

	<h2>Customer Complaints Policy</h2>	Version No:	1.2
		Issued:	January 2017
		Next Review:	January 2019

### **PURPOSE**

This policy establishes a framework for how The District Council of Franklin Harbour (the Council) will respond to a customer who is dissatisfied with a process, product or service offered or provided by the Council and who has spoken to the relevant Council officer and has not been satisfied with the response given.

The Council:

- Welcomes complaints as a form of feedback that will ultimately identify service improvement opportunities
- Values integrity, responsible management, fairness and equity, and will continue to strive to maintain the highest standards in its dealings with its customers while meeting the needs of the community
- Is committed to identifying, investigating and where possible resolving complaints and grievances
- Recognises the importance of transparency in decision making and the need to provide a fair and objective procedure for the review of all decisions and services provisions.

These principles are of utmost importance in the Council's endeavours to retain the trust, confidence and support of its community.

Customers have a right to expect that principles of economy, efficiency, effectiveness, fairness, impartiality and responsiveness will underpin Council service delivery.

### **LEGISLATIVE AND STRATEGIC FRAMEWORK**

There is no legislative requirement for the Council to have a policy that deals with aggrieved customers; however, the Council recognises that this policy represents good governance practice.

#### **Local Government Act 1999**

Section 270 of the *Local Government Act 1999* requires Council to establish procedures for the internal review of Council decisions.

Under Section 270 of the *Local Government Act 1999*, the Council has the ability to refuse to consider an application for review of a decision on the grounds that the application is frivolous or vexatious, or where the applicant does not have sufficient interest in the matter.

Section 99(1)(g) of the *Local Government Act 1999* provides that the Council's Chief Executive Officer must ensure that the assets and resources of the Council are properly managed and maintained.



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Section 102 of the *Local Government Act 1999* delegates the authority to the Council's Chief Executive Officer to appoint, dismiss and manage employees.

### **DEFINITIONS**

*Complaint* is when a customer:

- Expresses dissatisfaction with the Council's decisions, policies, procedures, charges, employees, agents or the quality of the services it provides.
- Considers the Council has failed to act on a request for service within an accepted timeframe.
- Considers the conduct of a Council staff member has been unsatisfactory.

*Complaint Resolution* – a complaint is resolved when a customer is satisfied that the Council has made its best attempt to fix the problem. It is possible they may not be completely satisfied with the outcome but they are prepared to accept the outcome and not to escalate the complaint any further.

*The Council* – District Council of Franklin Harbour as a local government entity.

*Customer* – ratepayer, resident, visitor or business.

*Frivolous* – a complaint that lacks substance or merit, or is obviously untenable.

*Malicious* – someone who is motivated by wrongful, vicious, or mischievous purposes.

*Persistent* – someone who is refusing to give up or let go and/or is obstinate and/or insistently repetitive or continuous.

*Request for Information* – when the Council receives a request for information regarding services.

*Request for Service* – when a customer requests the provision of service, or for some action to be taken to address a problem, or a request for a change to the way the Council delivers a service. If a service is not dealt with appropriately, it may then become a complaint.

*Review of a Council decision* – 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".

*Unreasonable complainant conduct* - unreasonable conduct by complainants, which goes beyond normal situational stress associated with complainant behaviour. Unreasonable complaint conduct is discussed in greater detail within this Policy.

*Vexatious* – when a complainant is considered to harass, annoy, delay or cause detriment or trouble. A complaint can also be considered vexatious where the complaint is a sham and cannot possibly succeed, or where the complainant lacks reasonable grounds for lodging the complaint, or possesses insufficient direct interest in the issue complained about.



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### POLICY

The objective of this policy is to establish clear guidelines and procedures for handling complaints and to enable the Council to be in a stronger position to improve services.

This policy **does not apply** to complaints involving the following issues:

- Decisions made by the elected Council or a delegated officer – refer to Internal Review of Council Decisions Policy
- Competitive neutrality
- Conflicts of interest – refer to Code of Conduct for Council Employees and Code of Conduct for Elected Members
- Access to information – Freedom of Information (FOI)
- Internal staff complaints – refer to various human resources policies
- Approval or refusal of a Development Application – procedural complaints only will be managed under this policy
- Matters before a Court, Tribunal, South Australian Police, a Minister of the Crown, a South Australian or Federal Government Department, or the South Australian Ombudsman.

This policy applies to complaints in relation to service provision and delivery received by the Council from customers and any other external organisation or person.

The Council:

- Views its management of complaints as an important component of continuously improving the service offered to customers.
- Is committed to identifying, investigating and resolving issues whether these arise as service requests, suggestions or complaints.
- Recognises the importance of transparency in decision making and the need to provide a fair and objective procedure for the resolution of all complaints.
- In resolving ongoing customer concerns or complaints is conscious of not over committing resources and funds to the detriment of the community at large.
- Is committed to tracking the progress of complaint handling within the organisation and reporting this on a regular basis.

This Policy aims to ensure:

- Improved customer service through consistent, effective management of complaints.
- Complaints are resolved in a timely manner.
  - All complaints will be acknowledged within 5 calendar days.



