



## ***General Complaints Policy***

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<b>Related Policies or Documents:</b>	Internal Review of a Council Decision Procedure Fraud & Corruption Prevention Policy Public Interest Disclosure Procedure Rating & Rebate Policy
<b>Associated Forms:</b>	NA
<b>Responsible Manager:</b>	Director Corporate Services
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## Table of Contents

1. Preamble .....	3
2. Purpose .....	3
3. Scope .....	3
4. Definitions .....	3
5. Policy Statement .....	4
6. Complaint Handling Model .....	5

## General Complaints Policy

### 1. Preamble

- 1.1. This policy is developed in accordance with section 270(a1)(b) of the *Local Government Act 1999* (the Act).
- 1.2. Council is committed to the provision of quality service to customers and regards complaints as an opportunity to improve practices and procedures as well as resolve the matter.

### 2. Purpose

- 2.1. The aim of this policy is to provide a fair, consistent and structured process for Council's customers if they are dissatisfied with a Council action, decision or service. Lessons learnt from complaint investigations will be used to directly inform service improvements.
- 2.2. Emphasis will be placed on resolving complaints as quickly as possible. However where complaints cannot be settled in the first instance Council will ensure that they are dealt with through appropriate, more formal procedures by staff with the authority to make decisions. This procedure is broadly consistent with the Australian Standard for complaint handling.

### 3. Scope

- 3.1. This policy applies to all staff receiving or managing complaints from the public made to or about Council, regarding Council's products services, staff and complaint handling.
- 3.2. Staff grievances regarding their employment, code of conduct complaints and public interest disclosures are dealt with through separate mechanisms.
- 3.3. Requests that relate to the impact of the declaration of rates or service charges will be dealt with in accordance with Council's Rating and Rebate Policy.

### 4. Definitions

- 4.1. **CEO** – means the Chief Executive Officer (including their delegate)
- 4.2. **Complaint** - is an expression of dissatisfaction with:
  - ) Council's actions, policies, procedures, processes, charges, employees, agents or services
  - ) The quality of services provided or works carried out
  - ) The lack of action on a request for service
  - ) Delays associated with the provision of a service
  - ) The conduct of Council's employees or nominated agents/representatives.

- 4.3. **Customer** – means a ratepayer, resident, visitor or business.
- 4.4. **Frivolous** – means a complaint that lacks substance or merit or credibility.
- 4.5. **Review of a Council Decision** – means when a customer seeks a review of a decision made by the Council, an employee of the Council, or persons acting on behalf of the Council. These are dealt with in Council's "Internal Review of Council Decisions Policy".
- 4.6. **Trivial** – means a complaint that is of little worth or importance.
- 4.7. **Vexatious** – means when a complaint is lodged to deliberately harass, annoy, delay or cause detriment or trouble. A complaint can also be considered vexatious where the complaint is without foundation and cannot possibly succeed, or where the complaint lacks reasonable grounds for lodging the complaint, or possesses insufficient direct interest in the issue complained about.

## **5. Policy Statement**

- 5.1. A complainant must have been directly affected by any action or inaction by Kangaroo Island Council that gives rise to a complaint.
- 5.2. Where possible complaints will be addressed at the first point of contact.
- 5.3. Complaints will be dealt with expediently, courteously and in accordance with this Policy.
- 5.4. All complaints will be considered on their merits, the principles of natural justice will be observed and complainants will not suffer any reprisal from the Kangaroo Island Council for making a complaint.
- 5.5. All parties will have the opportunity to express their point of view, provide relevant information and respond to issues raised.
- 5.6. A complainant may, at any time in the review process, seek external review through Ombudsman SA, other legal processes or the Courts.
- 5.7. If the Ombudsman, in accordance with the Ombudsman Act 1972, refers a complainant or complaint to the Kangaroo Island Council, the complaint will be investigated by the Administration in accordance with this Policy unless otherwise determined by the CEO.
- 5.8. **Anonymous Complaints**
  - 5.8.1. Where validating evidence is presented with an anonymous complaint, the complaint will be investigated and actioned. If no evidence is presented with the anonymous complainant, the complaint will not be investigated.
  - 5.8.2. Anonymous complaints relating to allegations of maladministration, corruption or illegal activity occurring in the organisation must be made according to the process outlines in the Public Interest Disclosure Procedure.
- 5.9. **Complaints of a Serious Nature**

5.9.1. Any formal complaint alleging maladministration, serious and substantial waste of public money, corrupt conduct or pecuniary interest is required to be reported to the South Australian Police and/or the Office of Public Integrity in accordance with the Independent Commission Against Corruption Act 2012.

