



# COUNCIL POLICY

## Complaints

<b>Policy Number:</b>	PO147		
<b>Strategic Plan Objective:</b>	5. Responsible Governance and Leadership		
<b>Policy Owner:</b>	Chief Executive Officer	<b>Record Number:</b>	16/14855[v6]
<b>Responsible Officer:</b>	Governance Officer	<b>Minute Reference:</b>	137/2024 (12/06/2024)
<b>Date Adopted:</b>	12/06/2024	<b>Next Review Date:</b>	June 2028

### 1. POLICY OBJECTIVES

Yorke Peninsula Council (Council) is committed to providing a quality service to its customers and regards Complaints as an opportunity to improve practices and processes as well as resolving issues.

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.

Emphasis is placed on resolving Complaints as quickly as possible. Where Complaints cannot be settled in the first instance, Council will ensure that they are dealt with through appropriate, more formal processes and by persons with the appropriate authority to make decisions.

### 2. SCOPE

2.1 This policy applies:

- a) where Council has failed to meet the normal standards for a service which has been, or should have been delivered;
- b) to all Employees;
- c) to all Complaints that cannot otherwise be dealt with under a separate legislative process or policy.

2.2. Complaints about matters that are not Council's responsibility, such as disputes between neighbours, civil liability matters and matters already being dealt with through the Court process, will not be handled under this policy.

### 3. DEFINITIONS

Refer to Attachment 1.

### 4. POLICY STATEMENT

Council welcomes Feedback and Complaints as a way of improving its services and programs as well as providing an opportunity to put things right.

All Complaints received by Council will be treated seriously and complainants will be treated courteously.

There are five fundamental principles that underpin Council's approach to handling Complaints:

- **Fairness:** treating complainants fairly with impartiality, confidentiality (to the extent possible) and transparency at all stages of the process;
- **Accessibility:** ensuring broad public awareness about Council's policy and a range of contact options;
- **Responsiveness:** ensuring that sufficient resources and well trained Council staff are provided and that systems are reviewed for improvement;
- **Efficiency:** Complaints will be resolved as quickly as possible, while ensuring that they are dealt with at a level that reflects their complexity;
- **Integration:** Different areas of Council will work together where the Complaint overlaps functional responsibilities.

This policy and information about how to lodge a Complaint is available by clicking on the "Complaints" link on the front page of Council's website ([www.yorke.sa.gov.au](http://www.yorke.sa.gov.au)), or via any Council office.

### 4.1. Complaint Process

Council requires that all Complaints are submitted in writing. A person can make a Complaint in a number of ways:

- Complete the appropriate form on Council's website;
- Email;
- Letter;
- Visit a Council customer service office.

The steps set out below will be followed by Council personnel to ensure Complaints are dealt with efficiently and effectively:

- Acknowledge Complaints promptly;
- Assess the Complaint - simple problems may not need to be investigated;
- Plan the investigation where one is warranted;
- Investigate the Complaint;
- Respond to the complainant with a clear outcome/decision;
- Follow up any customer service concerns;
- Consider and manage any process and/or personnel issues which may need correction.

Wherever possible Complaints will be resolved when first reported but, if necessary, Council personnel will escalate a Complaint as set out below.

### 4.2. Three Tiered Scheme

Complaints may vary greatly in their level of complexity and seriousness. To assist with determining and managing Complaints, Council have categorised Complaints into a three tiered scheme.

#### **Level 1 - Immediate response to resolve the Complaint**

All Council staff are authorised to handle Complaints in the first instance, wherever possible. All attempts will be made to deal with Complaints promptly at the initial point of contact.

**Level 2 - Complaint escalated to a more senior person**

A Complaint will be directed to a more senior person in the Council, where circumstances indicate that the Complaint would be more appropriately handled at a higher level. This can include, where a person has been involved in the matter that is the subject of the Complaint, where the Complaint is about an issue that requires a decision to be made at a more senior level, or where a Complaint concerns a matter that ranges across more than one Council work area.

**Level 3 - Internal review of a Council decision by statutory process**

Internal review of a Council decision is available under Section 270 of the Local Government Act 1999 (Act). This is a process established by legislation that enables the Chief Executive Officer (CEO) to reconsider all the evidence relied on to make a decision, including new evidence if relevant. This process, as set out in Council's Internal Review of Council Decisions Policy PO037, available via Council's website ([www.yorke.sa.gov.au](http://www.yorke.sa.gov.au)), is a last resort in the Complaint handling process, which may also be used in certain situations that are not able to be resolved by other means.