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- When a resolution cannot occur within 14 calendar days a response will be delivered to the customer outlining time frames set by the staff member responsible for resolving the complaint.
- That the complainant understands what the Council can and cannot do and, will and will not do.
- That the Council's limited resources are not utilised on malicious, frivolous, unreasonable, persistent or vexatious complaints.
- Resolution processes in relation to complaints will be equitable, transparent and accountable.
- Complaints will be recorded in the Council's General Public Complaints Forms Folder.

In line with its Values, the Council will provide a complaints handling procedure which:

- Demonstrates everyone will be treated with dignity and respect.
- Ensures all of the community is listened to and will be dealt with equally.
- Encourages staff to be positive and take responsibility for their role in the complaint handling process.

### Lodging Complaints

Complaints or concerns may be lodged with the Council in the following ways:

- By completing a Customer Action Request Form in the office (this form is available on Council's website [www.franklinharbour.sa.gov.au](http://www.franklinharbour.sa.gov.au) ; or
- By letter, email or facsimile.

On receiving a complaint Council staff must distinguish between a request for a resolution of a complaint relating to a process or service provision and delivery or formal review of a decision. Where a customer is requesting a service and there is no prior indication of failure to provide that service to the customer, the request will be managed via the Council's Customer Request Management System as a request for service.

Where the complaint is determined to be a formal review of a decision the matter will be managed in accordance with Council's Internal Review of Council Decisions Policy and Procedure. This Policy is available on Council's website: [www.franklinharbour.sa.gov.au](http://www.franklinharbour.sa.gov.au)

### Anonymous Complaints

If the complainant is anonymous, the complaint will be dealt with in a similar manner to any other complaint.

If the staff member dealing with an anonymous complaint does not consider it to be sufficiently serious, or there is insufficient information in the complaint to enable the investigation to be conducted, the complaint will not be investigated.



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Where the complainant is unknown, the Council will not be able to advise the complainant of the outcome.

### Recording of Complaints

All complaints will be recorded and managed. Procedures will be developed to provide guidance to staff to ensure that these records can be tracked and that similar complaints are dealt with in a consistent manner.

Once a complaint has been lodged, the Council will acknowledge receipt of the complaint and the customer will be notified of the appropriate time frame within which an investigation will be undertaken and a determination made to resolve the complaint.

### Confidentiality

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

Where the complaint relates to the conduct or behaviour of an individual staff member this will be handled by the relevant Senior Manager and will be dealt with in accordance with the Council's Code of Conduct for Employees.

Grievances that relate to an individual Councillor will be handled by the Chief Executive Officer and will be dealt with in accordance with the Council's Code of Conduct for Elected Members.

### Complaints of a Serious Nature

All formal complaints alleging maladministration, serious and substantial waste of public money, corrupt conduct or pecuniary interest are to be referred directly to the Chief Executive Officer. The Chief Executive Officer will refer such complaints to the South Australian Police Anti-Corruption Branch or the Office for State/Local Government Relations, if and as is deemed appropriate.

Complainants may be entitled to protection under the *Whistleblowers Protection Act 1993*. Council's Whistleblowers Protection Policy can be found online at Council's website: [www.franklinharbour.sa.gov.au](http://www.franklinharbour.sa.gov.au)

### Unreasonable Complaints

Occasionally a complainant may not accept the Council's determination or response to their complaint. This may lead the complainant to engage in unreasonable complainant conduct.

Unreasonable complainant conduct is defined as:

- *Using unreasonable persistence* by persisting with a complaint even though it has been comprehensively considered by the Council, and even where all avenues of internal review have been exhausted by showing an inability to accept the final decision.



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- *Using unreasonable demands* by insisting on outcomes that are unattainable, (eg demanding outcomes that are beyond the Council's power to deliver, demanding unreasonable outcomes, wanting to turn back time, or engaging in unreasonable persecution of individuals). By insisting on a 'moral' outcome, (eg Justice in the community interest, when really a personal interest is at stake) and demanding an apology and/or compensation when no reasonable basis for expecting such an outcome exists.
- *Using unreasonable lack of cooperation* by presenting a large quantity of information which is not organised, sorted, classified or summarised, where the complainant is clearly capable of doing this. By displaying unhelpful behaviours (eg withholding information, dishonesty, misquoting others, swamping council with documents).
- *Using unreasonable arguments* by holding irrational beliefs, or by continuing with a complaint which is unsupported by any evidence. By insisting that a particular solution is the only correct one, without consideration for valid contrary or alternative arguments.
- *Using unreasonable behaviours* by displaying confrontational behaviour, including rudeness, aggression or threats.
- Where the complaint is about something that is beyond the Council's jurisdiction or outside of the Council's control.

Where a complainant engages in unreasonable complainant conduct the Council may deal with the complaint and complainant in accordance with this Policy.

### Managing Malicious, Frivolous, Persistent and Vexatious Complaints

Following an investigation, the Council may determine a complaint is malicious, frivolous, unreasonable, persistent or vexatious.

