

# **Bass Coast Shire Council**

## **Complaint Handling Policy 2020**

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### **Preamble**

Bass Coast Shire Council (Council) is committed to providing friendly, prompt, helpful and professional customer service every time we interact with our customers. Council actively encourages feedback and is committed to using this information to improve our services and systems.

Council's Complaint Policy and associated documents are modelled on the Victorian Ombudsman's guide to Complaint handling for Victorian Public Sector Agencies (September 2016).

### **Policy objectives**

This Policy aims to:

- provide a standardised approach to managing customer complaints;
- provide a framework for the management of complaints and feedback with a view to continually improving services, systems and capabilities;
- increase the level of customer satisfaction by resolving issues in an effective, fair, respectful and professional manner;
- ensure all statutory requirements are satisfied, and escalation options for customers are communicated clearly.

### **Policy statement**

#### **I. General**

##### **1.1. Application of Policy**

This Policy applies to all Councillors, Council Officers and Contractors carrying out work on behalf of Council. In all instances where a council officer is the subject of a complaint, the complainant will be directed to that officer's manager.

This Policy relates to all complaints made by customers in relation to council operations with the exception of the following complaint areas:

- Complaints relating to a Council resolution;
- Complaints relating to a planning application decision;
- Complaints already reviewed by an external agency;
- Freedom of Information (FOI) requests;
- Complaints relating to a councillor outside their role as a councillor

- Complaints relating to legal issues;
- Work-related grievances from Council employees (i.e. complaints relating to their employment).

This Policy relates solely to the management of complaints made to Council, and does not provide guidance for the management of customer requests for service.

The Policy will be made available on Council's website and is available to be sent to an individual upon request.

### **1.2. Responsibilities of Officers**

General Managers, Managers, Co-ordinators and Team Leaders are to ensure that all Officers and those persons carrying out work on behalf of Council are aware of the following responsibilities when dealing with customers:

- Treat customers fairly, courteously and with respect at all times;
- Provide internal and external avenues of review if customers are dissatisfied;
- Acknowledge and resolve customer feedback quickly and within advised timeframes;
- Keep customers up to date on the progress of matters;
- Act within the requirements of relevant legislation, policy and process.

### **1.3. How to Make a Complaint**

A person can make a complaint in a number of ways including in person, by telephone, by mail, email, fax, or via our website. All contact details are contained in our Customer Service Charter, at [www.basscoast.vic.gov.au](http://www.basscoast.vic.gov.au)

### **1.4. Customer Service Charter**

Council's Customer Service Charter outlines Council's commitment to customers in accordance with our values and acts to guide all Council's customer service functions. It articulates the service quality and timeframes that our customers should expect when contacting Council.

Please visit [www.basscoast.vic.gov.au](http://www.basscoast.vic.gov.au) to view Council's Customer Service Charter.

## **2. Customer Engagement**

### **2.1. Customer Contact**

The majority of interaction the community has with Council is regarded as customer contact. This includes general enquiries, requests for service, engagement and consultation activities, and events. In many cases the customer contact will be singular, however other contacts will be repeated or cover multiple areas of council.

### **2.2. Identifying a Complaint**

#### **2.2.1. Complaints**

A complaint may arise as a result of a customer's dissatisfaction with a service provided by Council, the behaviour of a Council employee or contractor, or it may relate to Council systems, policies or procedures.

For the purpose of this Policy, a complaint is a formal expression of dissatisfaction that must be captured and processed as per the Complaint Handling Policy. In this regard, a complaint can be instigated in one of two ways:

- **By a Customer:** A customer may express the desire to raise a complaint with Council, verbally or in writing. This could occur at any point in a customer's interaction with Council.
- **By a Manager:** A Manager may elect to transition an existing matter from customer contact to a complaint. Where this occurs, the customer should be informed in writing of the Manager's decision and provided with information on Council's Complaint Handling Policy.

