cannot be resolved in this way, the complainant will receive a letter acknowledging receipt of information within the specified time set out in Appendix 1.
- c. The complaint will be referred by the CEO to the relevant senior employee responsible for the service that is the subject of the complaint. The senior employee will investigate the complaint, including interviewing the relevant employees. If the matter can be resolved at this point in a way that in the view of the employee does not have budget implications, does not significantly affect programme, or project priorities and is consistent with Council’s policy direction then the matter should be resolved. This resolution will be recorded in the Register. If it cannot be resolved at this point the matter will be reported to the CEO.
- d. The CEO will consider the report and decide on the complaint, including if the complaint is upheld whether any changes to current practices and procedures is required.
- e. The complainant shall be advised in writing of the outcome of the decision. The complainant will receive a letter with the decision on the complaint or an update on progress within the specified



time set out in Appendix 1. They will also be informed of the avenues available to them for further appeal if they are dissatisfied with the decision and outcomes. This will include the ability to write further on the matter to the Shire President, or to make a complaint to the Ombudsman's office.

f. The decision at any point in the process will be recorded against the Complaints Register number along with the file reference number for any associated written document

Note

In some cases, complaints may be concerned with seeking a level of service change or a programmed action that is not provided for in existing budgets or programme capital works. These matters will be automatically forwarded to strategic, annual, and capital works planning processes for future reference and consideration.

Complaints Against Employees (other than the CEO)

s5.14 of the Local Government Act states: 'The CEO's functions are to: be responsible for the employment, management, supervision, direction, and dismissal of other employees (subject to s5.37 (2) in relation to senior employees.'

Accordingly, all complaints or allegations against an employee (other than the CEO) shall be dealt with by the CEO.

If the complaint alleges illegal or corrupt action, the CEO will automatically refer the matter to a relevant outside agency.

In all other cases, the following process will be followed:

- a. Investigation of complaints/ allegations will be treated as confidential and will be discharged according to the principles of natural justice and procedural fairness.
- b. The CEO will advise the employee verbally and in writing of the complaint, setting out:
 - details of the complaint/ allegation (other than the complainants' name/ details),
 - details of the legislation/ Employee Code of Conduct that has allegedly been breached,
 - seek comments or a response to the allegation,
 - specify a closing date for receiving a response
- c. Having received all responses, the CEO will prepare a confidential report. The report will contain details of the complaint/ allegation, legislation or Code of Conduct alleged to be breached, a determination on whether a breach has occurred and if so, the action which will be taken in relation to the employee's future performance.
- d. The employee will be advised as soon as practicable of the outcomes of the decision in relation to the complaint.
- e. The complainant will be advised as soon as practicable of the outcomes of the decision in relation to the complaint and of the avenues available to them for further appeal if they are



dissatisfied with the decision and outcomes. This will include the ability to write further on the matter to the Shire President, or to make a complaint to the Ombudsman's office.

Complaints Against the CEO

Any complaint in relation to the Chief Executive Officer will be forwarded to the Shire of Carnarvon President for consideration and action.

If the complaint alleges illegal or corrupt action, the President will automatically refer the matter to a relevant outside agency.

In all other cases, the following process will be followed:

- a. Investigation of complaints/allegations will be treated as confidential and will be discharged according to the principles of natural justice and procedural fairness.
- b. The President will advise the CEO within seven days of receiving a complaint, verbally and in writing, of the existence of the complaint and setting out:
 - details of the complaint/ allegation (other than the complainant's name/details)
 - details of the legislation/ Employee Code of Conduct that has allegedly been breached
 - seek comments or a response to the allegation
 - specify a closing date for receiving a response
- c. The Shire President will prepare a confidential report to Council which will:
 - summarise the complaint made
 - summarise information in relation to the issue raised
 - present a resolution which either declines to review the matter further, addresses the issues raised, or triggers further formal review.
- d. if it is resolved that the complaint should receive further consideration by Council, the President will convene a special Performance Review meeting within 21 days of receipt of the complaint and present a report outlining the issues raised, a view as to whether any breach of the Code of Conduct or Performance Agreement has occurred and if so, potential performance management provisions.
- e. If the Council considers that further information is required on a specific matter or aspect of the issue under discussion, including legal advice, this will be commissioned via formal resolution by Council. No other information will be sought independent of that process by Elected Members and if tabled will not be considered further in any deliberations.
- f. The President will prepare a further report, including any new information previously sought by Council with relevant recommendations for consideration by the Council.



g. The Council will make a final decision and the employee will be advised as soon as practicable of the outcomes of the decision in relation to the complaint. They will also be informed of any further process for appeal or redress.

h. The complainant will be advised as soon as practicable of the general outcomes of the decision, consistent with the Shire's duties to act in good faith as an employer and to retain relevant confidentiality, and of the avenues available to them for further appeal if they are dissatisfied with the decision and outcomes.

Complaints against an Elected Member or the Shire President

Any complaint in relation to an Elected Member or the Shire President will be forwarded to the Shire of Carnarvon:

- a. Behaviour Complaints Officer as per Division 3 of the Shire of Carnarvon Code of Conduct for Council Members, Committee Members and Candidates
- b. Complaints Officer as per Division 4 of the Shire of Carnarvon Code of Conduct for Council Members, Committee Members and Candidates (s5.120 LGA 1995).

If the complaint alleges illegal or corrupt action, the Complaints Officer will automatically refer the matter to a relevant outside agency.

All subsequent processes will be followed as provided for under Division 9, LGA 1995.

Anonymous Complaints

As a general principle no action will be taken when a complainant declines to provide their name and/or contact details. The exception will be where the matter could be life threatening, is an existing health hazard, or will create a health hazard.

All anonymous complaints should be recorded in the Complaints Register whether action is taken or not. Where an action is taken this must be recorded in the Complaints Register.