A determination that a complaint is malicious, frivolous, unreasonable, persistent or vexatious must take into account:

- Any previously similar complaints from the complainant
- The response and outcome to the previous complaints
- The resources required to address the complaint (to ensure that it is not an unreasonable diversion of public resources)
- The principles of equity and procedural fairness.

A decision to take no further action on the complaint will be made by the Chief Executive Officer, and the complainant will be informed in writing.

Where the Council determines a complaint to be malicious, frivolous, unreasonable, persistent or vexatious, it will respond in a consistent manner, taking into account the individual circumstances of each complaint.



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### **LIMITING CONTACT BETWEEN THE COUNCIL AND MEMBERS OF THE PUBLIC**

The Council is entitled to expect that members of the public who have a complaint will behave in an acceptable manner. In certain circumstances it is appropriate and legitimate for the Council to place certain limits on the type of services that will be made available to complainants whose behaviour goes beyond acceptable limits.

The Council may impose limits on the times and days that correspondence may be accepted from a complainant, or may request all complaints and communication be provided in writing.

Where limitations on contact with a complainant are imposed, the Council will inform the complainant in writing, specifying the limits, and the reasons for their imposition.

Before imposing limits the Council may try alternatives, such as determining whether a different and more senior officer is able to deal with the complainant.

Imposing limitations may also be appropriate where a complainant continually includes substantial inappropriate, offensive threatening or abusive content in their complaint and communication.

The Council is aware of the legitimate right of members of the public to access Council information under the *Freedom of Information Act 1991*. Any limits will not impede these statutory rights.

### **NOT REPLYING TO CORRESPONDENCE**

Where, following an appropriate written response to a complainant, the Council receives further complaints that detail the same or substantially similar matters to those received previously, the Council is entitled to inform the complainant that the Council will not provide a substantive response to this, or similar complaints.

This approach provides the complainant with the opportunity to reframe the complaint if the similarities were unintentional.

### **TERMINATING PHONE CALLS**

In some circumstances it may be appropriate for a Council officer to inform the complainant that they will no longer deal with their complaints over the telephone, and to terminate the call. This will only be done in exceptional circumstances.

Where a complainant repeatedly telephones a Council employee, or employs insulting, threatening or abusive language, they will be asked to limit their communications to written correspondence with a nominated senior officer. This will be communicated to the complainant in writing.



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### **LIMITING FACE TO FACE CONTACT**

Where a complainant is making the same or a substantially similar complaint to numerous Council officers in person, it is appropriate for Council to nominate a particular officer to deal with the complaints.

The Council will notify the complainant in writing of the name and contact details of the officer who will respond to complaints, and specify that no other officer will respond to complaints made by the complainant.

### **DECLINING TO FURTHER INVESTIGATE COMPLAINTS**

Where:

- a thorough examination of a complaint has occurred
- the complainant remains dissatisfied with the outcome of the complaint and demands further review,

the Council will consider placing limits on further communications with the complainant.

This action will only be taken as a last resort; with the decision taken by the Chief Executive Officer after all other avenues have been exhausted, and where the complainant is making unacceptable demands on the Council's complaint handling resources.

Limits could include:

- declining to respond to any further communications unless they are in writing
- informing the complainant that any further complaints will be filed by the Council with acknowledgement unless it includes significant new information or new issues which in the opinion of the Council warrant action
- informing the complainant that the complaint will be referred to the Ombudsman (or other external agency) for action.

If it appears to the Council that the complainant is deliberately providing information in a selective manner, the Council will request the complainant to immediately pass on all relevant information to the Council. The Council may advise the complainant that if further material is provided, the Council will require a satisfactory explanation as to why it was not provided earlier, before it will give consideration to the material.

### **SEEKING LEGAL ADVICE**

In some instances it may be appropriate for Council management to seek legal advice with respect to the implications of a suspected malicious, frivolous, unreasonable, persistent or vexatious complaint. A decision to seek legal advice will be taken by the Chief Executive Officer.



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Where a complaint relates to a particular member of Council staff, consideration will be given to making advice available that staff member on request.

Where a particular officer of the Council believes that a complaint may have impugned their professional reputation, they may seek their own legal advice in relation to what private action they may take.

### **SUPPORTING STAFF**

The council has certain obligations under Occupational, Health, Safety and Welfare legislation to provide a safe working environment. Council is mindful of the stress that dealing with difficult complainants can place on Council staff.

Management will always provide support to junior staff when dealing with difficult complainants, and ensure appropriate customer service policies are in place.

### **REVIEW OF THE POLICY**

This Customer Complaints Policy will be reviewed by the District Council of Franklin Harbour within 12 months after each general election of Council. To ensure that the principles of open Government are being applied in the proper manner, it is anticipated that a review will be conducted every two years. However, Council has the right to review this policy at any time, if considered desirable.

<b>Adopted by Council</b>	<b>14 September 2011</b>
<b>Reviewed and Updated</b>	<b>14 October 2015</b>
<b>Reviewed and updated</b>	<b>11 January 2017</b>