With the exception of Level 1 responses, Council will ensure, wherever possible, that Complaints are handled independently of the original decision-maker/person involved in the matter that is the subject of the Complaint.

**4.3. Timeframes**

Council will respond within ten Business Days, acknowledging receipt of the Complaint and, where possible, resolve it at that time. If a resolution is not possible complainants will be advised of the likely timeframe required to investigate and resolve a Complaint and regularly updated as to progress where necessary.

**4.4. Remedies**

Where Complaints are found to be justified Council will, where reasonably 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.

As a general principle the complainant should, so far as reasonably 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.

Compensation may only be offered in cases where the loss or suffering is considered substantial. The CEO is the only representative authorised to offer financial compensation and must consult with the Local Government Association Mutual Liability Scheme before doing so, in relation to all civil liability matters.

**4.5. Alternative Remedies**

Council may seek to use alternative dispute resolution methods, such as mediation, to resolve a Complaint in circumstances where the CEO or their delegate, deems that this is the appropriate course of action and the complainant agrees. Costs and expenses relating to alternative dispute resolution methods will be shared equally between the Council and the other party.

**4.6. Complainants Right to Seek Other Forms of Resolution**

While Council prefers to work with its customers to resolve Complaints quickly and effectively, a complainant retains the right to seek other forms of resolution, such as contacting the South Australian Ombudsman, or taking legal action at any time. As a general rule, the Ombudsman prefers a Complaint to be addressed by Council in the first instance, unless this is not appropriate in the circumstances.

When advising a complainant of the outcome of a Complaint investigation, Council will provide information about alternative remedies, including any rights of appeal and the right to make a Complaint to an external agency such as the South Australian Ombudsman.

**4.7. Alternative Complaint Processes**

There are also other Complaint processes which may apply to particular types of Complaints and the Complaint may be more properly dealt with by another process. This will be explained to the complainant at the outset. For example:

- Complaints relating to Elected Member or Employee behaviour;
- Freedom of Information applications;
- Civil Liability matters;
- Insurance claims;
- Decisions made under legislation other than the Act, such as the Planning, Development and Infrastructure Act 2016 or Expiation of Offences Act 1996.

**4.8. Privacy and Confidentiality**

Complainants have a right to expect that their Complaint will be investigated in private, to the extent possible. The identity of complainants will be made known only to those who need to know in the process of investigating and resolving the Complaint. The Complaint will not be revealed or made public by the Council, except where required by law.

All Complaints lodged with Council are subject to the Freedom of Information Act 1991 and confidentiality cannot be guaranteed under the provisions of that legislation.

**4.9. Unreasonable Complainant Conduct**

Occasionally the conduct of a complainant can be unreasonable (Unreasonable Complainant Conduct) and a decision may be made to apply restrictions on contact with the person. Before making any decision to restrict contact, the complainant will receive a written warning that, if the specified behaviour(s) or actions continue, restrictions may be applied.

Any decision to suspend action on a Complaint will be made by the CEO or their delegate, or, at the discretion of the CEO, the Mayor or Deputy Mayor, and communicated in writing to the complainant.

**4.10. Using Complaints to Improve Service Provision**

In addition to making changes to procedures and practices where appropriate, Council will review and evaluate the information gained through its Complaints handling processes on an annual basis to identify systemic issues and opportunities for improvements to service provision. Council will report annually on the number and nature of written Complaints that have been received during the relevant financial year, including the number of unresolved Complaints, via its annual report (available on Council's website ([www.yorke.sa.gov.au](http://www.yorke.sa.gov.au))).

Where appropriate, complainants will be provided with an explanation of changes proposed or made as a result of the investigation of their Complaint.

**4.11. Complaints About the Sale and Supply of Water and/or Wastewater Services**

The Essential Services Commission of South Australia (ESCOSA) have issued Council with a water retail licence for the sale and supply of water and/or wastewater services. Under the terms of the licence, Council are required to comply with the ESCOSA Water Retail Code – Minor and Intermediate Retailers (Code). In accordance with the terms of the Code, Council have developed a Water Services Customer Charter IS126 (Charter) that sets out what Council is required to do under the Code, which includes information about Complaints, financial hardship, translation and interpreting services and large print requirements. The Charter is available on Councils website ([www.yorke.sa.gov.au](http://www.yorke.sa.gov.au)), or any Council office.