### **2.2.2. Unreasonable Complaints**

A complaint is considered unreasonable when it:

- is considered to be frivolous or not made in good faith;
- involves a matter where an adequate remedy or right of appeal already exists (whether or not the complainant utilises that remedy or right of appeal);
- relates to a decision of Council;
- relates to a matter before a court or tribunal;
- relates to the appointment or dismissal of an employee or an industrial or disciplinary issue;
- relates to a matter awaiting determination by Council;
- is not possible to process due to insufficient information provided;
- is not appropriate to process due to threats made against Council or Council employees.

## **3. Types of Complaints**

The type of complaint received will determine how the matter is processed. Officers should be careful to take note of the details provided by customers, to ensure that complaints are handled appropriately under this policy. All complaint types can be received through any Council contact stream.

### **3.1. General Complaints**

General complaints are those directed at council operations or the behaviour of a particular person, where the matter does not fall under one of the other complaint categories.

### **3.2. Statutory Complaints**

Complaints that allege a breach of legislation need to be dealt with carefully and should in all cases be requested in writing and directed to the Manager Governance & Property.

### **3.3. Competitive Neutrality Complaints**

An individual or business may make a complaint if they consider that Council has failed to undertake competitive neutrality measures. Such complaints should be submitted in writing to the Manager Governance & Property, who will acknowledge the complaint in line with Council's Customer Service Charter, investigate and provide a response to the

complainant. Council's annual reporting outlines whether any competitive neutrality complaints were made to Council during the relevant financial year.

### **3.4. Third Party Complaints**

A third party complaint refers to a complaint received by Council, which does not relate to council operations. For example: a complaint made by a resident about a neighbourhood disturbance.

Where possible, Council will advise the complainant how they can best resolve/direct their issue.

### **3.5. Anonymous Complaints**

Some customers may wish to raise a complaint without disclosing their personal information. Anonymous complaints will be investigated where sufficient information has been provided to enable an investigation.

Officers are encouraged to advise the complainant that providing information will assist Council in administering the Complaint Handling Policy. Where a complainant is unwilling to disclose their details the investigation process is disadvantaged because:

- anonymity generally reduces Council's ability to properly investigate a matter, and,
- it can be difficult to clarify the nature of the complaint and obtain additional information from the complainant

An anonymous complainant can be disadvantaged because Council is unable to contact or provide the person(s) with reasons for any decision made about their complaint.

### **3.6. Complaints against Councillors**

A complaint against a Councillor that is not a complaint under the Protected Disclosures Act 2012 is to be referred to the Mayor, CEO and the Manager Governance & Property for assessment.

A complaint against the Mayor that is not a complaint under the Protected Disclosures Act 2012 is to be referred to the Deputy Mayor, CEO and the Manager Governance & Property for assessment.

If the complaint is not considered frivolous or vexatious, the Manager Governance & Property will investigate the matters raised in the complaint, requesting further information from the complainant if necessary.

Providing the complaint is not a matter required to be reported to an external agency or a complaint required to be considered under the Protected Disclosure Act 2012, the Councillor concerned is to be informed of the complaint and be requested to meet with the Mayor, CEO and Manager Governance & Property to discuss the matters raised in the complaint. The Councillor is to be informed of the actions taken to date and be provided with a copy of the complaint. The name of the complainant may be disclosed to the Councillor unless confidentiality has been requested by the complainant at the time of lodging the complaint.

Reasonable opportunity should be allowed for the Councillor to consider the complaint and respond to the allegations to the Manager Governance & Property. It is the Councillor's prerogative to determine if they require legal advice at their own expense in relation to that response. The Councillor's response should be received by a date

stipulated by the Mayor and Manager Governance & Property who will then consider the response, with the assistance of legal advice if required. Should the Mayor, CEO and/or Manager Governance & Property consider that the complaint is valid, the matter should then be considered in the context provided in the Councillor's Code of Conduct.

Should the nature of the complaint involve improper or corrupt conduct, the matter must then be referred to the Minister for Local Government or Victorian Ombudsman.

The Manager Governance & Property shall forward a written response to the complainant in relation to the outcome of the investigation.