5.9.2. All complaints of a serious nature reported to Kangaroo Island Council will be dealt with in accordance with the Council's Public Interest Disclosure Procedure and Council's Fraud and Corruption Prevention Policy.

## 5.10. Privacy and Confidentiality

5.10.1. The Council will ensure that confidentiality is maintained where appropriate and possible. Care will be taken to ensure (where possible) that the complainant does not experience any form of victimisation or retribution as a result of the general complaint.

5.10.2. A complainant may apply directly to the CEO, in writing, to suppress their personal details.

5.10.3. The CEO will assess the application and may suppress the complainant's name or address details if the CEO is satisfied that the complainant's personal safety or that of any other person is at risk. Acceptance of the application is at the discretion of the CEO.

5.10.4. A person may not identify that the information they have provided, or the complaint that they have made, constitutes a public interest disclosure for the purposes of the *Public Interest Disclosure Act 2018*;

5.10.5. However, a person who makes an appropriate disclosure of public interest information need not invoke the provisions of the *Public Interest Disclosure Act 2018*, to be afforded the protections under the Act; and

5.10.6. Each complaint received by the Council will be assessed so as to determine whether the provisions under the Public Interest Disclosure Act 2018 apply, and in which case, the Council will apply the process and procedures set out under its Public Interest Disclosure Procedure in its receipt, assessment and management of the complaint, and not this Policy.

## 6. Complaint Handling Model

### 6.1. Lodging a complaint

6.1.1. A complaint may be made:

- a. In person at the Civic Centre
- b. By telephone on 8553 4500
- c. By email to [kicouncil@kicouncil.sa.gov.au](mailto:kicouncil@kicouncil.sa.gov.au)
- d. In writing to:

The Chief Executive Officer  
Kangaroo Island Council

PO Box 121  
KINGSCOTE SA 5223

6.1.2. Complaints in writing are preferred to ensure that the complaint is clearly defined for both the complainant and the Kangaroo Island Council

6.1.3. Verbal complaints may be summarised and provided, in writing, to the complainant for verification prior to the commencement of the assessment of the complaint.

6.1.4. Assistance in lodging complaints is available on request. This includes assisting customers with language and communication difficulties.

6.1.5. If the complaint is in relation to a decision of Council, its employees or someone acting on behalf of Council then the complainant should lodge a formal request for an 'Internal Review of a Council Decision' in accordance with Council's Internal Review of Council Decision Procedure.

## **6.2. Timeframes and Progress Notification**

6.2.1. Complaints may vary greatly in their level of complexity and seriousness. Wherever possible complaints will be resolved when first reported, but if necessary officers will escalate complaint handling process.

6.2.2. 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.

6.2.3. On receiving a complaint that cannot be dealt with promptly at the initial point of contact and at the appropriate officer level, the CEO will appoint a Responsible Officer [RO] to manage the complaint process.

6.2.4. Complaints will be acknowledged in writing within 5 business days of receipt and will include advice about the expected timeframe for investigating the matter.

6.2.5. In most cases complaints will be investigated within 10 business days.

6.2.6. Where the complaint has not been finalised within 10 business days, the complainant will be kept informed about the progress of the investigation.

6.2.7. The complainant will be advised, in writing, of the outcome of the investigation as soon as possible after a determination is made.

## **6.3. Complaints that will not be investigated**

6.3.1. In general, every complaint will be investigated, unless it falls into one of the following categories:

- a. A vexatious complaint.
- b. A frivolous or trivial complaint.

- c. It is considered by the Responsible Officer to lack substance or credibility and therefore investigating the complaint is deemed unnecessary, unjustifiable or an inappropriate use of resources.
- d. It is made using rude or abusive language or accompanied by threatening, intimidating or rude behaviour.
- e. The complaint is made anonymously and the Responsible Officer determines that there is insufficient information to investigate it.
- f. When the complainant is able to pursue the complaint through an alternative review process.

6.3.2. If a complaint is deemed to fall into one of these categories the complainant will be advised accordingly unless the complaint is anonymous.