In addition to the requirements under Policy clauses 1 – 4 above, Council will ensure compliance with Regulatory Service Standards when managing Complaints about the sale and supply of water and/or wastewater services.

**5. COMPLAINTS**

Complaints about this policy can be made in writing to Council’s Governance Officer and will be managed in accordance with the processes contained within.

**6. REVIEW**

This policy will be reviewed every four years and as deemed necessary in consideration of any changes to legislation, relevant standards, codes, guidelines and audit findings.

**7. TRAINING**

Council is committed to supporting Employees in complying with this policy.

Training needs will be reviewed, as necessary, in consideration of any changes to legislation, relevant standards, codes, guidelines and audit findings.

**8. RECORDS**

Records will be maintained as required by Council’s Records Management Policy PO063 and relevant legislation.

**9. RELATED COUNCIL POLICIES/PROCEDURES AND DOCUMENTS**

PO037 Internal review of Council Decisions Policy

PO063 Records Management Policy

PO075 Request for Service Policy

PO203 Council Member Behavioural Management Policy

PO014 Employee Behavioural Standards Policy

PO146 Support Disciplinary and Performance Management Policy

PO148 Fraud, Corruption, Misconduct and Maladministration Prevention Policy

PO171 Public Interest Disclosure Policy

PR152 Public Interest Disclosure Procedure

PO179 Council Assessment Panel Review of Decision of Assessment Manager

IS126 Water Services Customer Charter

PlanSA Assessment Panel Members – Code of Conduct

**10. REFERENCES AND LEGISLATION**

Local Government Act 1999

Public Interest Disclosure Act 2018

Independent Commissioner Against Corruption Act 2012

Ombudsman Act 1972

Planning, Development Infrastructure Act 2016

Essential Services Commission Act 2002

Expiation of Offences Act 1996

Water Industry Act 2012

Water Industry Regulations 2012

Freedom of Information Act 1991

ESCOSA Water Retail Code – Minor and Intermediate Retailers

Australian Standard ISO 10002-2014, Customer satisfaction – Guidelines for Complaint Handling in Organisations

Ombudsman SA VALUING COMPLAINTS – An audit of Complaint handling in South Australia – November 2011

Ombudsman SA Complaint Management Framework

Commonwealth Ombudsman’s Better Practice Guide to Complaint Handling 2023

Water Industry Guideline No. 2 (WG2/01)

LGA Model Complaints Policy

ESCOSA Water Services Customer Charter

Water Services Customer Contract

**11. COUNCIL DELEGATION**

Any applicable delegations are available on Councils website via the Delegations register via <https://yorke.sa.gov.au/about-us/forms-plans-and-publications/registers/>.

**12. VERSION HISTORY**

<b>Version No</b>	<b>Issue Date</b>	<b>Description of Change</b>
1	13/02/2013	Full Revision.
2	08/07/2015	Full Revision.
3	11/10/2017	Full Revision.
5	17/06/2021	Full Revision.
6	12/06/2024	Full Revision.

**ATTACHMENT 1: DEFINITIONS**

<b>Term/Reference</b>	<b>Definition</b>
Business Day	A day when the Council is normally open for business (i.e. Monday to Friday 8.30am to 5pm and excludes public holidays.
Complaint	<p>For the purposes of this policy, 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 standard stated, implied or expected. This includes grievances about a service that has been, or should have been delivered.</p> <p><b>It does not mean</b> a request for service (Customer Service Request).</p>
Employee(s)	For the purposes of this policy, all persons acting for and/or on behalf of the Council, including persons employed directly by the Council in a full time, part-time or casual basis under an employment contract, volunteers, contractors, agency personnel and work experience placements.
Feedback	Comments, both positive and negative, about services provided by Council without necessarily requiring a corrective action, change of services or formal review of a decision.
Regulatory Service Standards	Timeframes for response to Complaints as determined by regulation.
Request for Service	An application to have Council or its representative(s) take some form of action to provide a Council service such as grading a road or fixing a footpath (Customer Service Request).
Unreasonable Complainant Conduct	<p>Unreasonable complainant conduct is behaviour by a complainant which, because of its nature or frequency raises substantial health, safety, resource or equity issues for the parties to a Complaint. Examples of behaviours that can be characterised as unreasonable include:</p> <p><b>Unreasonable persistence</b></p> <ul style="list-style-type: none"><li>• persisting with a Complaint even though it has been comprehensively considered by the organisation, and where all avenues of review have been exhausted;</li><li>• reframing a Complaint in an attempt to get it taken up again;</li><li>• showing an inability to accept the final decision by repeatedly raising the issue after reasonable attempts have been made to provide a reasoned and rational explanation;</li></ul>