### **3.7. Sensitive Complaints**

Some complaints will extend beyond a customer's general dissatisfaction with council operations and may involve accusations of misconduct or illegality. Where this occurs, the matter will be treated as a sensitive complaint and must be requested in writing and immediately referred to the Manager Governance & Property. Such complaints will have appropriate levels of security applied to the record and complainants will be allocated a singular point of contact in relation to the matter.

#### **3.7.1. Criminal Activity**

Complainants claiming criminal activity by an Officer, Councillor or to Council property will be assigned to the Manager Governance & Property for investigation and reported to the Police where necessary. It is encouraged that complainants approach the Police directly where the matter is posing a risk to the community or to their own health and safety.

#### **3.7.2. Improper, Corrupt and Specified Conduct**

In recognising the need for transparency and accountability in all Council operations, any disclosures which reveal corrupt, improper conduct or conduct involving a risk to public safety or the environment; may need to be treated as a Protected Disclosure. Please refer to Council's Protected Disclosure Act 2012 – Operating Procedures for further information.

[http://www.basscoast.vic.gov.au/Council/Council\\_Plans\\_Policies/Policies/Protected\\_Disclosures](http://www.basscoast.vic.gov.au/Council/Council_Plans_Policies/Policies/Protected_Disclosures)

#### **3.7.3. Fraud-related Complaints**

Council takes complaints and alleged fraudulent activity about procurement seriously and is committed to handling such disclosures confidentially. Members of the public, suppliers and Officers are encouraged to report fraud-related complaints to Council's Manager Governance & Property according to Council's fraud policy.

## **4. Unreasonable Complainant Behaviours**

### **4.1. Identifying Unreasonable Complainant Behaviours**

Unreasonable complainant behaviours are identified by Officers based on the attributes of the matter at hand. Customer behaviour may be identified as unreasonable when it is deemed to be threatening, abusive, unsubstantiated or excessive.

The complainant must have exhausted all of Council's complaint processes before it can be defined as unreasonable.

### **4.2. Managing Unreasonable Complainant Behaviours**

Appropriate officers will be provided with specialist training in dealing with challenging behaviours.

Officers, who have determined a complainant's behaviour to be unreasonable, should refer the matter to the relevant departmental Manager.

The Manager will review the particulars of the matter and determine whether it should be dealt with as an unreasonable complaint. If it is deemed unreasonable, the Manager will work with the Manager Governance & Property to determine whether the complaint will be further investigated and will advise the complainant accordingly. If the complaint is deemed unreasonable limitations may be put in place as to how the complainant deals with Council.

The Manager Governance & Property will only review a decision to limit service or communication on receipt of a request in writing from the person on whom the limits apply. If the customer is dissatisfied with the review, he or she may contact the Victorian Ombudsman at <https://www.ombudsman.vic.gov.au/>.

## **5. Administration**

### **5.1. Complaint Handling Process**

Council's Complaint Handling Policy process is a three-level system that provides for the escalation of complaints from first contact, through to external review. The process is designed to handle complaints effectively and efficiently, utilising the most appropriate resources.

Whilst the majority of complaints should follow the escalation process, it is possible for a complaint to enter the process at any one of the following three levels.

### **5.2. Complaint Escalation**

#### **5.2.1. Level 1 – Frontline Officers**

Most complaints can be resolved immediately and Officers are encouraged to resolve complaints at first contact, wherever possible and such complaints do not need to be logged in the Complaints Register. If a complaint relates to a serious matter, or requires further investigation, it must be escalated to Level 2.

#### **5.2.2. Level 2 – Investigation**

Complaints not resolved at Level 1 will be escalated to Level 2 for managerial support and/or internal review. Complaints classified as Level 2 will be recorded in the Complaints Register.

The purpose of an internal review is to determine whether actions taken in reaching the original decision were undertaken in accordance with this Policy and the associated procedure.

The relevant department Manager is responsible for managing Level 2 complaints and will liaise with the appropriate officer(s) in an attempt to resolve a matter. Where necessary, the manager will also consult with the Manager Governance & Property to assist with highly complex or sensitive matters.