#### **6.4. Alternate Complaint Handling Mechanisms**

6.4.1. In some instances, an alternative complaint handling process must be used due to legislation restrictions. In these instances, staff will advise the complainant of the alternative process requirements, and assist them to seek resolution of their concerns. Examples of alternative complaint handling processes include:

- a. Code of Conduct complaints about an Elected Member or Employees.
- b. Information relating to substantial risks to public, health or safety, or to the environment will be dealt with in accordance with Council's Public Interest Disclosure Procedure.
- c. Freedom of information applications.
- d. Insurance claims
- e. Decisions made under legislation other than the *Local Government Act 1999*, such as the *Planning, Development & Infrastructure Act 2016* or *Expiations of Offences Act 1996*.

#### **6.5. Unreasonable Complainants Conduct**

6.5.1. 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 behaviour. What can be termed 'unreasonable' will vary depending on a number of factors and Council aims to manage these situation in a fair and equitable manner.

6.5.2. 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 person. Before making any decision to restrict contact, the complainant will be warned that, if the specified behaviour(s) or actions continue, restrictions may be applied.

6.5.3. The Responsible Officer will issue this warning in writing if the home or email address of the complainant is known, otherwise it will be made verbally and a record of the discussion will be made.

6.5.4. Any decision to suspend action on a complaint will be made by the Chief Executive Officer and communicated in writing to the complainant.

#### **6.6. Initial Assessment of a Complaint**

6.6.1. An initial assessment of the complaint will include its severity, any safety implications and the need for immediate action.

6.6.2. If the complaint is not able to be resolved at the first point of contact, it will be forwarded to the CEO who will appoint a Responsible Officer.

#### **6.7. Opportunity to Provide Additional Information**

6.7.1. After receiving the complaint, the Responsible Officer may invite the complainant to provide further information to assist in understanding:

- a. The complainant's concerns, and/or
- b. The issues to be investigated, and/or
- c. The outcome or remedy sought by the complainant.

6.7.2. Complainants are welcome to supply information relevant to the initial complaint at any time during the review process. However, if the additional information is determined by the Responsible Officer to be of a different nature a secondary review may commence.

6.7.3. Complainants will be invited to comment on any additional information obtained by the Responsible Officer during the course of an investigation.

#### **6.8. Complaint Remedies**

6.8.1. Where complaints are found to be justified Council will, where practicable, remedy the situation in a manner which is consistent and fair for both Council and complainants. The solution chosen will be proportionate and appropriate to the circumstances.

6.8.2. As a general principle the complainant should, so far as possible, be put in the position he or she would have been in, had things not gone wrong. This may mean providing the desired service or changing a decision. Sometimes, however, it may only be possible to offer an apology.

6.8.3. Compensation will only be offered in cases where the loss or suffering is considered substantial. The Elected Council and the CEO are the only representatives authorised to offer financial compensation and may consult with the Local Government Association Mutual Liability Scheme before taking any such action.

#### **6.9. Dispute Resolution**

6.9.1. Kangaroo Island Council may use alternate dispute resolution methods e.g. mediation, conciliation or neutral evaluation to resolve a complaint in circumstances where the CEO or their delegate deems such a course of action appropriate and the complainant is amenable to that process.



6.9.2. Any mediation, conciliation or neutral evaluation will be undertaken in accordance with s271 of the Local Government Act 1999 and the costs and expenses shared equally between the Council and the complainant.

6.9.3. If the complaint cannot be resolved the complainant may refer the matter to the Ombudsman, or seek a legal remedy.

#### **6.10. Withdrawal of Complaints**

6.10.1. A complainant may withdraw their complaint at any time during the investigation period.

#### **6.11. Discontinuation of an Investigation into a Complaint**

6.11.1. An investigation into a complaint may be discontinued by the relevant Manager if the complainant fails to provide sufficient information about the complaint or in some way inhibits the investigation.

6.11.2. If a complaint is discontinued then the complainant will be advised in writing of the reasons for the discontinuation of the investigation.

#### **6.12. Completion of an Investigation into a Complaint**

6.12.1. Complainant will be advised in writing of the outcome of the investigation as soon as is practical once the investigation is finalised.

#### **Availability of the Policy**

This Policy will be available for inspection via the Council's website:

[www.kangarooisland.sa.gov.au](http://www.kangarooisland.sa.gov.au)

Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

SIGNED:



Chief Executive Officer

Date: 8 March 2022

#### **History:**

Date Reviewed:	Version:	Reason for Amendment:
14/ 09 /2015	Version 1	N/A
13 June 2017	Version 2	Periodic Review Ref# C184:2017
11 June 2019	Version 3	Periodic Review Minute Ref# C212:2019
8 March 2022	Version 4	Full policy review including new template