Term/Reference	Definition
	<ul style="list-style-type: none"> <li>• persisting in interpreting the law or policy in a way that is not in accordance with generally accepted or expert views on the issue and insisting that action be taken accordingly;</li> <li>• persisting in wanting to know where to go next when it has been explained that there is nowhere else to go;</li> <li>• demanding a review because it is available but not arguing a case for a review;</li> <li>• making an issue out of anything;</li> <li>• getting gratification from the process of regular contact with the person responding to a Complaint, possibly including inventing unnecessary reasons for having contact.</li> </ul> <p><b>Unreasonable demands</b></p> <ul style="list-style-type: none"> <li>• insisting on outcomes that are unattainable (e.g. is a not-in-jurisdiction issue, wants the department shut down or someone fired from their job, prosecution of individuals);</li> <li>• insisting on ‘moral’ outcomes (e.g. justice in the community interest, when really a personal interest is at stake);</li> <li>• demanding an apology and/or compensation when no reasonable basis for expecting this type of outcome exists;</li> <li>• wanting revenge or retribution;</li> <li>• wanting what is not possible or appropriate (e.g. copies of sensitive documents, names/contact details of staff, other complainants or informants etc);</li> <li>• issuing instructions and making demands as to how a Complaint should be handled;</li> <li>• providing supporting details that are extraordinarily detailed when this type of detail is not relevant to the Complaint;</li> <li>• making unreasonable resource demands, expecting resources in excess of or out of proportion to the seriousness of issue (e.g. wanting Council to seek expert opinion);</li> <li>• wanting regular and lengthy phone contact where this is not warranted;</li> <li>• showing reactions or demands for action that are out of proportion to the significance of the issue;</li> <li>• moving the goal posts — changing the desired outcome;</li> <li>• shopping for a sympathetic ear within the Council (e.g. demanding to talk to a supervisor or a Manager personally);</li> <li>• placing Council on an extensive email copy list and expecting responses to numerous emails;</li> <li>• consistently creating complexity where there is none;</li> </ul>



Term/Reference	Definition
	<ul style="list-style-type: none"> <li>• presenting as overly needy or dependent (e.g. wanting to transfer responsibility for their wellbeing to the organisation).</li> </ul> <p><b>Unreasonable lack of cooperation</b></p> <ul style="list-style-type: none"> <li>• presenting a large quantity of information which is not organised, sorted, classified, summarised, where the complainant is clearly capable of doing this, presenting information in dribs and drabs — refusing to present all information at the outset;</li> <li>• refusing to define issues of Complaint (<i>‘the attached speaks for itself’</i> — usually a large quantity of information) where the complainant is clearly capable of doing this;</li> <li>• focusing on principles rather than substantive issues;</li> <li>• changing the Complaint, raising new issues in the process of Council consideration;</li> <li>• displaying unhelpful behaviour, (e.g. withholding information, dishonesty, misquoting others, swamping the organisation with documents).</li> </ul> <p><b>Unreasonable arguments</b></p> <ul style="list-style-type: none"> <li>• holding irrational beliefs (e.g. seeing cause and effect links where there are clearly none);</li> <li>• holding what is clearly a conspiracy theory unsupported by any evidence;</li> <li>• insisting that a particular solution is the correct one in the face of valid contrary or alternative arguments;</li> <li>• interpreting facts in a clearly irrational/unreasonable way and insisting this interpretation is the correct one;</li> <li>• insisting on the importance of an issue that is clearly trivial.</li> </ul> <p><b>Unreasonable behaviour</b></p> <ul style="list-style-type: none"> <li>• displaying confronting behaviour (e.g. rudeness, aggression, threats);</li> <li>• sending rude, confronting, threatening letters;</li> <li>• making threats of self-harm;</li> <li>• making threats of harm to others;</li> <li>• displaying manipulative behaviour (e.g. overly ingratiating, veiled threats).</li> </ul>