Managers investigating a Level 2 complaint will aim to resolve the complaint within 28 days. If it takes longer than 28 days to resolve a complaint, the Manager will contact the complainant prior to or at this time and explain why. Complaints that are not

resolved within 28 days will be subject to review and escalated, if necessary, to ensure that a resolution is expedited.

A letter detailing the outcome of the investigation, signed by the responsible Manager, will be provided to the complainant at the conclusion of the investigation.

### **5.2.3. Level 3 – Dispute**

Complainants who feel that a matter remains unresolved after Levels 1 and 2 may be advised by Council to refer the complaint externally. Whilst Council cannot recommend or advise a course of external review, Officers should be aware that such a review may take the form of:

- alternative dispute resolution procedures such as mediation or conciliation;
- referring a complaint to an external agency such as the Victorian Ombudsman;
- formal proceedings in a Court or Tribunal.

## **5.3. Complaints Register**

A Complaints Register is used by Council to capture key details of complaints that have progressed to Level 2 and above. These details allow Council to accurately manage and report on feedback, particularly for the purposes of auditing and preparation of reports.

The Complaints Register also provides a critical opportunity to identify problems and trends, which can be used to assist in the improvement of Council operations.

## **5.4. Complaints and Requests for Compensation**

Where a complaint is accompanied by a potential request for compensation, in addition to the department handling the response to the complaint, Manager Governance & Property must be advised of the potential 'request for compensation' and processed accordingly.

## **5.5. Timeliness of Response to Complaints**

In line with the Customer Service Charter, Council will acknowledge all complaints received within ten working days. At the time of acknowledgement, the Officer is to advise the customer the estimated length of time it may take to address the complaint and a timeframe for when the complainant can expect an update.

## **5.6. Privacy**

Council regards the protection of an individual's privacy as an integral part of its commitment to complete accountability and integrity in all its activities and programs.

Council is committed to fulfilling its obligations under the Information Privacy Act 2000, Health Records Act 2001 and Information Privacy Principles.

All complaints which allege a breach of privacy will be directed to the Manager Governance & Property.

## **Reporting**

The Manager Governance & Property is responsible for the provision of reports on customer complaints, identifying areas for potential improvement. A report will be delivered:

- bi-annually at Council meetings; and
- annually in Council's Annual Report, detailing any service improvements made as a result of complaints received.

### **Additional documents**

Appendices I: Definitions.

### **Reference to other documents**

- Working Together Policy;
- Code of Conduct Policy;
- Councillor Code of Conduct Policy;
- Information Privacy Policy;
- *Local Government Act 1989*
- *Victorian Charter of Human Rights and Responsibilities Act 2006*
- *Protected Disclosure Act 2012*
- *Privacy and Data Protection Act 2014*
- *Information Privacy Act 2000*
- *Freedom of Information Act 1982*

### **Review process**

This Complaint Handling Policy and associated documents will be reviewed every 24 months.

### **Accountability process**

The Manager Governance & Property is accountable for the proper application of the Policy.

### **Approval**

Adopted by Council at its meeting held on

Date 18/03/2020

Signed by the Mayor, Cr Brett Tessari





## Appendices I: Definitions

Complaint	A formal expression of dissatisfaction with a specific action or service by Council, including the failure to comply with the Customer Service Charter, policies or applicable legislation.
Complainant	Person or entity affected by the action or inaction of Council.
Council Operations	Refers to all Council services, activities, processes, policies, buildings, employees and contractors.
Customer/s	Any party that contacts Council.
Customer Contact	Refer to section 2.1
Protected Disclosure	A specific class of Complaint (governed by the Protected Disclosure Act 2012) that requires a high level of confidentiality and protection of the Complainant.
Request for Service	Refers to a request by a customer for a particular Council service.
Third Party	Refers to any person, activity or object not connected in any way with Council.
Contact Stream	Published contact streams as per Council Customer Service Charter, including in-person, online, telephone, email, writing, Council councillors and social media.